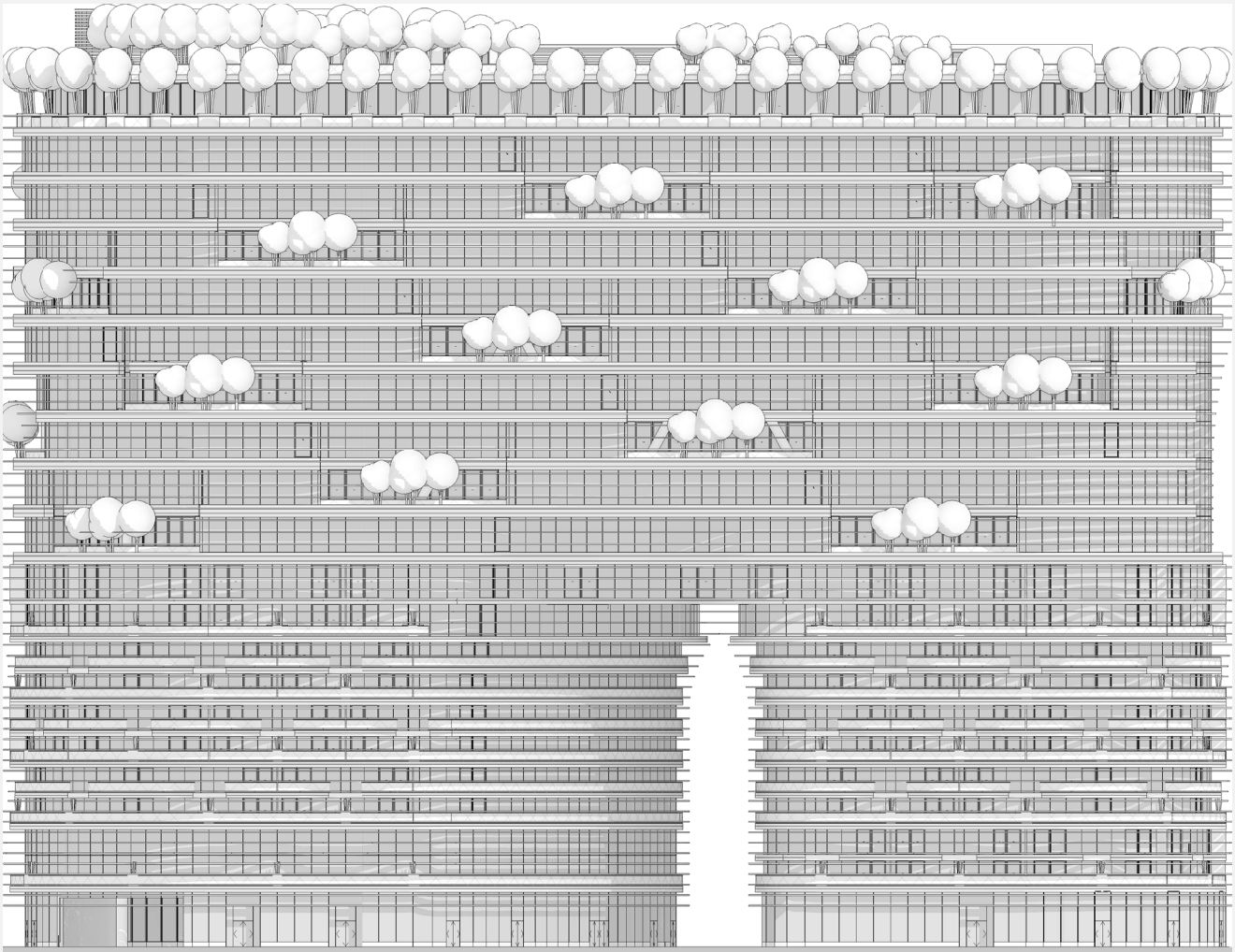
Initial Study

San José Fountain Alley Mixed-Use

File Nos. H20-037 & ER20-242



Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

50 YEARS EST. 1972 DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

June 2022

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

This Initial Study has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulation and policies of the City of San José.

1.1.1 Downtown Strategy 2040

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the Downtown area. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program level.

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This Initial Study provides that subsequent project-level environmental review.

1.1.1.1 *Employment Priority Area*

The subject site is in located the Downtown Employment Priority Area (EPA). The Downtown EPA is planned for intensive job growth because of the area's proximity and access to the future Downtown Bay Area Rapid Transit (BART) station. The overlay boundary is intended to respect property lines and not split parcels. Due to proximity to the future BART station, the EPA Overlay supports development at very high intensities, where such high intensity is compatible with other policies within the General Plan, such as Historic Preservation policies.

The EPA Overlay does not change the uses or density otherwise allowed within the base *Downtown* land use designation. The EPA Overlay, however, requires a minimum Floor Area Ratio (FAR) of 4.0 for commercial (job-generating) uses, including office, retail, service, hotel, and entertainment uses, prior to allowing residential uses, as supported by the *Downtown* General Plan Land Use/Transportation Diagram designation. Typically, the base land use designation will be *Downtown* with an allowed commercial FAR of up to 15.0 (three to 30 stories) and density of up to 800 dwelling units per acre (du/ac). For example, a new development project on a one-acre site within the EPA Overlay would be required to provide at least 174,240 square feet of commercial space before the General Plan would support the addition of residential uses to the project. While the EPA Overlay would establish minimum commercial requirements prior to allowing residential uses, the EPA Overlay does not establish a minimum FAR for stand-alone commercial uses.

The development intensity and site design elements in the areas within the EPA Overlay designation should reflect an intense, transit-oriented land use pattern that is typically expected in downtown. It is envisioned that active commercial uses (e.g., retail and entertainment uses) would be located on the ground level with high-intensity office development above.

To help activate the Downtown BART corridor, new development within the EPA Overlay should incorporate active ground floor commercial uses along the street in new development projects. Projects with complete development permit applications already on file with the City prior to the date of adoption by the City Council of the Downtown Employment Priority Area Overlay would not be subject to the requirements of the EPA Overlay, provided any new application or amendment or adjustment to an existing complete application will subject the proposed project to the EPA Overlay requirements as set forth in the General Plan and this Strategy.

1.2 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

San José Fountain Alley Mixed-Use Project

2.2 LEAD AGENCY CONTACT

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2.3 PROJECT APPLICANT

Westbank

2.4 PROJECT LOCATION

The approximately 1.25-acre site is comprised of one parcel located west of Second Street, between East Santa Clara Street and West San Fernando Street, in the Fountain Alley area of downtown San José.

Figure 2.4-1 Regional Map
Figure 2.4-2 Vicinity Map
Figure 2.4-3 Aerial Photograph and Surrounding Land Uses

2.5 ASSESSOR'S PARCEL NUMBER

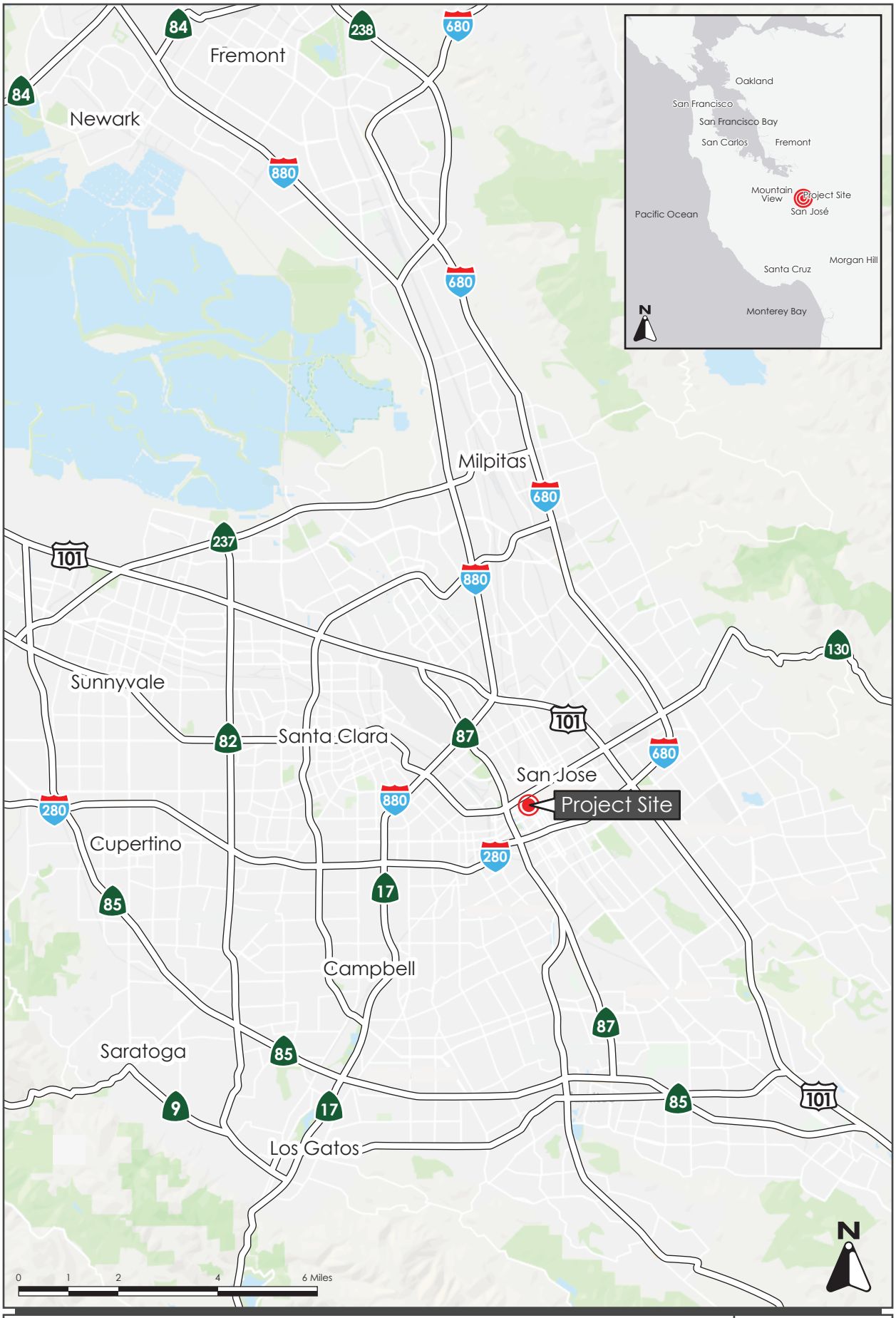
467-22-121

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The proposed project is designated *Downtown* under the General Plan and is zoned *DC – Downtown Primary Commercial*.

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Site Development Permit
- Vesting Tentative Map
- Demolition, Grading, and Building Permit(s)
- Other Public Works Clearances



REGIONAL MAP | FIGURE 2.4-1

VICINTY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

Since circulation of the NOP, changes to the square footages of the office, residential, and retail have occurred. The changes to the proposed project are shown in the table below.

Summary of Proposed Changes to the Project		
Project Component	**Original Project**	**Proposed Project**
Office Square Footage (sqft)	405,924	368,093
Retail Square Footage (sqft)[1]	31,959	30,790
Residential Square Footage (sqft)	303,219	268,899
Open Space (sqft)[2]	22,500	22,500
No. of Residential Units	194	194
Maximum Building Height (feet)	289	289
Total Parking Spaces	292	289

Notes: [1] The retail space includes the gym proposed on the second floor.
[2] Includes 8,700 square feet for the paseo and 13,800 square feet for the Fountain Alley alleyway.

The original project is a larger project (when compared to the proposed project) and provides a more conservative analysis; therefore, the square footages listed under the original project were analyzed in this document.

3.1.1 Background Information

The approximately 1.25-acre site is comprised of one parcel (Assessor's Parcel Number [APN] 467-22-121) located west of Second Street, between East Santa Clara Street and West San Fernando Street, in the Fountain Alley area of downtown San José. Currently, the site is developed with a surface parking lot and is listed as a noncontributor parcel within the San José Downtown Commercial Historic District (Historic District).[1]

Vehicular access to the project site is currently provided via one egress driveway and one ingress driveway along South Second Street.

3.1.2 Proposed Development

As proposed, the project would remove the existing parking lot and construct a 21-story curvilinear mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space. The building would have a maximum height of 267 feet to the top of the roof and 289 feet to the top of the mechanical penthouse. The proposed dwelling units would be located on floors two to 11. The project proposes a gym on the second floor. Amenities on floor 11 would include two party rooms, a lounge, and a study room. The remaining floors (floors 12 to 21) would consist of office space. The building would feature an archway located at the center of floors one to 10 which would provide pedestrian connectivity from South Second Street and the Fountain Alley pedestrian paseo. An "urban room" (a 10-story high passageway) would be located beneath the archway on the ground floor surrounding the building and would

[1] The Historic District is comprised of 45 properties (27 contributing structures and 18 non-contributing properties) and is bounded by South First Street to the west, East Santa Clara Street to the north, East San Fernando Street to the south, and extends to South Third Street and South Fourth Street (along East Santa Clara Street) to the east.

consist of seating and landscaping. There would be a combined total of 22,500 square feet of public open space area (up to 8,500 square feet for the paseo and up to 13,800 square feet for the Fountain Alley alleyway). In addition, a roof terrace is proposed which would consist of an active and passive open space, outdoor workspace, and dining areas.

The project proposes one level below-grade for loading and three levels of below-grade parking for a total of four below-grade levels with up to 292 parking spaces. The existing driveway on South Second Street would remain in the same location and would be widened as part of the project. No new driveways are proposed. Refer to Figures 3.1-1 to 3.1-3 for the site plan and elevations.

Mechanical Equipment

Emergency generator rooms, electrical rooms, a water tank, and exhaust fans are proposed within the below-grade parking structure. A 2,000-kilowatt (kW) emergency diesel generator powered by a 3,058 horsepower (HP) diesel engine and a fire pump is proposed at the northeast corner of the basement. Details of the fire pump are unknown.

Two air handling units (AHUs), electrical rooms, and a cooling tower are proposed on the roof. Both AHUs and the cooling tower would have enclosures surrounding the equipment. At the time the analysis was completed, no specific details on the mechanical equipment were available.

Transportation Demand Management Program

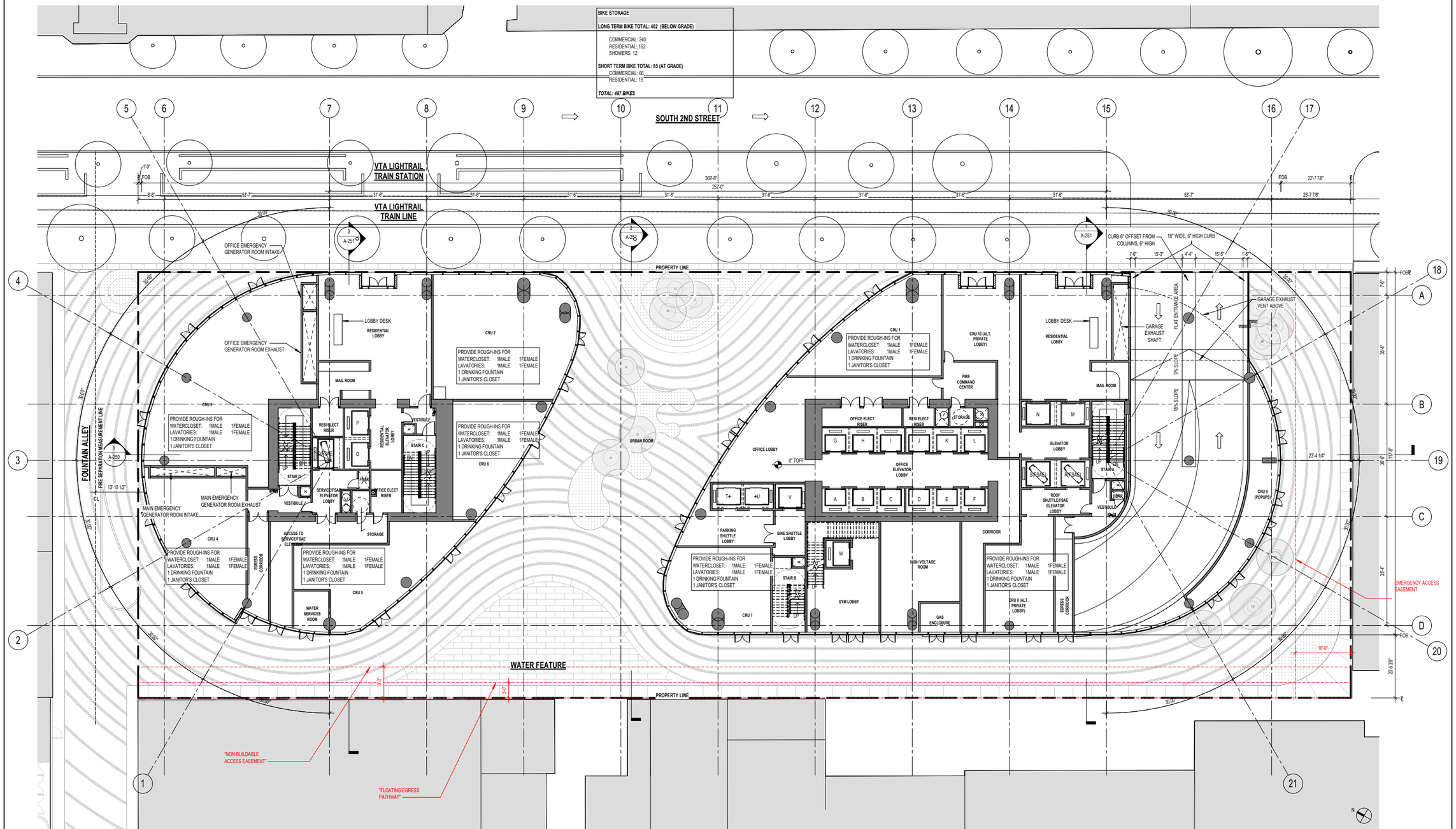
The applicant proposes the following measures as part of the transportation demand management (TDM) program[2] for the proposed project:

- Pedestrian-oriented design
- Limited Automobile Parking Supply
- Short- and long-term bicycle parking
- On-site shower and locker rooms
- Subsidized transit use for on-site employees and residents

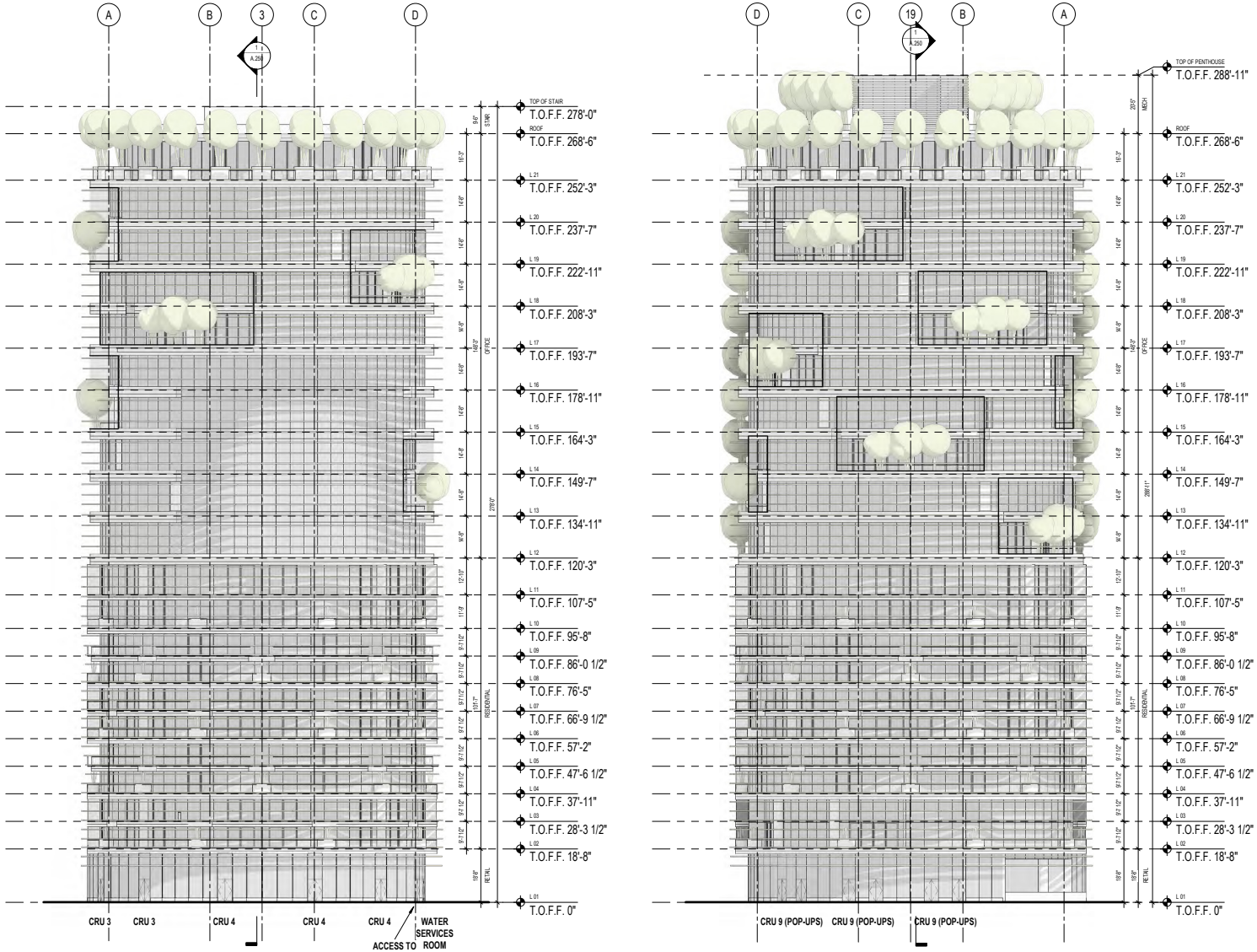
General Plan and Zoning Designation

The site is designated *Downtown* under the City's General Plan and has a zoning designation of *Downtown Primary Commercial*. The *Downtown* designation includes office, retail, service, residential, and entertainment uses in the downtown area. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The residential component within the *Downtown* designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum FAR of 30.0 and up to 800 dwelling units per acre.

[2] Fehr & Peers. *Fountain Alley TDM Plan*. June 2021.

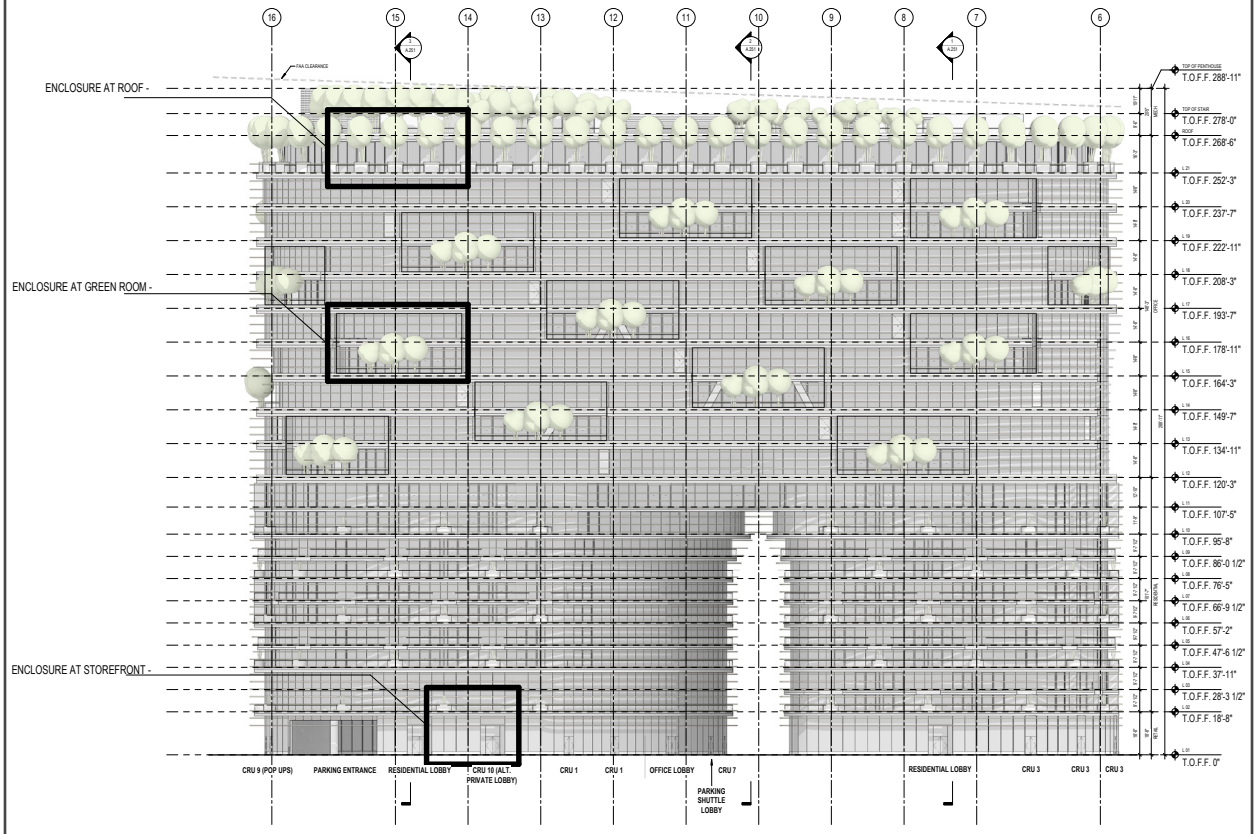


SITE PLAN - GROUND FLOOR | FIGURE 3.1-1

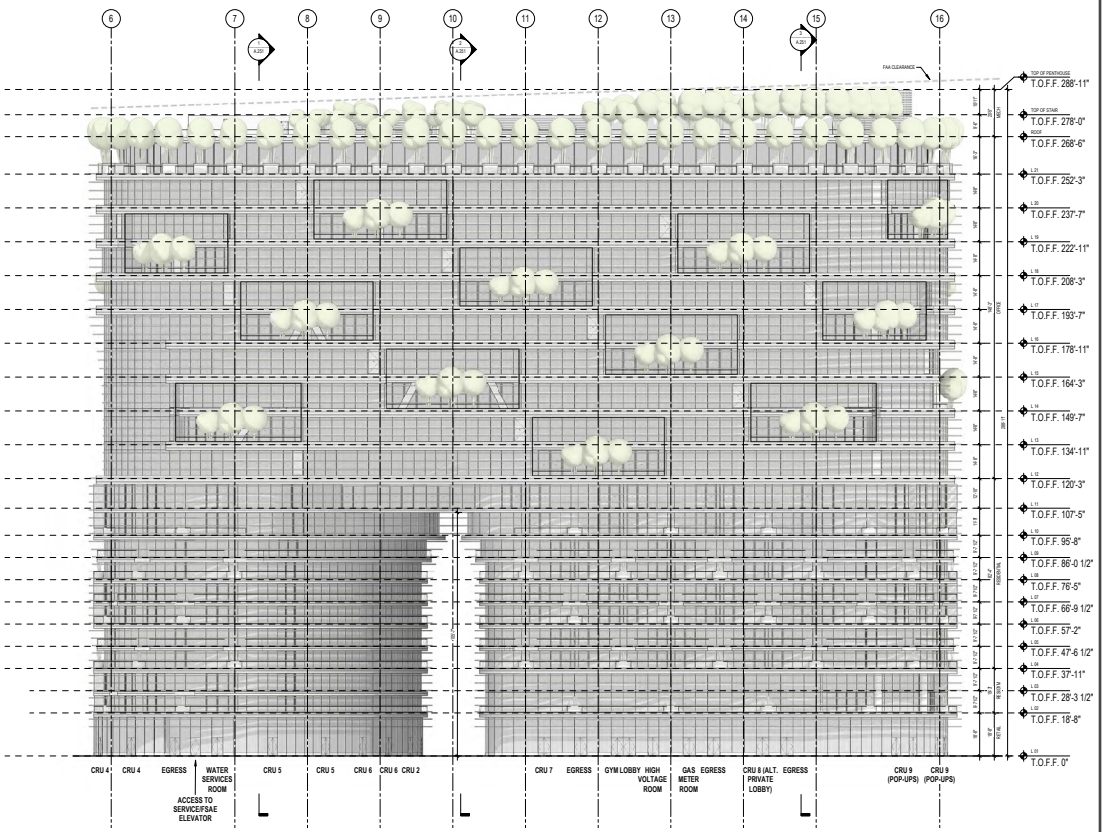


ELEVATIONS - NORTH AND SOUTH

FIGURE 3.1-2



EAST ELEVATION



WEST ELEVATION

ELEVATIONS - EAST AND WEST | FIGURE 3.1-3

Green Building Measures

The project would be required to be built in accordance with the California Building Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance. The proposed development would be designed to achieve Leadership in Energy and Environmental Design Core & Shell (LEED C&S) Platinum certification and International Living Future Institute's (ILFI) Zero Carbon Certification. Additionally, the project proposes green roofs and green walls to contribute to pollution control, reduce the City's ambient temperature, retain rainwater, and act as a carbon dioxide (CO_2) sink.

Construction

The project would be constructed over a period of 34 months from 7:00 AM to 10:00 PM Monday through Friday and 7:00 AM and 7:00 PM on Saturdays.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).
- **Impact Conclusions –** Because the analysis in this Initial Study tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project-specific analysis is presented as it relates to the findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically VMT. SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[3]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[4]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

[3] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 7, 2014. Accessed August 30, 2021. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[4] California Department of Transportation. "Scenic Highways." Accessed August 30, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines and Standards.

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over Interstate 280 (I-280) adjacent to the Downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

General Plan Policies - Aesthetics	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

General Plan Policies - Aesthetics	
CD-1.2	Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
CD-6.8	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest and by fostering active uses and avoiding prominence of vehicular parking at the street level.
CD-6.9	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
CD-6.10	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or

General Plan Policies - Aesthetics	
	structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.

4.1.1.2 *Existing Conditions*

Project Site

The project site is currently developed with a surface parking lot (Photo 1).

Surrounding Land Uses

Development in the project area is primarily a mix of retail, office, and residential land uses that vary in height from one to 14 stories. The buildings are set back from the roadways with sidewalks and street trees. Located immediately west of the project site is a surface parking lot and retail buildings (Photo 2). The buildings located along the east side of South First Street (immediately west of the site) range from two to four stories tall and consist of different architectural styles. The two-story retail building located at 30 South First Street is of modern-style commercial architecture while the three-story building located at 34-36 South First Street is of Roman Revival style architecture. The 34-36 South First Street buildin is two stories tall and is of Spanish Colonial Revival architecture. The three-story commercial building located at 52 South First Street is of Richardsoinan Romanesque[5] architecture. The commercial building at 66 South First Street is four-stories tall and of Romanesque Revival architecture.

Located south of the project site is a two-story commercial building that is of Spanish Revival architecture (Photo 3). A mural is located on the northern façade of the building. Located east of the project site is South Second Street, a two-lane street. The retail and residential buildings along South Second Street range from two- to four-stories (Photo 4). Immediately north of the project site is the Fountain Alley pedestrian paseo and retail and office buildings. The 14-story renaissance building (Bank of Italy) located at the northeast corner of the Fountain Alley and South First Street intersection consists of office space with ground floor retail. A cluster of commercial buildings up to three stories tall are located to the east of the 14-story building. Refer to Photo 5.

Scenic Views, Resources, and Corridors

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills are scenic features in the San José area. The project site and the surrounding area are relatively flat and prominent viewpoints, other than the surrounding buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, and Santa Teresa Hills to the south. No natural scenic resources, such as outcroppings, are present on-site or within the project area. The nearest designated scenic highway, SR 9, is located over eight miles southwest of the project site.

[5] Richardsonian Romanesque is characterized by heavy, rock-faced stone, round masonry arches, contrasting colors, transom windows arranged in ribbon-like patterns, square towers, and sparse fenestration.

Photo 1: View of project site, looking west from South Second Street.

Photo 2: View of the surrounding development, looking northeast on South First Street.

PHOTOS 1 & 2

Photo 3: View of the surrounding development, looking southwest from South Second Street.

Photo 4: View of the surrounding development, looking northeast from South Second Street.

PHOTOS 3 & 4

Photo 5: View of the Fountain Alley Pedestrian Paseo and surrounding development, looking west on South Second Street.

PHOTO 5

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, vehicular headlights, internal/external building lights, security lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[6] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

The proposed project would meet the criteria of SB 743 because 1) the project would construct a mixed-use residential project and 2) the project is located within a transit priority area.[7] Consistent with Public Resources Code Section 21099, the project would have a less than significant aesthetics impact. While the project would have a less than significant aesthetic impact, this Initial Study addresses the CEQA checklist questions for informational purposes given the size and location of the project within the downtown.

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions

[6] Public views are those that are experienced from publicly accessible vantage points.
[7] Metropolitan Transportation Commission. Transit Priority Areas (2017). Accessed August 30, 2021. https://opendata.mtc.ca.gov/maps/MTC::priority-development-area-transit-priority-area-overlay-2017/explore?location=37.335892%2C-121.889140%2C14.00.

in the Downtown Strategy 2040 FEIR. Similar to the capacity build-out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

a) Would the project have a substantial adverse effect on a scenic vista?

As discussed in the Downtown Strategy 2040 FEIR, panoramic views of hillside areas and the downtown skyline are key scenic features in the City. The project site and surrounding areas are relatively flat and views, other than the surrounding buildings, are limited. Therefore, construction of a 21-story mixed-use building would not result in a substantial adverse effect on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project site is not located along a state-designated scenic highway nor would the project damage any scenic resources within a state scenic highway. Therefore, implementation of the project would not result in a substantial aesthetic impact on any scenic highways. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Development in the area consists of retail, office, and residential land uses. The project site is located in the downtown area and would be compatible with the adjacent land uses. Additionally, the project site would not be highly visible, except from the surrounding roadways and properties.

Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would comply with Title 20 of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. The project site is also located within the Historic District and would be subject to the 2003 Draft San José Downtown Historic Design Guidelines (2003 Historic Guidelines) and the 2019 San José Downtown Design Guidelines and Standards (2019 Design Guidelines and Standards). Refer to *Section 3.3* of the SEIR for more information.

For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The proposed project would include internal building lights, security lights, and external building lights resulting in more visible nighttime lighting than currently exists on-site. Since the project site would be redeveloped with a below-grade parking garage, vehicular headlights would be reduced and limited to cars existing the garage. The proposed project would be subject to Section 20.75.360 of the City's Municipal Code[8] and the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. For this reason, the proposed project would not adversely affect day or nighttime views in the area from lighting. **[Same Impact as Approved Project (Less than Significant Impact)]**

[8] Section 20.75.360 of the City's Municipal Code requires lighting to be directed away from any residential uses.

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[9]

4.2.1.2 *Existing Conditions*

Based on the *California Important Farmland Finder Map*, the project site is designated as "urban and built-up land."[10,11] The project site is located in downtown San José where there are no forest lands present and the site is not subject to a Williamson Act contract.

[9] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

[10] California Department of Conservation. *California Important Farmland Finder*. Accessed March 2, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

[11] Common examples of "urban and built-up land" include residential, institutional, commercial, landfill, golf course, airports, and other utility uses.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on agriculture and forestry resources, as described below.

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

As mentioned previously, the project site is designated "urban and built-up land." The site is currently developed with a parking lot and implementation of the project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. **[Same Impact as Approved Project (No Impact)]**

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

The project site is not zoned for agricultural uses nor is it subject to a Williamson Act contract.[12] Therefore, implementation of the proposed project would not conflict with existing zoning for agricultural operations or conflict with a Williamson Act contract. **[Same Impact as Approved Project (No Impact)]**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. For this reason, implementation of the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **[Same Impact as Approved Project (No Impact)]**

d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?

As discussed above, the project site is not zoned as forest land. The project site is located within an urbanized area and would not result in a loss of forest land or convert forest land to non-forest use. **[Same Impact as Approved Project (No Impact)]**

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

The project would not conflict with zoning for agricultural operations or facilitate the unplanned conversion of farmland elsewhere in San José to non-agricultural uses. The project site is not utilized as forest lands and would not result in the loss of forest lands in San José. For these reasons, the project would not result in impacts to agricultural or forest resources. **[Same Impact as Approved Project (No Impact)]**

[12] Department of Planning and Development. *Williamson Act Properties.* Accessed March 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce.

4.3 AIR QUALITY

As proposed, the project would remove the existing parking lot and construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space.

4.3.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☒	☐	☐	☐	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☒	☐	☐	☐	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☒	☐	☐	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant air quality construction impacts. The projects impacts to air quality are evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.4 BIOLOGICAL RESOURCES

As proposed, the project would remove the existing parking lot and construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space.

4.4.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	☐
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☒	☐	☐	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐

Implementation of the project has the potential to conflict with local policies or ordinances protection biological resources. The projects impact to biological resources is evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.5 CULTURAL RESOURCES

As proposed, the project would remove the existing parking lot and construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space.

4.5.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☒	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

Based on the potential to impact historic structures and subsurface resources, the proposed project could result in a significant impact to cultural resources. The analysis of cultural resources impacts is presented in the SEIR. No further analysis will be provided in this Initial Study

4.6 ENERGY

The following discussion is based on an Air Quality Assessment prepared by Illingworth & Rodkin, Inc. in June 2021.[13] A copy of this report is included as Appendix B of the SEIR.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a

[13] Since the Air Quality Assessment was completed, the Local Transportation Analysis was updated and shows a decrease of net new weekday project trips from 4,354 to 3,936. The new project trips are less than the CalEEMod trips used in the analysis; therefore, the operational emission and project traffic health risk assessment emissions would be less than what was analyzed. This analysis provides a more conservative analysis. Janello, Carrie. Illingworth & Rodkin. Personal Communication. March 28, 2022.

legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[14]

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[15]

City of San José

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management and energy efficiency.

[14] California Building Standards Commission. "California Building Standards Code." Accessed March 9, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[15] California Air Resources Board. "The Advanced Clean Cars Program." Accessed July 23, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to energy and are applicable to the project.

General Plan Policies - Energy	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and

General Plan Policies - Energy	
	resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
TR-1.4[16]	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land

[16] TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

General Plan Policies - Energy	
	to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,877 trillion British thermal units (Btu) in the year 2018, the most recent year for which this data was available.[17] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,440 trillion Btu) for residential uses, 19 percent (1,510 trillion Btu) for commercial uses, 23 percent (1,848 trillion Btu) for industrial uses, and 39 percent (3,078 trillion Btu) for transportation.[18] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[19]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2019, residential and commercial customers in California used 34 percent of the state's natural gas, electric power used 27 percent, the industrial sector used 36 percent, vehicle fuel used one percent, and other uses used two percent.[20] Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[21]

[17] United States Energy Information Administration. "State Profile and Energy Estimates, 2018." Accessed March 9, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[18] Ibid.
[19] California Energy Commission. "Electricity Consumption by County." Accessed March 10, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[20] United States Energy Information Administration. "Natural Gas." Accessed March 10, 2021. https://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.
[21] California Energy Commission. "Natural Gas Consumption by County." Accessed March 11, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[22] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[23] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026.[24,25]

Energy Use of Existing Development

The project site is currently developed with a surface parking lot. While persons drive to the site for parking, the parking lot is not the primary destination. For the purposes of this analysis, it is assumed that the project site does not currently generate any energy demand.

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant energy impact, as described below.

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

[22] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed March 11, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[23] United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. Accessed March 11, 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010UBX.pdf.

[24] United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. http://www.afdc.energy.gov/laws/eisa.

[25] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Construction

Construction would be scheduled six days a week for 34 months. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer Standard Permit Conditions identified in *Section 3.1 Air Quality* of the Draft SEIR). The project would also recycle or salvage approximately 75 percent of construction waste as part of compliance with the City's Construction and Demolition Diversion Program. For these reasons, the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction.

Operation

The proposed project would construct up to to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space. Table 4.6-1 summarizes the estimated energy use of the proposed project.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development

Development	Electricity Use (kWh)	Natural Gas Use (kBtu) [1]	Gasoline (gallons per year)[2]
Apartments High-Rise	800,900	0	44,241
Enclosed Parking With Elevator	1,150,770	0	0
General Office Building	7,237,620	0	198,907
Strip Mall	341,642	0	57,375
Total:	**9,530,932**	**0**	**300,523**

Source: Illingworth & Rodkin, Inc. *Fountain Alley Project Air Quality Assessment*. June 22, 2021
Note: [1] The City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. Therefore, all natural gas use was set to zero.
[2] Apartments High-Rise Annual VMT 1,101,597 / 24.9 mpg = 44,241 gallons of gasoline.
General Office Building Annual VMT 4,952,790 / 24.9 mpg = 198,907 gallons of gasoline.
Strip Mall Annual VMT 1,428,630 / 24.9 mpg = 57,375 gallons of gasoline.

The proposed project would result in a net increase in electricity usage of approximately 9,530,932 kWh and a net increase of approximately 300,523 gallons of gasoline consumption. The increase in electricity use is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. In addition, General Plan Action MS-2.11 requires development to incorporate green building practices through construction, architectural design, and site design techniques. The project, as proposed, would be designed and constructed in compliance with the City of San José Council Policy 6-32, the City's Green Building Ordinance, LEED C&S Platinum certification, and ILFI Zero Carbon Ceritification.

The project proposes a total of 487 bicycle parking spaces which exceeds the City's minimum bicycle parking requirement. In addition, the project site is located in the downtown core which is served by existing transit services (refer to *Section 4.17 Transportation*). The inclusion of bicycle

parking, proximity to transit, and location would incentivize the use of alternative methods of transportation to and from the site and would reduce gasoline consumption.

Implementation of the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources during operation of the project. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The project would be served by SJCE and would be built in accordance with CALGreen requirements, Title 24 of the City's Municipal Code, City of San José Council Policy 6-32, and the City's Green Building Ordinance. Therefore, implementation of the proposed project would not conflict with or obstruct implementation of a state or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based upon a Geotechnical Investigation prepared by Langan Engineering and Environmental Services, Inc. in February 2021. A copy of the report is attached in Appendix G of the SEIR.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards and are applicable to the project.

General Plan Policies - Geology, Soils, and Seismic Hazards	
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

General Plan Policies - Geology, Soils, and Seismic Hazards	
EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.7.1.2 *Existing Conditions*

Geology and Soils

The majority of the City is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below the ground surface (bgs). The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the northeast and the Santa Cruz Mountains to the southwest.

The project site is relatively flat and is underlain by Holocene alluvial deposits that consist of medium stiff to hard clay and dense to very dense sand and gravel with brick, concrete, and organic debris. Soils on-site have moderate expansion potential.

Seismicity and Seismic Hazards

The project site is located within the San Francisco Bay Area, the most seismically active region in the U.S. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults.

The project site is not located within an Alquist-Priolo Earthquake Fault Zone[26] and no active faults have been mapped on-site. Active faults near the project site are shown below in Table 4.7-1.

[26] United States Geologic Survey. "Alquist-Priolo Faults." Accessed August 30, 2021. https://earthquake.usgs.gov/education/geologicmaps/apfaults.php.

Table 4.7-1: Active Faults Near the Project Site	
Fault	**Distance from Site**
Hayward	6.0 miles northeast
San Andreas	12.0 miles southwest
Calaveras	7.0 miles east
Monte-Vista Shannon	7.0 miles southwest

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Per the Geotechnical Investigation completed for the site, the project site is located within a potential liquefaction zone.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. Guadalupe River is located approximately 0.4 miles west of the project site and Coyote Creek is approximately 0.6 miles east of the project site. At these distances, the potential for lateral spreading on-site is low.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. Since the downtown area is relatively flat, the potential for landslides on-site is low.

Groundwater

Groundwater depth on-site ranges from 15 to 20 feet bgs and flows in the westerly direction. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant geology and soils impacts, as described below.

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

Based on a forecast completed by the U.S. Geological Survey, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044.[27] As shown in Table 4.7-1, there are no active faults in the immediate project area. The closest active fault to the project site is the Hayward fault zone, located approximately six miles northeast. As mentioned previously, the soils on-site have moderate expansion potential. Because the site is located approximately 0.4 miles east of the Guadalupe River, the potential for lateral spreading during a seismic event would be low. The potential for liquefaction and landslides on-site would also be low.

Consistent with the General Plan, a site-specific geotechnical investigation (consistent with State of California guidelines) was prepared which makes specific recommendations regarding site preparation, mat foundation, soil improvement, basement wall design, excavation, temporary slopes, shoring, dewatering, tiedown anchors, seismic design, at-grade improvements, fill placement, utilities and utility backfill, and construction monitoring. The site-specific geotechnical investigation shall be submitted, reviewed, and approved by the City Geologist. Additionally, the proposed project would be constructed in conformance with the most recent CBC.

For these reasons, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking. The project would not exacerbate existing geological hazards on-site such that it would impact (or worsen) off-site geological and soil conditions. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in substantial soil erosion or the loss of topsoil?

The project site would be excavated to a depth of approximately 56 feet bgs for the garage and would be required to comply with all applicable City regulatory programs pertaining to construction-related erosion. Additionally, the proposed project would be required to implement the following Standard Permit Conditions to reduce construction-related erosion impacts.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

[27] U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System." Accessed August 30, 2021. https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

- The project shall be constructed in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Implementation of the Standard Permit Conditions and applicable policies and regulations would reduce potential soil erosion impacts to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Geologic Hazards

The project site is located within a liquefaction zone and Guadalupe River is located approximately 0.4 miles west of the project site. Due to the location of the site relative to the Guadalupe River, the potential for lateral spreading is low. Since the project site is relatively flat, the potential for landslides is low. Nevertheless, the project would implement the identified Standard Permit Conditions above and the recommendations identified in the site-specific geotechnical investigation and would not result in a significant geologic hazards impact.

Groundwater

The entire project site would be excavated up to 56 feet bgs for the garage. Groundwater is estimated at a depth ranging from 15 to 20 feet bgs and, as a result, dewatering would be required. As mentioned previously, the proposed project would be built in accordance with the recommendations identified in the site-specific geotechnical investigation which includes dewatering. Therefore, the project would not be located on a geologic unit or soil that is unstable or would become unstable as a result of the project.

With implementation of the reocmmendations from the geotechnical investigation, the proposed project would not be located on a geologic unit or soil that is unstable or that would become unstable. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The soils on-site have moderate expansion potential. The Downtown Strategy 2040 FEIR concluded that new development and redevelopment allowed under the Downtown Strategy 2040 could occur in areas with identified soil hazards, including expansive soils and artificial fill. In conformance with the Downtown Strategy 2040 FEIR and current practices in the City of San José, the project shall implement the previously identified Standard Permit Condition to reduce and/or avoid impacts related to expansive soils. With implementation of the Standard Permit Condition and recommendations identified in the site-specific geotechnical investigation, the project would not

create substantial direct or indirect risks to life or property. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. The site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (Less Than Significant Impact)]**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The site would be excavated to a depth of approximately 56 feet bgs for the parking garage which could potentially disturb unknown paleontological resources during excavation, grading and construction activities. Consistent with the Downtown Strategy 2040 FEIR, the project would comply with the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7.2.1 *Non-CEQA Effects*

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing geology and soils conditions affecting a proposed project.

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on-site or on adjoining properties. As mentioned previously, a geotechnical investigation has been prepared for the site which will be submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

Additionally, General Plan Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.

The project site contain soils with moderate expansion potential. The proposed project would be built and maintained in accordance with the site-specific geotechnical report consistent with Action EC-4.11 and applicable regulations including the most recent CBC, which contains regulations that govern the construction of structures in California. Adherence to the CBC would reduce seismic related impacts and ensure that the proposed project would not be endangered by hazardous site conditions. For these reasons, the project would comply with General Plan Policies EC-4.2 and EC-4.4.

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based upon a Greenhouse Gas Compliance Checklist provided by the applicant in January 2022. The checklist is attached in Appendix H of the SEIR.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of

GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development under the proposed Downtown Strategy 2040 would be subject to this policy.

Greenhouse Gas Reduction Strategy

The City's Greenhouse Gas Reduction Strategy (GHGRS) is intended to meet the mandates outlined in the CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies. The City's 2030 GHGRS is a comprehensive update to the City's original

GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's Envision San José 2040 General Plan and Climate Smart San José; these plans expanded the City's Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target.

The primary test for consistency with the City's GHGRS is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to *Sections 3.1 Air Quality* (of the SEIR) and *Sections 4.6 Energy* and *4.17 Transportation* of this document for these policies.

General Plan Policies - GHG Emissions	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and

General Plan Policies - GHG Emissions	
	interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.

4.8.1.3 *Existing Conditions*

The project site is currently developed with a surface parking lot. GHG emissions are generated by daily traffic trips to and from the project site.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would result in a less than significant GHG emissions impacts, as described below.

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

Construction Emissions

Construction activities associated with the project would generate GHG emissions from equipment and worker, hauling, and vendor trips. Project construction would occur for 34 months and would not result in a permanent increase in emissions. Therefore, construction of the project would not interfere with the implementation of SB 32.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the Downtown Strategy 2040 FEIR, the proposed project would comply with the 2030 GHGRS. As a result, the project would result in a less than significant GHG emissions impact.

The proposed project would not result in a permanent increase in emissions during construction. During operation of the proposed project, the project would comply with mandatory and voluntary measures required by the City and would comply with the 2030 GHGRS; therefore, the project would result in a less than significant GHG emissions impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

2030 San José Greenhouse Gas Reduction Strategy Compliance Checklist

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified GHGRS that is consistent with AB 32 goals. The City of San José adopted the updated 2030 GHGRS in 2020. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. The proposed project's consistency with these measures is summarized below (refer to Appendix H of this document for more detail).

The project is consistent with the General Plan designation and planned growth from build out of the General Plan FEIR. The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and CBC requirements as well as General Plan Action MS-2.11 which requires development to incorporate green building practices through construction, architectural design, and site design techniques. The proposed project would comply with Climate Smart San José, as described below. Additionally, the project proposes to achieve LEED C&S Platinum certification and ILFI Zero Carbon Ceritification and would be required to comply with the City's Reach Code. The ILFI Zero Carbon Certification requires all electric buildings and 100 percent renewable energy. The project proposes to procure 100 percent green power beyond what the on-site photovoltaic (PV) can provide (GHGRS #1 and GHGRS #3). In addition, the project would include solar panels on the roof and horizontal louvers for on-site energy generation. The City of San José passed an ordinance

in December 2020 which prohibits the use of natural gas infrastructure in new buildings, including the proposed project, starting on August 1, 2021 (GHGRS #2). The project is not proposing to retrofit an existing building; therefore, the project would be consistent with GHGRS #4. In addition, the project proposes to comply with the City's construction and demolition waste diversion requirement and would provide space for organic waste collection containers (consistent with GHGRS #5). Consistent with GHGRS #6, the project includes a TDM program and proposes the following measures:

- Pedestrian-oriented design
- Limited Automobile Parking Supply
- Short- and long-term bicycle parking
- On-site shower and locker rooms
- Subsidized transit use for on-site employees and residents

As mentioned above, the project proposes LEED Platinum certification and would install high-efficiency appliances/fixtures to reduce water use (consistent with GHGRS #7). The project would implement all applicable GHGRS consistency options intended to reduce GHG emissions.

Climate Smart San José

Climate Smart San José, adopted by the City, is a communitywide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

The project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City that is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The project would be consistent with applicable GHGRS strategy and comply with Smart San José. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs**. [Same Impact as Approved Project (Less than Significant Impact)]**

4.9 HAZARDS AND HAZARDOUS MATERIALS

As proposed, the project would remove the existing parking lot and construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space.

4.9.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☒	☐	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☒	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant hazards and hazardous materials. The project's impacts on hazardous materials is evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal and State

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[28] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Green Stormwater Infrastructure Plan

The City of San José has developed a Green Stormwater Infrastructure Plan (GSI Plan) to lay out the approach, strategies, targets, and tasks needed to transition traditional "gray" infrastructure to include green stormwater infrastructure over the long term and to implement and institutionalize the concepts of GSI into standard municipal engineering, construction, and maintenance practices. The GSI Plan is intended to serve as an implementation guide for reducing the adverse water quality impacts of urbanization and urban runoff on receiving waters over the long term, and a reporting tool to provide reasonable assurance that specific pollutant reductions from discharges to local creeks and San Francisco Bay will be met. The GSI Plan is required by the City's MRP for the discharge of stormwater runoff from the City's storm drain system.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

[28] MRP Number CAS612008

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[29]

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

City of San José

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

City of San José Grading Ordinance

All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project will submit to the Director of Public Works and Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

[29] California Deapertment of Water Resources, Division of Safety of Dams. Accessed August 30, 2021.https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD).

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

General Plan Policies - Hydrology and Water Quality	
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may

General Plan Policies - Hydrology and Water Quality	
	pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

4.10.1.2 *Existing Conditions*

Storm Drainage and Water Quality

Stormwater runoff from the project site and surrounding area is collected by storm drains and discharged into the Guadalupe River, located approximately 0.4 miles west of the project site. Guadalupe River is currently listed on the California 303(d) list for Mercury, trash, and pesticides.[30]

Flooding

As shown on Figure 3.10-1 of the Downtown Strategy 2040 FEIR, the project site is located in Flood Zone D, an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.

Dam Failure

The downtown area, including the project site, is located within the Anderson Dam and Lexington dam failure inundation hazard zones.[31,32]

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

[30] U.S. EPA. "How's My Waterway?" Accessed August 30, 2021. https://mywaterway.epa.gov/community/Guadalupe%20River,%20CA,%20USA/overview.
[31] Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed August 30, 2021. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.
[32] Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed August 30, 2021. https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[33]

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater beneath the site is estimated to be between 15 to 20 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Based on the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) watershed map for the City of San José, the site is located within a subwatershed greater than or equal to 65 percent impervious. As a result, the project would not be subject to the NPDES hydromodification requirements.[34]

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐

[33] California Department of Conservation. "Santa Clara County Tsunami Hazard Areas." Accessed August 30, 2021. https://www.conservation.ca.gov/cgs/tsunami/maps/santa-clara.
[34] City of San José. "Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements." Accessed August 30, 2021. https://www.sanjoseca.gov/home/showpublisheddocument/27925/636691773051670000.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040, the proposed project would result in less than significant hydrology and water quality impacts, as described below.

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction

The NPDES General Permit for Construction Activities requires projects which disturb over one acre of soil during project construction to comply with regulations established in the Construction General Permit. The project site is approximately 1.25 acres in size and would exceed the one acre threshold; therefore, the project would be required to file a NOI with the RWQCB and a SWPPP shall be prepared by a qualified professional prior to commencement of construction consistent with the NPDES General Permit for Construction Activities.

In addition, all development projects in San José are required to comply with the City's Grading Ordinance. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to the NDPES General Permit for Construction and City requirements, the project would be required to implement the following Standard Permit Conditions to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Consistent with the Downtown Strategy 2040 FEIR, the proposed project would also be required to implement the following Standard Permit Conditions.

Standard Permit Conditions:

- **Construction General Permit Requirements.** Prior to initiating grading activities, the project applicant will file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project's SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and construction activities. All measures shall be included in the project's SWPPP and printed on all construction documents, contracts, and project plans. The following construction BMPs may be included in the SWPPP:
  - Restrict grading to the dry season or meet City requirements for grading during the rainy season.
  - Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help

control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.
  - Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff with secure plastic sheeting or tarps.
  - Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.
  - Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.
  - Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the project area from sedimentation with filter fabric and sand or gravel bags.

  The SWPPP shall also include a Post-Construction Stormwater Management Plan that includes site design, source control, and treatment measures to be incorporated into the project and implemented following construction (refer to Section 3.10.3.3 above).

  When the construction phase is complete, a Notice of Termination (NOT) will be filed with the RWQCB and the DTSC, in conformance with the Construction General Permit requirements. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a Post-Construction Stormwater Management Plan is in place, as described in the SWPPP for the site.

- **Dewatering.** The proposed project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a state-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.[35]

Implementation of the identified Standard Permit Conditions would result in a less than significant impact on water quality.

Post-Construction Impacts

Project construction would replace more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City's Post Construction Urban Runoff Policy 6-29 and the MRP.

[35] This measure is identified in the Downtown Strategy 2000 EIR which is incorporated by reference in the Downtown Strategy 2040 FEIR.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The proposed project meets the criteria to qualify as a Special Project (Category C – Transit Oriented Development Projects) and currently proposes media filters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP.

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

Dewatering

Groundwater on-site ranges from 15 to 20 feet bgs. The proposed project would include one level below-grade for loading and three levels of below-grade parking and would be excavated to a depth of approximately 56 feet bgs, which could interfere with the shallow groundwater aquifer. As a result, dewatering would be required during project construction (refer to *Section 4.7 Geology and Soils* of this document and *Section 3.4 Hazards and Hazardous Materials* of the SEIR for more information).

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In addition, a site-specific geotechnical investigation (refer to Appendix G of the SEIR) was prepared which identified recommendations for dewatering. The project would be required to comply with the identified Standard Permit Conditions and the recommendations from the geotechnical investigation; therefore, the project would have a less than significant impact on groundwater.

With implementation of the previously identified Standard Permit Conditions and recommendations from the geotechnical investigation for dewatering, the proposed project would result in a less than significant impact on water quality during project construction and operation. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

The project site is not located within a designated groundwater recharge zone.[36] As mentioned previously, the site would require dewatering during construction. The project would be required to implement the Standard Permit Conditions identified above and the recommendations identified in the site-specific geotechnical investigation to minimize and reduce impacts to groundwater.

[36] Santa Clara Valley Water District. Groundwater Management Plan. November 2016.

Therefore, the proposed project would not decrease groundwater supplies or interfere substantially with groundwater recharge. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

Drainage Pattern Impacts

Per the Downtown Strategy 2040 FEIR, existing surfaces are largely impervious, making future development unlikely to alter the existing drainage pattern such that substantial flooding or erosion would occur in the receiving water bodies. The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.10-1 below.

Table 4.10-1: Pervious and Impervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (sq ft)	%	Project/Post-Construction (sq ft)	%	Difference (sq ft)	%
Impervious Surfaces						
Building Footprint/ Hardscape	51,107	94	53,246	98	+2,139	+4
Pervious Surfaces						
Pavement and Landscaping	3,342	6	1,203	2	-2,139	-4
Total:	54,449	100	54,449	100		

Currently, approximately 94 percent (51,107 square feet) of the project site is covered with impervious surfaces. The impervious surfaces would increase by approximately four percent (2,139 square feet) under project conditions when compared to existing conditions which would result in a slight increase in stormwater runoff. The Downtown Strategy 2040 FEIR concluded that implementation of applicable policies and existing regulations would substantially reduce drainage impacts. Future development within the Downtown Strategy 2040 area would be required to be designed and constructed to meet the City's 10-year storm event design standard. For these reasons, the proposed project would not substantially alter the existing drainage pattern of the site or area.

The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. Additionally, the project would comply with applicable policies and existing regulations to reduce drainage impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

Due to the location of the project site, the project would not be subject to inundation by a seiche or tsunami. The project site is flat and there are no mountains in close proximity; therefore, construction of the project would not cause mudflows that would impact adjacent properties.

The project site is located in Zone D, an area of undetermined flood hazard. The project site is not located in a Special Flood Hazard Area; therefore, the project site is not expected to experience inundation as a result of flooding. The proposed uses on-site, which include residential, retail, and office, would only store small amounts of household chemicals on-site.

In addition, the project site is located within the Anderson Dam and Lexington dam failure inundation hazard zones. The SCVWD routinely monitors and studies the condition of each of its 10 dams, including the Lexington Dam and Anderson Dam. Because of the routine monitoring, the risk of flooding is low. Therefore, the project would not release pollutants due to dam failure or flood inundation . **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

The project would comply with established City regulations and regional plans for water quality and groundwater management including the City's Post-Construction Urban Runoff Policy 6-29 and the MRP. Therefore, the project would not conflict with implementation of a water quality or groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

4.11.1.1 *Environmental Setting*

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and are applicable to the project.

General Plan Policies - Land Use	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities.

General Plan Policies - Land Use	
	7. Integrate existing or proposed transit stops into project designs.
CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
TR-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

San José Zoning Ordinance

The Zoning Ordinance serves as an implementing tool for the General Plan by establishing detailed, parcel-specific development regulations and standards. The Zoning Ordinance divides the City of San José into zoning districts to guide future land uses.

4.11.1.2 *Existing Conditions*

Existing Land Uses

The approximately 1.25-acre site is comprised of one parcel (APN 467-22-121) located in downtown San José. The project site is bounded by Fountain Alley to the north, South Third Street to the east, and commercial buildings to the south and west. The project site is currently developed with a surface parking lot.

The project site is designated Downtown and is zoned CG. The Downtown land use designation allows for office, retail, service, residential, and entertainment uses in the downtown with building

heights of three to 30 stories, an FAR of up to 30.0, and residential densities up to 800 dwelling units per acre.

The CG zoning designation is intended to serve the needs of the general population and allows for a full range of retail and commercial uses with a local or regional market. Under the CG zoning designation, development shall be subject to the height limitations of 65 feet and minimum setback requirements.

Zoning Code Section 20.70.110 states that new structures exceeding 150 feet and an FAR of 6:1 which are constructed within 100 feet of a City Landmark or contributing structure in a designated landmark district shall be reviewed by the Historic Landmarks Commission prior to consideration or approval of a development permit for new construction. The comments of the Historic Landmarks Commission shall be included in any development permit staff report subsequently presented to the Director of Planning, Building and Code Enforcement, Planning Commission, or City Council.

Surrounding Land Uses

The project site is surrounded by a variety of land uses including residential, retail, and office ranging from one to 14 stories in height. Located immediately north of the project site is Fountain Alley and a 14-story office building with grond floor retail. East of the project site is South Second Street, a two-lane street. Apartment buildings with ground floor retail, retail businesses, and offices are located along the east side of South Second Street. The buildings located east of South Second Street are two- to four-stories tall. Located south of the project site is a vacant commercial building. Existing uses located west of the project site include two- to four-story commercial buildings.

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐
c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040, the proposed project would result in less than significant land use impacts, as described below.

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space which is consistent with the existing land uses in the downtown area. Per the Downtown Strategy 2040 FEIR, future development under the Downtown Strategy 2040 would not substantially change allowed land uses in the downtown and would generally continue and reinforce the patterns of land use currently in place. The proposed project would be consistent with the existing uses in the project area and, would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

As described within the individual sections of this document, implementation of the City's Standard Permit Conditions, and the required Downtown Strategy 2040 FEIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. Based on the above, the impact is less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)?

A significant shade and shadow impact would occur if the project would result in an increase in shading of 10 percent or more onto any of the six major open space areas in the downtown San José area (St James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park). The proposed project is not located near any of the six major open space areas in the downtown area. The nearest major open space area is St. James Park located approximately 0.2 miles north of the project site. Due to the location of the project site, the proposed 21-story mixed-use building would not cast a shadow onto any of the idenified major open spaces. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.12.1.2 *Existing Conditions*

Under the SMARA, the SMGB has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than in this area, San José does not have mineral deposits subject to SMARA. Communications Hill is located over 2.5 miles south of the project site.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	☐
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project have no impact on mineral resources, as described below.

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

The project site is in a developed area of San José that does not contain any known or designated mineral resources. Implementation of the proposed project would not result in impacts to known mineral resource. **[Same Impact as Approved Project (No Impact)]**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No mineral resource recovery sites are located within the downtown area of the City. Consistent with the findings of the Downtown Strategy 2040 FEIR, the proposed project would not result in the loss of availability of a locally important mineral resource recovery site. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE

As proposed, the project would remove the existing parking lot and construct a 21-story mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space.

4.13.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☒	☐	☐	☐	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☒	☐	☐	☐	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant construction noise and vibration impacts. The project's impacts to noise and vibration are evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[37] The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,029,782 in January 2021 with an average of 3.14 persons per household.[38] As of January 2021, the City had approximately 337,442 housing units[39] and, by 2040, the City's population is projected to reach 1,334,100.[40]

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[37] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed August 30, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[38] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed August 30, 2021. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.
[39] Ibid.
[40] City of San José. "Population." Accessed August 30, 2021. https://www.sanjoseca.gov/home/showpublisheddocument/23689/636689367691700000.

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

4.14.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, future development would make a substantial contribution to the significant unavoidable impact related to the jobs/housing imbalance. The proposed project, by itself, would result in less than significant population and housing impacts, as described below.

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project would construct a mixed-use building with up to 194 dwelling units, approximately 31,959 square feet of ground floor retail, and 405,924 square feet of office space. The project would increase in the resident population by up to 609 new residents[41] and employee population by up to 2,502 employees[42] which is part of the planned growth in the downtown area. While the project would increase the resident and employee population within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same as Approved Project (Less Than Significant Impact)]**

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

[41] The average number of residents is calculated from 3.14 persons per household from the State of California Department of Finance.
[42] The number of workers was estimated based on approximately one office worker per 175 square feet of office space. Strategic Economics. 2016. San José Market Overview and Employment Lands Analysis. January 20, 2016.

The site is developed with a surface parking lot and would not displace people or housing and would not necessitate the construction of replacement housing elsewhere. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public facilities and services and are applicable to the project.

General Plan Policies - Public Facilities and Services	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.

General Plan Policies - Public Facilities and Services	
	4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.3	Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.
ES-3.4	Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.
ES-3.6	Work with local, State, and Federal public safety agencies to promote regional cooperation in the delivery of services. Maintain mutual aid agreements with surrounding jurisdictions for emergency response.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station No. 1, located at 225 North Market Street, which is approximately 0.4 miles north of the project site.

The General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 1.2 miles north of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The nearest public schools to the project site are Horace Mann Elementary, located at 55 North Seventh Street (approximately 0.3 miles southwest of the site), Herbet Hoover Middle School, located at 1635 Park Avenue (approximately 1.8 miles west of the site), and Lincoln High School, located at 555 Dana Avenue (approximately 1.9 miles southwest of the site).

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains approximately 197 neighborhood-serving parks and nine regional parks.[43] The nearest public park is St. James Park, located approximately 0.2 miles north of the project site.

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The nearest library is Dr. Martin Luther King Jr., approximately 0.2 miles north of the project site.

[43] City of San José. *Fast Facts*. October 8, 2019.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The proposed project would place more people on-site compared to existing conditions resulting in an increase in demand for fire protection services. The proposed project would be built in accordance with current building codes to reduce potential fire hazards. The proposed project would not require the construction of new fire facilities or expand existing stations while maintaining City performance objectives. Therefore, the project would not require new or expanded facilities to meet City service goals and would not result in a physical impact on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

Full build out of the Downtown Strategy 2040 FEIR would increase the demand for police protection services. The project, by itself, would not require additional police services or facilities since it would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. The project would be consistent with full build out of the Downtown Strategy 2040 plan and would not prevent the SJPD from meeting their service goals or require the construction of new or expanded police facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

As mentiond previously, the project would construct a mixed-use building which includes up to 194 dwelling units. Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students and 0.074 high school students per unit.[44] As a result, it is estimated that the project would generate a total of 27 new elementary school students, 11 middle school students, and 14 high school students. The addition of up to 52 students in the SJUSD would comprise a small percentage of the total student population. The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated from full build out of the Downtown Strategy 2040 plan.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment.

With payment of the school impact fees pursuant to Government Code Section 65996, the proposed project would have a less than significant impact on school services and would not, by itself, result in an adverse physical impact to new or physically altered governmental facilities or result in the need for new or physically altered governmental facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

[44] Odell Planning and Research, Inc. Development Fee Justification Study Prepared for the San José Unified School District. April 2014.

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

The proposed project would place up to 609 new residents on-site. The City has a PDO/PIO which requires new housing projects to provide at least three acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The project would include a gym and a roof terrace with active and passive open space, sundeck and lounge, outdoor workspace, and dining areas which could offset some of the project's demand on existing parks and recreational facilities. The proposed project would be required to pay the applicable PDO/PIO fees, the proposed project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

With payment of the applicable PDO/PIO fees, the project would not result in substantial adverse physical impacts on park facilities in the City. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

The City has a service level objective of providing at least 0.59 square feet of library space per capita. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035. The proposed project is part of planned growth in the downtown area and, as a result, would not require the construction of new library facilities. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

ActivateSJ Strategic Plan

Since adoption of the Downtown Strategy 2040 FEIR in 2018, the City of San José adopted ActivateSJ in 2019. The Activate SJ Strategic Plan is the City of San José's Department of Parks, Recreation, and Neighborhood Services' plan to maintain, improve, and expand facilities, programs, and services. The plan guides maintenance and development of the City's diverse park systems, recreational programs, and services.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation and are applicable to the project.

General Plan Policies - Recreation	
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

General Plan Policies - Recreation	
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[45] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 197 neighborhood parks, 50 community centers, nine regional parks, and over 61 miles of urban trails. The nearest park to the project site is St. James Park, approximately 0.2 miles north of the project site.

[45] City of San José. *Fast Facts*. October 8, 2019.

4.16.2 Impact Discussion

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒	☐
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant recreation impacts, as described below.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Implementation of the project would increase the resident and employee population in the City which would increase the use of park facilities in the area. The proposed project would be required to pay all applicable PDO/PIO fees to help offset the project's recreation impacts. The PDO/PIO fees would be used to maintain existing parks and assist the City in creating new park space to meet the service level objective. Therefore, the project would have a less than significant impact on recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The project does not include the expansion or construction of additional recreational facilities. As a result, implementation of the project would not result in an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The following analysis is based on a Local Transportation Analysis and TDM completed by Fehr & Peers in April 2022 and June 2021, respectively. A copy of this report is included in Appendix I of this document.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is at least 15 percent below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is less than or equal to existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation and are applicable to the project.

General Plan Policies - Transportation	
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

<table>
<tr><th colspan="2">General Plan Policies - Transportation</th></tr>
<tr><td>TR-1.3</td><td>Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are presented in the following table:
<table>
<tr><th colspan="3">Commute Mode Split Targets for 2040</th></tr>
<tr><th rowspan="2">Mode</th><th colspan="2">Commute Trips to and From San José</th></tr>
<tr><th>2008</th><th>2040 Goal</th></tr>
<tr><td>Drive alone</td><td>77.8%</td><td>No more than 40%</td></tr>
<tr><td>Carpool</td><td>9.2%</td><td>At least 10%</td></tr>
<tr><td>Transit</td><td>4.1%</td><td>At least 20%</td></tr>
<tr><td>Bicycle</td><td>1.2%</td><td>At least 15%</td></tr>
<tr><td>Walk</td><td>1.8%</td><td>At least 15%</td></tr>
<tr><td>Other means (including work at home)</td><td>5.8%</td><td>See Note 1</td></tr>
<tr><td colspan="3">Source: 2008 data from American Community Survey (2008).
Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.</td></tr>
</table></td></tr>
<tr><td>TR-1.4</td><td>Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.</td></tr>
<tr><td>TR-2.8</td><td>Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.</td></tr>
<tr><td>TR-3.3</td><td>As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.</td></tr>
<tr><td>TR-5.3</td><td>Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.
Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.</td></tr>
</table>

General Plan Policies - Transportation	
TR-7.1	Require large employers to develop and maintain TDM programs to reduce the vehicle trips generated by their employees.
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

4.17.1.2 *Existing Conditions*

Roadway network

Regional Access

Regional access to the project site is provided by SR 87 and I-280.

State Route 87 is primarily a six-lane freeway (four mixed-flow lanes and two high-occupancy vehicle [HOV] lanes) that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with Highway 101 (US 101).

Interstate 280 connects from US 101in San José to I-80 in San Francisco. It is an eight-lane freeway in the vicinity of downtown San José.

Local Access

Local site access is provided by Santa Clara Street, First Street, Second Street, and San Fernando Street.

Santa Clara Street is an east-west four-lane Grand Boulevard[46] located north of the project site. It extends as West Santa Clara Street from First Street westward to Stockton Avenue where it transitions into The Alameda. East of First Street, it extends eastward as East Santa Clara Street to US 101 where it transitions into Alum Rock Avenue.

San Fernando Street is an east-west two-lane street that extends between King Road to Race Street.

[46] Grand Boulevards serve as major transportation corridors that connect neighborhoods and contribute to the City's overall identity through cohesive design. All travel modes are accommodated in the roadway, but transit has priority. The public right-of-way includes ample sidewalks on both sides and special features such as enhanced landscaping, banners, and distinctive and attractive lighting.

First Street is a two- to six-lane street that extends from Alma Avenue (where it becomes Monterey Road) north to its termination point in Alviso.

Second Street is a two-lane street that extends between East Humboldt Street on the south where it terminates and transitions to Burton Avenue.

Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks along all the surrounding streets, including the project frontages. Crosswalks and pedestrian signal heads are located at all signalized intersections within the project area.

Overall, the existing sidewalks and paseos provide good pedestrian connectivity and safe routes to the surrounding pedestrian destinations, as well as various businesses and restaurants surrounding the project site.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), routes (Class III), and protected bicycle lanes (Class IV). South First Street and South Second Street are designated Class III bike routes (shared-lane pavement markings and signage). There are Class IV separated bikeways on East San Fernando Street.

Existing bicycle facilities are shown on Figure 4.17-1

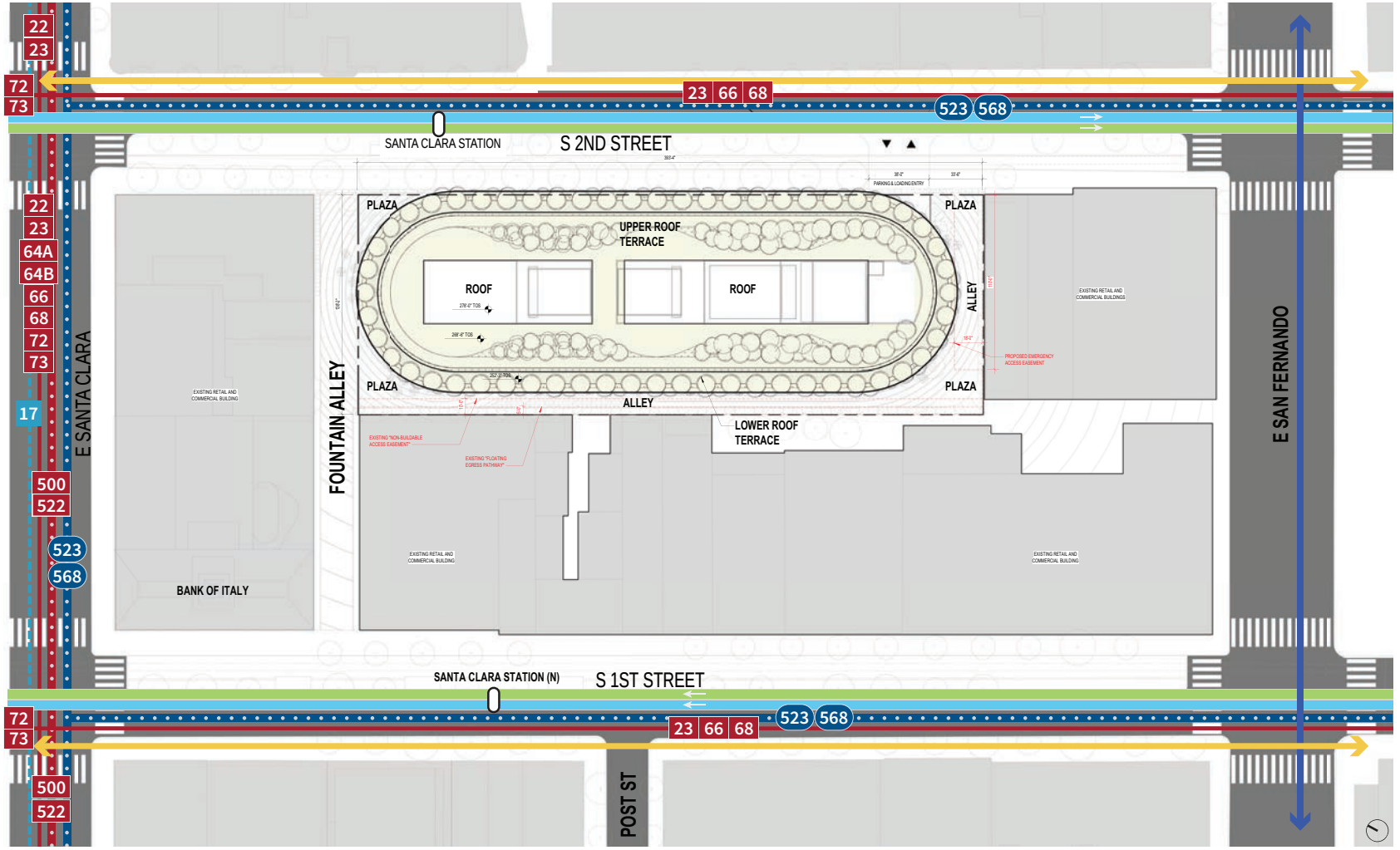
Transit Services

Existing transit services in the study area are provided by VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The site is approximately 0.8 miles northeast from the Diridon Transit Center located on Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. Figure 4.17-1 shows the existing transit facilities.

Bus Service

The downtown area is served by multiple VTA bus routes with high-frequency service. Rapid Bus services provide limited-stop service at frequent intervals (less than 15 minutes) during daytime hours.

Table 4.17-1 below provides a summary of the existing bus service including their route descriptions and commute hour headways. The nearest bus stops are located adjacent to the Santa Clara LRT Station platforms and on Second Street.



Existing Bicycle Facilities
- Bike Route
- Bike Protected Lane

Existing Transit Facilities
- Frequent Bus
- Rapid Bus (Limited-stop service at frequent intervals)
- Rapid Bus (Limited-stop service)
- Neighboring Route
- Green Line
- Blue Line

Source: Bjarke Ingels Group, Fehr & Peers, April 6, 2022.

EXISTING BICYCLE AND TRANSIT FACILITIES | FIGURE 4.17-1

Table 4.17-1: Existing Bus Service Near the Project Site		
Route	**Route Description**	**Weekday Headway (min)**
Frequent Route 22	Palo Alto Transit Center to Eastridge Transit Center	15
Frequent Route 23	De Anza College to Alum Rock Transit Center	15
Local Route 64A	McKee & White to Ohlone-Chynoweth Station	30
Local Route 64B	McKee & White to Almaden Expressway & Camden	30
Frequent Route 66	North Milpitas to Kaiser San José	15
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	15
Frequent Route 72	Downtown San José to Senter & Monterey via McLaughlin	15
Frequent Route 73	Downtown San José to Senter & Monterey via Senter	15
Rapid Route 500	San José Diridon Station to Berryessa BART	15
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	20
Rapid Route 568	Gilroy Transit Center to San José Diridon Station	30
Hwy 17 Express	Santa Cruz Metro Center to Santa Clara and South Sixth Street	60

Light Rail Transit Service

The VTA currently operates the light rail train (LRT) system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The Winchester-Old Ironsides and Baypointe-Santa Teresa LRT lines operate along San Carlos Street, San Fernando Street, and along First and Second Streets. The Santa Clara LRT station platforms on both First and Second Streets are located within walking distance of the project site.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain and is accessible from the Diridon Station. The project site is located approximately 0.8 miles northeast of the Diridon Station. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during weekday commute hours.

Altamont Commuter Express Service

The ACE provides commuter rail service between Stockton, Tracy, Pleasanton, and San José during commute hours, Monday through Friday, and is accessible from the Diridon Station. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon and evening with headways averaging 60 minutes.

Amtrak Service

Amtrak provides daily commuter passenger train service along the Capital Corridor between the Sacramento region and the Bay Area, with stops in San José (Diridon Station), Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant transportation impacts, as described below.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Bicycle and Pedestrian Facilities

There are existing bicycle and pedestrian facilitlies located along the South Second Street project frontage which provides good connectivity and provide pedestrians and bicyclists with safe routes within the project area. Additionally, the project would maintain the existing Fountain Alley 20-foot wide pedestrian paseo along the northern project frontage between South First Street and South Second Street which is accessible to both pedestrian and bicyclists.

Transit Facilities

The project site is in proximity to several major transit services. The project site is located approximately 0.8 miles northeast from the Diridon Transit Center and within walking distance to nearby bus stops on South Second Street. Therefore, implementation of the proposed project would

not preclude the construction of planned transit facilities, conflict with transit policies, or increase transit usage resulting in an exceedance of the capacity of the existing system.

The proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

City Council Policy 5-1 has established screening criteria to determine which projects require a detailed VMT analysis. Within the screening criteria, projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5 miles of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum FAR of 0.75 for office projects or components or a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike or pedestrian infrastructure.

Based on the Downtown Strategy 2040 FEIR, future development within the downtown would result in low VMT and would have the lowest VMT of any plan area in the City. The proposed project is located within the downtown area which does not exceed VMT per job or residential VMT per capita (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR) and, therefore, would have a less than significant VMT impact. The project site is approximately 0.8 miles from the Diridon Station and within walking distance to the Santa Clara LRT station platforms on both First and Second Streets. The project would have a density of 155 du/ac and an FAR of 7.5 (for the office component). For these reasons, the project would not result in a significant VMT impact and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

As proposed, the existing driveway on South Second Street would remain in the same location and the curb cut would be widened. The South Second Street driveway would provide access to the below-grade garage. The South Second Street drive aisle would have a curb-to-curb width of 38 feet and include one inbound and one outbound lane.

Section 20.90.100 of the City's Municipal Code provides specific off-street vehicle parking space design requirements. The typical width for one-way drive aisles is 20 feet for 90-degree parking spaces. Since the proposed garage is one-way circulation with 60-degree parking, the minimum drive

aisle width required would be 16 feet. Based on the plans provided by the applicant, the driveway aisle would be 18 feet which meets the minimum drive aisle requirement.

Additionally, the project proposes a mixed-use building and does not propose a new use or a use that is incompatible with the existing mix of uses in the project area. For these reasons, the proposed project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project result in inadequate emergency access?

The City requires consistency with applicable fire department standards before building permits are approved. For this reason, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.1 *Non-CEQA Effects*

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The proposed project is part of planned growth in the downtown; therefore, no CEQA transportation analysis is required. A Local Transportation Analysis (LTA) shall be prepared to identify any operational issues associated with the project. The following discussion is included for informational purposes only.

Trip Generation Estimates

Project trips were estimated using vehicle-trip rates for "Multi-family Housing – High Rise" (Land Use Code 222), "General Office Building" (Land Use Code 710), and "Shopping Center" (Land Use Code 820) published from the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, 10th Edition (2017).

The project would qualify for a location-based adjustment. Based on the City's *VMT Evaluation Tool*, the project site is located within a Central City Urban area.[47] Therefore, a 31 percent reduction was applied to the estimated project trips generated by office, a 16 percent reduction was applied to the estimated project trips generated by retail, and a 29 percent reduction was applied to the estimated project trips generated by residential uses.

Since the proposed development is a mixed-use project, a standard trip reduction (based on VTA's Transportation Impact Analysis Guideline dated October 2014) was applied based on the land use that generates the lowest number of new trips. Table 4.17-2 below provides a summary of the trip generation rates and reductions.

[47] Central City Urban areas have very high density, excellent accessibility, high public access, low number of single-family homes, and older high-value housing stock.

Table 4.17-2: Project Trip Generation Estimates							
Land Use	**Daily**	**AM Peak Hour**			**PM Peak Hour**		
		In	**Out**	**Total**	**In**	**Out**	**Total**
Proposed Land Uses							
Multi-family Housing (High-Rise)	863	14	46	60	43	27	70
- *Standard Trip Reduction Office/Retail*	<26>	<0>	<2>	<2>	<1>	<1>	<2>
- *Standard Trip Reduction Office/Residential*	<129>	<9>	<0>	<9>	<11>	<0>	<11>
- *Location Based Reduction*	<205>	<3>	<11>	<14>	<10>	<7>	<17>
General Office Building	3,954	405	66	471	75	392	467
- *Standard Trip Reduction Office/Retail*	<119>	<12>	<2>	<14>	<2>	<12>	<14>
- *Standard Trip Reduction Office/Residential*	<26>	<0>	<2>	<2>	<1>	<1>	<2>
- *Location Based Reduction*	<1,181>	<121>	<20>	<141>	<22>	<118>	<140>
Shopping Center	1,206	19	11	30	59	63	122
- *Standard Trip Reduction Office/Retail*	<119>	<12>	<2>	<14>	<2>	<12>	<14>
- *Standard Trip Reduction Office/Residential*	<129>	<9>	<0>	<9>	<11>	<0>	<11>
- *Location Based Reduction*	<153>	<1>	<0>	<1>	<8>	<8>	<16>
Net New Project Trips	3,936	274	84	358	109	323	432

As shown above, the project would generate up to 3,936 net new daily trips with 358 trips during the AM Peak Hour and 432 trips during the PM Peak Hour.

Truck Site Access

Trucks would use the project driveway along South Second Street to access the loading area on the first basement level. No on-street loading would be allowed. Based on City requirements, the project would be required to provide five loading spaces that are 10 feet in width by 30 feet in length. The loading floor would have a 15-foot vertical clearance to accomodate trucks. Based on the project plans, there is sufficient space in front of the trash compactors for trash loading. Therefore, the proposed off-street loading spaces would meet the City's standards for loading space height.

Bicycle Parking

Per Table 20-190 of the City's Municipal Code, the proposed project would be required to provide three spaces (two short-term and one long-term) for the residences, one space per 4,000 square feet of office space, and three spaces (two short-term and one long-term space per store) for the retail space. At least 80 percent of the bicycle parking spaces should be short-term while 20 percent should be secured long-term bicycle parking spaces for the office use. Based on these requirements, the proposed project would be required to provide a total of 88 bicycle parking spaces. The project proposes a total of 487 bicycle parking spaces which exceeds the City's minimum bicycle parking requirement.

Vehicle Parking

Based on Table 20-140 of the City's Municipal Code, residential development would be required to provide one off-street vehicle parking space for each residential unit and office development would be required to provide 2.5 off-street vehicle parking spaces per 1,000 square feet of office space. No parking would be required for the retail. Based on Section 20.90.220(A) of the City's Municipal Code, a reduction in the required off-street vehicle parking spaces of up to fifty percent may be authorized with a development permit or a development exception if no development permit is required, for structures or uses that conform to all of the following and implement a total of at least three transportation demand management (TDM) measures as specified in the Municipal Code. Refer to Appendix I of the Draft SEIR for the TDM plan and *Section 3.1.2* for the list of the proposed TDM measures.

In addition, for mixed-use projects, the Director may reduce the required parking spaces by up to fifty percent, including any other exceptions or reductions as allowed under Title 20, upon making the following findings:

- That the reduction in parking will not adversely affect surrounding projects;
- That the reduction in parking will not be dependent upon public parking supply; or reduce the surrounding public parking supply; and
- The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.

With the allowed reduction, the project would be required to provide 225 parking spaces. The project proposes a total of 292 parking spaces and would exceed the City's off-street parking requirement (with the reductions).

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant tribal cultural resources impacts, as described below.

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Guadalupe River, located approximately 0.4 miles west of the project site, is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the downtown area of the City of San José. At the time of preparation of this Initial Study, two tribes have sent written requests for notification of projects to the City of San José and one verbal request has been made.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in downtown, and that such requests

may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.

- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification and the written notice received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, AB 52 notification was sent electronically and via mail to Tamien Nation on July 20, 2021. Consultation was requested electronically on August 19, 2021. City staff and Chairwoman Geary met on October 28, 2021 to discuss requests and consultation is ongoing.
- On June 30, 2021, Kanyon Sayers-Roods of the Band of Costanoan Ohlone people verbally requested AB52 notification for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or an Environmental Impact Report. The project's AB 52 notification was sent electronically on May 24, 2021. On June 7, 2021 Kanyon Sayers-Roods responded electronically with site recommendations.

Any subsurface artifacts found on-site would comply with the standard measures identified in the Downtown Strategy 2040 FEIR. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

There are no known tribal cultural resources on-site. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR (see response above). As a result, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resources that is determined by the lead agency (i.e., the City of San José), in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San Jose adopted its most recent UWMP in November 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989 (AB 939) established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants

City of San José

Zero Waste Goals and Strategic Plan

The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

San José Construction & Demolition Diversion Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to utilities and service systems and are applicable to the project.

General Plan Policies - Utilities & Service Systems	
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.
MS-17.1	Manage the limited water supply in an environmentally, fiscally, and economically sustainable manner, by working with local, regional and statewide agencies to establish policies that promote water use efficiency programs, including recycled water programs to support the expanded use of recycled water within San José and neighboring jurisdictions.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary

General Plan Policies - Utilities & Service Systems	
	Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-4.1	Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Regional Wastewater Facility.
IN-4.2	Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth.
IN-4.4	Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
IP-17.1[48]	Use San José's adopted Green Vision as a tool to advance the 2040 General Plan Vision for Environmental Leadership. San José's Green Vision is a comprehensive fifteen-year plan to create jobs, preserve the environment, and improve quality of life for our community, demonstrating that the goals of economic growth, environmental stewardship and fiscal sustainability are inextricably linked. Adopted in 2007, San José's Green Vision, adopted in 2007, establishes the following Environmental Leadership goals for the City through 2022: 5. Divert 100 percent of the waste from our landfill and convert waste to energy; Although the City has one of the highest waste diversion rates of any large city in the nation, many waste reduction opportunities remain. If San José and other local cities achieve no further waste reduction efforts over the next 15 years, solid waste landfill space in the region could reach capacity.

[48] Policy IP-17.1, as shown, is modified in this list to reflect only those items relevant to the discussion of solid waste.

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, San José Water (SJW), the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site is provided by SJW. The service area of SJW is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water, and local surface water.

The site is developed with a surface parking lot which does not have any water demand.

Wastewater Services

Wastewater treatment in San José is provided by the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility serves approximately 1.4 million residents and over 17,000 businesses by treating an average of 110 million gallons of wastewater per day (mgd), with a capacity of up to 167 mgd.[49] The Facility is currently operating under a 120 mgd dry weather effluent flow constraint. This requirement is based upon the SWRCB and RWQCB concerns over the effects of additional freshwater discharges on the saltwater march habitat and pollutant loading to the Bay from the Facility. The City's share of the Facility's treatment capacity is approximately 108.6 mgd. Based on the average daily dry weather flows from sources in San José (approximately 69.8 mgd), the City currently has approximately 38.8.[50]

The site is developed with a surface parking lot and no wastewater is generated on-site.

Stormwater Drainage

The San José Municipal Separate Storm Sewer System provides storm water collection and transport for the City of San José. The system collects water via a variety of storm drain inlets and transports water to creeks in the area and eventually the bay.

There is an existing eight-inch storm drain line on-site that connects to a 12-inch storm drain line along South Second Street.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, approximately 600,000 tons of material generated in San José were disposed in various landfills throughtout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total

[49] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed July 23, 2021. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.
[50] City of San José. Envision San José Environmental Impact Report. September 2011.

permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[51]

Municipal solid waste generated in San José is processed at various approved facilities and residuals are disposed at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2020 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2041.[52] The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.[53]

The project site does not currently generate any solid waste.

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐

[51] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

[52] North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.

[53] Ibid.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Similar to the development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

The proposed project would use approximately 238,823 gpd of water[54], a net increase of approximately 238,823 gpd of water compared to existing conditions. The proposed project is part of planned growth from build out of the Downtown Strategy Plan. The Downtown Strategy 2040 FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the Downtown Strategy 2040 would not exceed the available water supply.

Water services to the project site would be served by SJW. Sufficient water supplies are available to serve the project during normal, dry, and multiple dry years. The project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

Wastewater

The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 85 percent of the total on-site water use. Implementation of the project would generate approximately 203,000 gpd of wastewater, a net increase of approximately 203,000 gpd of wastewater compared to existing conditions. The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. The proposed project could be served by the available capacity and would not result in the relocation or construction of sanitary sewer and wastewater treatment facilities.

Storm Drainage System

Under project conditions, the impervious surfaces on-site would have a net increase of approximately 2,139 square feet when compared to existing conditions. All stormwater runoff generated on-site by

[54] Water usage rates were calculated using CalEEMod Appendix D. CalEEMod. "Table 9.1: Water Use Rates." Accessed July 23, 2021. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

the project would be treated with media filters. Additionally, the project would be required to comply with the NPDES Municipal Regional Permit and all applicable plans, policies, and regulations for the treatment of stormwater. Therefore, implementation of the proposed project would have a less than significant impact on the City's storm drainage system such that no new or expanded facilities would be required.

Electric Power, Natural Gas, and Telecommunications

The project site is currently served by existing electrical and telecommunications services. As mentioned in previous sections, the City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. While the project would intensify the development on-site, the demand for these resources would be satisfied by existing services and construction of new or expanded facilities would not be required.

Implementation of the proposed project would not result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Although water demand could exceed water supply during dry and multiple dry years after 2025 from full build out of the downtown, the Downtown Strategy 2040 FEIR concluded that with implementation of existing regulations and General Plan policies, water demand would not exceed water supply. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in downtown. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The proposed project would be served by the City's existing sanitary sewer system. The project would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity for sewer services required by the proposed project. The proposed project would dispose of wastewater at the Facility which has adequate capacity to accommodate the increased demand created by the project. Since the proposed development is consistent with planned growth in the downtown area, the project would not exceed the City's allocated capacity at the Facility.

Development allowed under the Downtown Strategy 2040, including the proposed project, would not exceed the City's allocated capacity at the Facility; therefore, even with implementation of the project the Facility would have adequate capacity to serve the project's projected demand in addition to its existing commitments. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The project would generate approximately 3,546 pounds of solid waste per day[55], a net increase of 3,546 pounds per day compared to existing conditions. The increase in waste generated by full build out under the Downtown Strategy 2040 FEIR, including the proposed project, would not cause the City to exceed the capacity of existing landfills that serve the City. As mentioned previously, NISL had approximately 14.6 million cubic yards of capacity remaining in December 2019. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project.

The proposed project would be required to comply with existing federal, state, and local programs and regulations. For these reasons, implementation of the project would not generate solid waste in excess of state or local standards. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

The project would be required to comply with the City's Zero Waste Strategic Plan, existing regulations and programs, and applicant General Plan policies; therefore, the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

[55] CalRecycle. "Estimated Solid Waste Generation Rates." Accessed July 23, 2021. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates. Based on the generation rates of 5.31 pounds per unit per day for multi-family units, 2.5 pounds per 1,000 square feet per day for commercial retail, and six pounds per 1,000 square feet per day for office space.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[56] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

Based on the Fire Hazard Severity Zone (FHSZ) Map, the project site is not located within a FHSZ area.[57]

4.20.1.3 *Impact Discussion*

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐

[56] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy*. January 1, 2017. Accessed August 30, 2021. https://www.sanjoseca.gov/Home/ShowDocument?id=9345.
[57] CALFIRE. "Wildland Hazard & Building Codes." Accessed August 30, 2021. http://egis.fire.ca.gov/FHSZ/.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **[Same Impact as Approved Project (No Impact)]**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☒	☐	☐	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☒	☐	☐	☐	☐

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Implementation of the proposed project could result in a significant impact on air quality, biological resources, cultural resources, hazards and hazardous materials, and noise. The project's impact on these identified resource sections are evaluated in detail in the SEIR.

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a Lead Agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has

potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The proposed development would result in temporary water quality impacts during construction. With implementation of the identified Standard Permit Conditions and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts are temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on water quality. As discussed in their respective sections, the proposed project would have no impact or less than significant impact on aesthetics, agriculture and forestry resources, energy, geology and soils, GHG emissions, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, transportation, tribal cultural resources, utility and service facilities, and wildfire. The project would not have a cumulatively considerable impact on these resource areas.

The cumulative air quality, biological resources, cultural resources, hazards and hazardous materials, and noise impacts are discussed in detail in the SEIR.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. Implementation of applicable regulations and policies, Standard Permit Conditions, and mitigation measures would reduce the impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

CalEEMod Appendix D. CalEEMod. "Table 9.1: Water Use Rates." Accessed July 23, 2021. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

CALFIRE. "Wildland Hazard & Building Codes." Accessed August 30, 2021. http://egis.fire.ca.gov/FHSZ/.

California Deapertment of Water Resources, Division of Safety of Dams. Accessed August 30, 2021.https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD).

California Department of Conservation. "Santa Clara County Tsunami Hazard Areas." Accessed August 30, 2021. https://www.conservation.ca.gov/cgs/tsunami/maps/santa-clara.

California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed August 30, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.

CalRecycle. "Estimated Solid Waste Generation Rates." Accessed July 23, 2021. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

City of San José. "Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements." Accessed August 30, 2021. https://www.sanjoseca.gov/home/showpublisheddocument/27925/636691773051670000.

City of San José. "Population." Accessed August 30, 2021. https://www.sanjoseca.gov/home/showpublisheddocument/23689/636689367691700000.

City of San José. Envision San José Environmental Impact Report. September 2011.

City of San José. *Fast Facts.* October 8, 2019.

City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed July 23, 2021. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.

California Air Resources Board. "The Advanced Clean Cars Program." Accessed July 23, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

California Building Standards Commission. "California Building Standards Code." Accessed March 9, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

California Department of Conservation. *California Important Farmland Finder.* Accessed March 2, 2021. https://maps.conservation.ca.gov/DLRP/CIFF/.

California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed March 11, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Department of Transportation. "Scenic Highways." Accessed August 30, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

California Energy Commission. "Electricity Consumption by County." Accessed March 10, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Energy Commission. "Natural Gas Consumption by County." Accessed March 11, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Department of Planning and Development. *Williamson Act Properties.* Accessed March 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce.

Fehr & Peers. *Fountain Alley Local Transportation Analysis*. April 2022.

Fehr & Peers. *Fountain Alley TDM Plan*. June 2021.

Illingworth & Rodkin, Inc. *Fountain Alley Project Air Quality Assessment*. June 22, 2021.

Langan Engineering and Environmental Services, Inc. *Phase I Environmental Site Assessment*. November 11, 2020.

Metropolitan Transportation Commission. Transit Priority Areas (2017). Accessed August 30, 2021. https://opendata.mtc.ca.gov/maps/MTC::priority-development-area-transit-priority-area-overlay-2017/explore?location=37.335892%2C-121.889140%2C14.00.

North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.

Odell Planning and Research, Inc. Development Fee Justification Study Prepared for the San José Unified School District. April 2014.

Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 7, 2014. Accessed August 30, 2021. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. Accessed August 30, 2021. https://www.sanjoseca.gov/Home/ShowDocument?id=9345.

Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed August 30, 2021. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.

Santa Clara Valley Water District. Groundwater Management Plan. November 2016.

State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed August 30, 2021. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

Strategic Economics. 2016. San José Market Overview and Employment Lands Analysis. January 20, 2016.

United States Energy Information Administration. "Natural Gas." Accessed March 10, 2021. https://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.

United States Energy Information Administration. "State Profile and Energy Estimates, 2018." Accessed March 9, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.

United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. Accessed March 11, 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010UBX.pdf.

U.S. EPA. "How's My Waterway?" Accessed August 30, 2021. https://mywaterway.epa.gov/community/Guadalupe%20River,%20CA,%20USA/overview.

U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System." Accessed August 30, 2021. https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. http://www.afdc.energy.gov/laws/eisa.

United States Geologic Survey. "Alquist-Priolo Faults." Accessed August 30, 2021. https://earthquake.usgs.gov/education/geologicmaps/apfaults.php.

Westbank Corp. 2030 Greenhouse Gas Compliance Checklist. *January 2022*.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

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HMH
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Cotati, CA
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Langan Engineering and Environmental Services, Inc.
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