Initial Study/Addendum

Apollo Residential Project

File Nos.: H21-048, T21-043, & ER21-276

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

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY/ADDENDUM

This Initial Study/Addendum 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 and Diridon Station Area Amendment

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 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy 2040 was necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to downtown capacity available now. The Downtown Strategy 2040 approved in 2018 had 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 project site is located within the boundaries of the Diridon Station Area Plan (DSAP). The Downtown Strategy 2040 project area includes most of the original DSAP, which was adopted in 2014. In May 2021, the City Council approved an amendment to the 2014 DSAP (DSAP Amendment) which modified planned land uses, altered DSAP boundaries, and increased maximum heights and development capacity within DSAP. The City prepared an Initial Study/Addendum to the Downtown Strategy 2040 FEIR, which analyzed the increase in density and development capacity that would be added to the DSAP area. With the DSAP Amendment, development capacities in the DSAP portion of Downtown were increased, as shown in the following table:

DSAP Amendment and Downtown Strategy 2040 Development Capacities

	Office (square feet)	Retail (square feet)	Residential (units)	Hotel (rooms)
Maximum DSAP Amendment Development Capacity[1]	14,144,000	469,000	12,619	1,100
Maximum Downtown Strategy 2040 Development Capacity with DSAP Amendment Capacity[1]	28,344,154	1,400,000	26,979	3,600

Note: [1] Includes Downtown West

The Downtown Strategy 2040 Plan includes and integrates the following detailed plans and programs, including, but not limited to: the Downtown Strategy 2000 FEIR, the 2040 General Plan FEIR (2040 General Plan FEIR), and the DSAP Amendment to the extent possible. The Downtown Strategy 2040 FEIR analysis and subsequent Initial Study/Addendum for the DSAP Amendment assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This Initial Study/Addendum provides that subsequent project-level environmental review.

1.2 DIRIDON INTEGRATED STATION CONCEPT PLAN

The City of San José has adopted plans for substantial transit-oriented development near the San José Diridon Station, which would bring thousands of new jobs and residents to the area. The California High-Speed Rail Authority (CHSRA), Caltrain, Santa Clara Valley Transportation Authority (VTA), Metropolitan Transportation Commission (MTC) and the City of San José (Partner Agencies) are working together on a plan, the Diridon Integrated Station Concept Plan (DISC), to expand and redesign the Diridon Station. The goal of the DISC is to develop a world-class center of transit and public life that provides smooth connections between modes of transportation and integration of the surrounding neighborhoods. The subject project site is approximately 800 feet north of Diridon Station and is located adjacent to the existing Union Pacific Railroad (UPRR) and Caltrain tracks.

The DISC includes two components:

- A spatial configuration that shows how the various track and station elements will fit together and relate to the surrounding neighborhood
- A governing structure to effectively deliver the shared vision for the station and operate it over the long-term.

1.2.1 Preparation of This Addendum

The CEQA Guidelines §15162 states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the Lead Agency determined, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete of the Negative Declaration was adopted, shows any of the following:

a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 states that the Lead Agency or a Responsible Agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred. This Initial Study/Addendum has determined that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred and that the changes that are part of the proposed project would not result in any significant impacts not considered under the previously certified EIR. Therefore, as provided by CEQA, this Initial Study/Addendum is the appropriate documentation to address the changes made by the project.

1.3 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

Apollo Residential Project (File Nos. H21-048, T21-043, & ER21-276)

2.2 LEAD AGENCY CONTACT

Cort Hitchens, Planner II
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Cort.Hitchens@sanjoseca.gov
(408) 794-7386

2.3 PROJECT APPLICANT

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Urban Catalyst
99 Almaden Boulevard, Suite 840
San José, CA 95110

2.4 PROJECT LOCATION

The approximately 1.1-acre project site is located at the northeast corner of East Santa Clara Street and Stockton Avenue within the Diridon Station Area Plan (DSAP) area in downtown San José. The location is depicted in the following figures:

- 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(S)

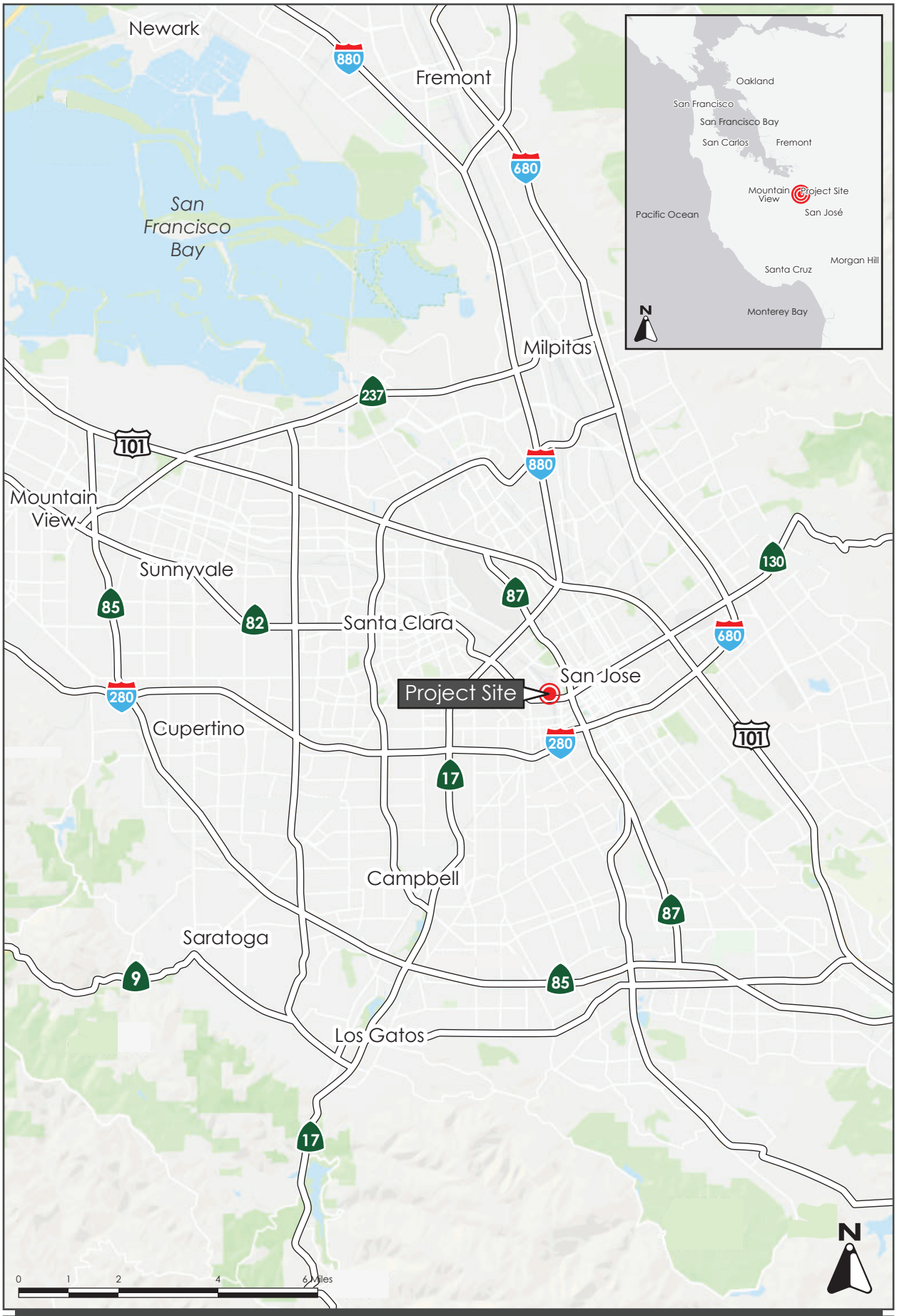
259-28-001
259-28-002

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)
- Department of Public Works Clearances Public Street Improvement Permit



REGIONAL MAP | FIGURE 2.4-1

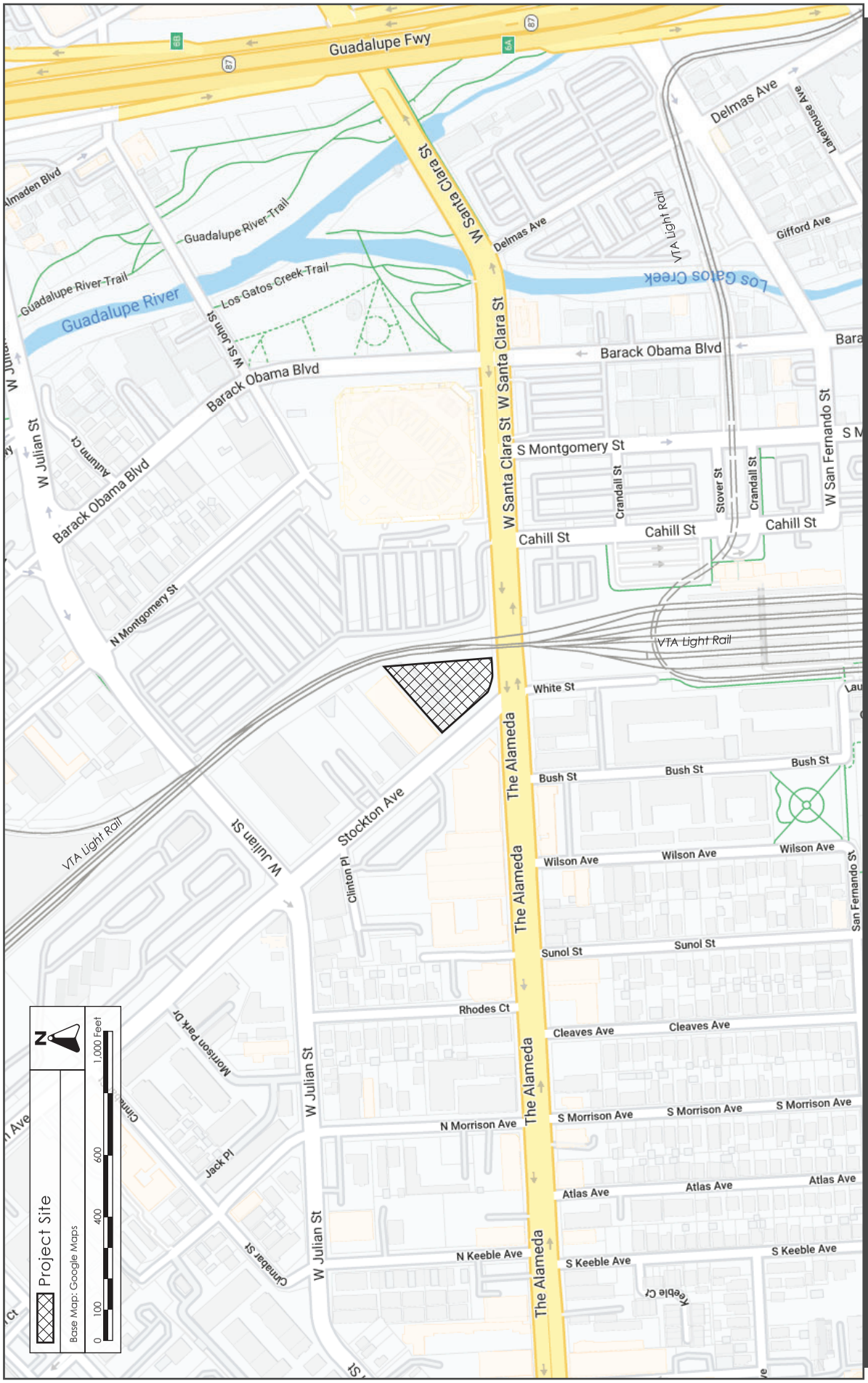


FIGURE 2.4-2

VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1.1 Background Information

The approximately 1.1-acre project site is comprised of two parcels (Assessor's Parcel Numbers [APNs] 259-28-001 and -002) and is currently developed with a two-story automotive business located at 60 Stockton Avenue (approximately 106 years old), an automotive/equipment steam cleaning and vehicle washing business (approximately 31 years old), multiple carports, and small storage buildings associated with the existing on-site businesses in downtown San José. The site is bounded by an apartment complex to the north, the Union Pacific Railroad (UPRR) and Caltrain tracks to the east, West Santa Clara Street to the south, and Stockton Avenue to the west. The project site is located within the Diridon Station Area Plan (DSAP) and within the boundaries of downtown.

Vehicular access to the project site is currently provided via three existing full-access driveways along the Stockton Avenue project frontage.

3.1.2 Proposed Development

The applicant proposes to demolish the existing buildings on-site (totaling approximately 15,908 square feet) and construct a 20-story residential tower with up to 471 units and 7,661 square feet of ground floor retail. The building would have a maximum height of up to 198 feet and six inches to the roof. Refer to Figures 3.1-1 to 3.1-3 for the site plan and elevations.

An outdoor plaza is proposed along the western edge of the project site. In addition, the project proposes an outdoor use deck and courtyard on the fourth floor and two sky decks on the 18th floor. The outdoor use deck would include active use areas such as a pool, terrace, fitness area, and outdoor yoga space.

3.1.3 Parking, Vehicular Access, and Other Improvements

Parking is proposed in a one level below-grade and three level above-grade parking garage with a total of up to 359 parking spaces. Based on the site plan provided by the applicant, one two-way driveway is proposed on Stockton Avenue which would provide access to the proposed parking garage.

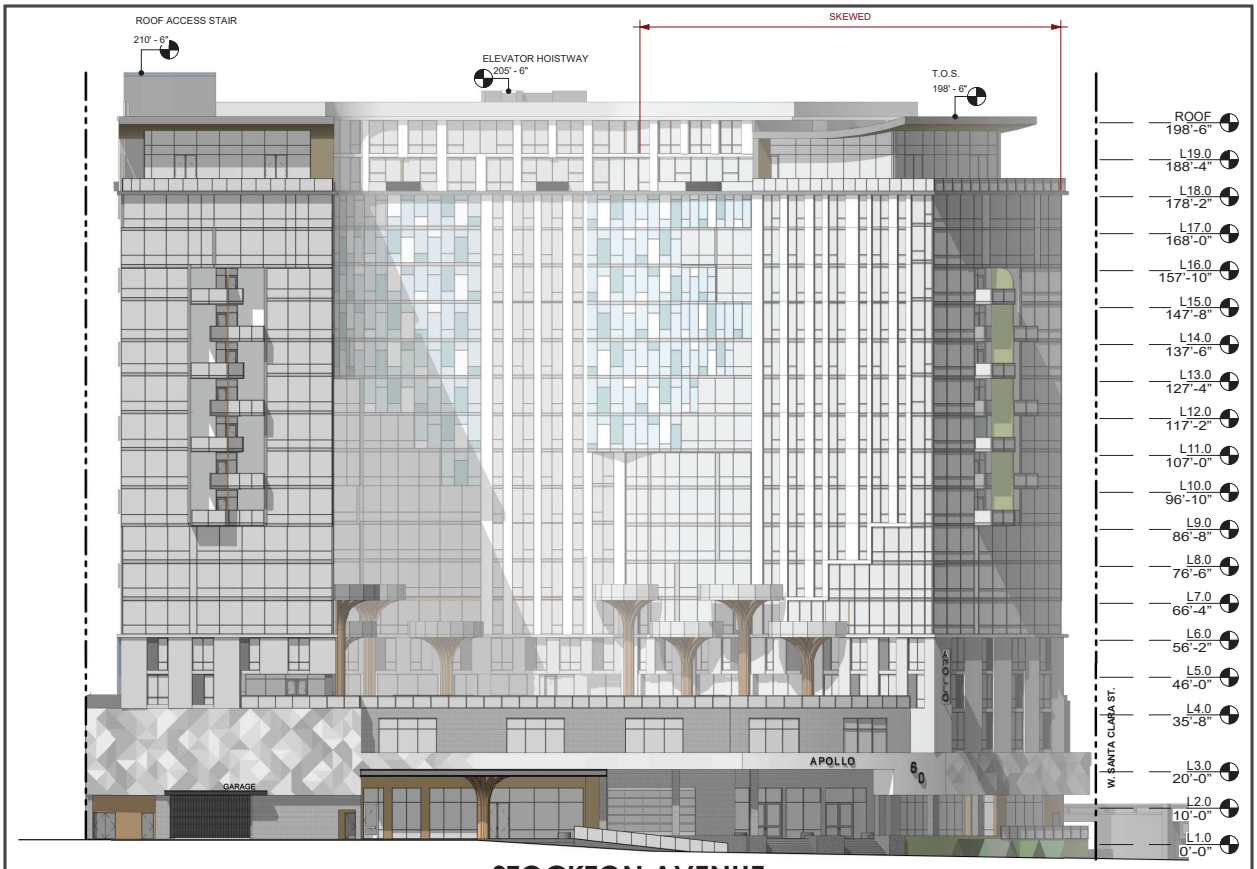
The project proposes to replace the existing Class II bicycle lane along the Stockton Avenue and Santa Clara Street frontages with a Class IV raised, protected bicycle lane. The project is proposing to widen the project frontage sidewalks from approximately 20 to 22 feet wide.

3.1.4 Mechanical Equipment

A green roof/solar ready space is proposed on the roof of the proposed building. The proposed project would include mechanical equipment such as heating, ventilation, and air conditioning systems (HVAC).

Source: Aedis Architects, May 13, 2022.

SITE PLAN – GROUND LEVEL | FIGURE 3.1-1



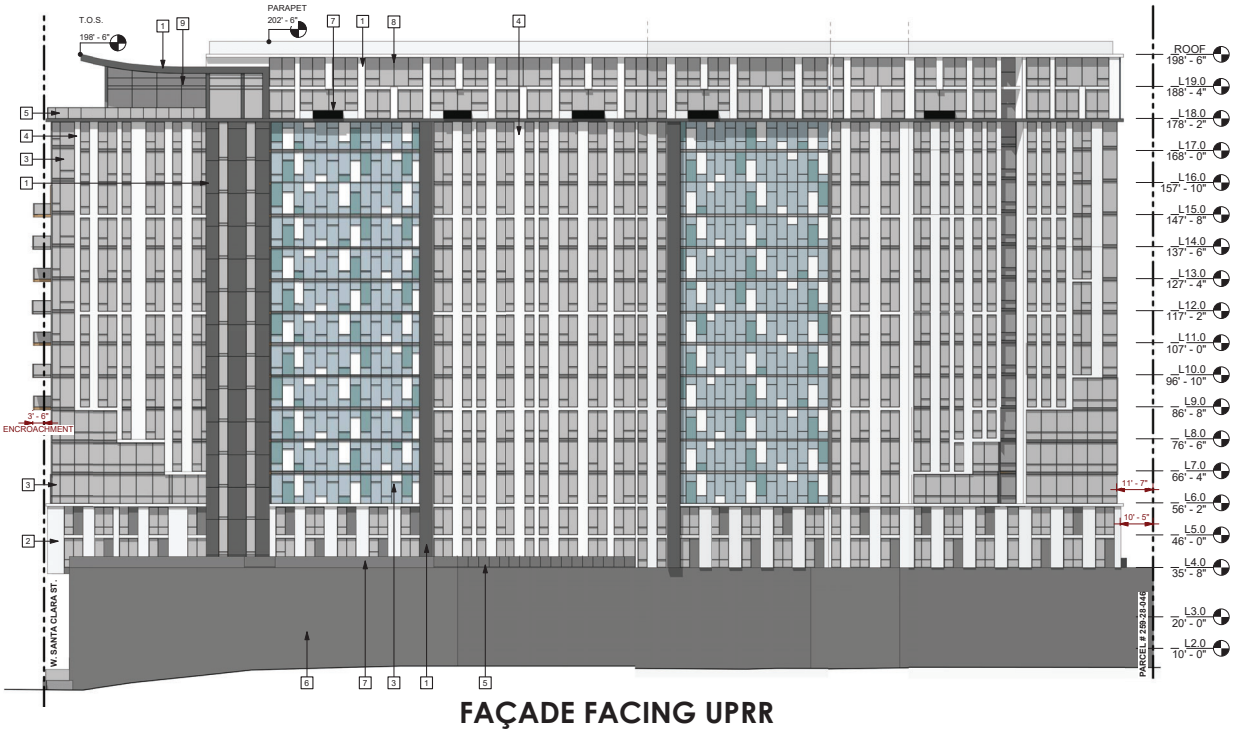
STOCKTON AVENUE

WEST SANTA CLARA STREET

Source: Aedis Architects, May 16, 2022.

ELEVATIONS – STOCKTON AVENUE AND WEST SANTA CLARA STREET | FIGURE 3.1-2

FAÇADE FACING VESPAIO BUILDING



FAÇADE FACING UPRR

Source: Aedis Architects, May 13, 2022.

ELEVATIONS – FAÇADE FACING VESPAIO BUILDING AND FAÇADE FACING UPRR | FIGURE 3.1-3

3.1.5 Green Building Measures

The project would be required to be built in accordance with the California Green Building Standards Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption and the most recent California Building Code (CBC). Additionally, the project would be designed to achieve Leadership in Energy and Environmental Design (LEED) certification consistent with San José City Council Policy 6-32, though no specific building measures have been identified at this time.

3.1.6 Transportation Demand Management Plan

Transportation Demand Management (TDM) programs are intended to reduce vehicle trips and parking demand by promoting the use of multimodal transportation options. By implementing TDM programs, land use authorities would use available transportation resources more efficiently.

The project proposes the following TDM measures[1]:

- Transit Use Incentive Program
- On-Site TDM Coordinator
- Unbundled Parking

3.1.7 Envision San José 2040 General Plan and Zoning Designation

The site is designated *Downtown* under the City's General Plan and has a zoning designation of *DC – Downtown Primary Commercial*. The *Downtown* designation includes office, retail, service, residential, and entertainment uses in the downtown. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Residential development 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.

Under the *DC* zoning designation, development shall only be subject to the height limitations necessary for the safe operation of Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements.

3.1.8 Construction

The applicant proposes construction hours on-site from Monday to Friday, 7:00 AM to 5:00 PM for a period of approximately 22 months starting in February 2024. The site would be excavated approximately 10 feet below the ground surface (bgs) for the below-grade parking garage. Based on information provided by the applicant, approximately 30,947 cubic yards (cy) of soil would be exported from the site and approximately 1,200 cy of soil would be imported to the site.

[1] Hexagon Transportation Consultants, Inc. *Apollo Mixed-Use Development Transportation Demand Management Plan*. April 22, 2022.

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).

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 vehicle miles traveled (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 or mixed-use residential project, and
- The project is located on an infill site within a transit priority area.[2]

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.[3]

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.

[2] 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 or applicable regional transportation plan." 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: OPR. "CEQA Review of Housing Projects Technical Advisory." Accessed March 1, 2022. https://opr.ca.gov/docs/20190208-TechAdvisory-Review_of_Housing_Exemptions.pdf.

[3] California Department of Transportation. "Scenic Highways." Accessed March 1, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

City of San José

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.

City Council Policy 4-2: Public Streetlights

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.

City Council Policy 4-3: Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The downtown area is exempt from this policy.

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 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.
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, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. 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-6.9	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

General Plan Policies - Aesthetics	
	buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
CD-6.10	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-6.11	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.

4.1.1.2 *Existing Conditions*

Project Site

The 1.1-acre project site is located at the northeast corner of East Santa Clara Street and Stockton Avenue within the DSAP area in downtown San José. The project site is currently developed with a two-story automotive business, an automotive/equipment steam cleaning and vehicle washing business, multiple carports, and small storage buildings (totaling approximately 15,908 square feet). The building located at 60 Stockton Avenue is comprised of two elements: a front two-story section that is primarily stucco and a rear single-story manufacturing area. The building consists of a solid base with three vertical bays and recessed windows on both floors, while the rear is of wood-frame construction. The building is set back from Stockton Avenue by a sidewalk (Photo 1). Located south of the two-story building is an automotive/equipment steam cleaning and vehicle washing business located at 32 Stockton Avenue (Photo 2).

Surrounding Land Uses

Development in the project area consists of commercial businesses and apartment complexes. The project site is bounded by an apartment complex to the north, the UPRR and Caltrain tracks to the east, West Santa Clara Street to the south, and Stockton Avenue to the west. The buildings in the area range from one- to seven-stories in height with no common architectural theme. The buildings are set back from the roadways by streetlights, street trees, and sidewalks.

Located north of the project site is a seven-story apartment complex that was constructed in 2020. The building is contemporary in design and is primarily stucco with windows on each floor (Photo 5). The ground floor of the building consists of multiple entrances to vacant retail space. A portion of the eastern façade is set back from the first two floors.

Located east of the project site is the UPRR and Caltrain tracks. East of the tracks is the SAP Center, an indoor arena, and associated parking lot. A portion of the SAP Center is visible from the project site as shown in Photo 2. Located south of the project site is West Santa Clara Street, an east-west, four-lane street that extends as West Santa Clara Street from First Street to Stockton Avenue. South of West Santa Clara Street/The Alameda are various commercial businesses and apartment complexes. The one-story business and associated parking lot located at the corner of the West Santa Clara Street/The Alameda intersection is primarily stucco with tinted windows and double doors.

Photo 1: View of the project site looking east from Stockton Avenue.

Photo 2: View of the project site looking east from Stockton Avenue.

PHOTOS 1 & 2

Photo 3: View of the surrounding development looking southeast from Stockton Avenue.

Photo 4: View of the surrounding development looking south from The Alameda.

PHOTOS 3 & 4

Photo 5: View of the surrounding development looking west from West Santa Clara Street.

PHOTO 5

Located west of the corner building is a one-story vernacular building located at 734 The Alameda. This building has been identified as a City Landmark Structure and is eligible for listing as a National Register Structure per the City's Historic Resources Inventory (HRI). The 734 The Alameda building is rectangular shaped and utilizes brick material. There are steps located along the northern building façade that provide entrance to this building. A tinted window and an external building light is located on each side of the entryway. Apartment complexes can be seen behind the buildings along The Alameda. See Photo 3.

Located west of the project site is Stockton Avenue, a two-lane roadway. West of Stockton Avenue is a one- to two-story commercial building. The eastern building façade utilizes brick materials with rectangular cut outs along the exterior (Photo 4). External building lights are present along the first and second floors of the building. A large sign is located along the southeastern building façade.

Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the downtown skyline are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints, other than 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, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

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, parking lot lights, security lights, vehicular headlights, internal building 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
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?	☐	☐	☐	☒	☐

	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:					
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[4] 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?	☐	☐	☐	☒	☐

Note: Certain projects within transit priority areas need not evaluate aesthetics (Public Resources Code Section 21099).

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

The proposed project would meet the criteria of SB 743 because 1) the project would construct a mixed-use project and 2) the project is located within a transit priority area.[5] 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/Addendum addresses the CEQA checklist questions for informational purposes given the size and location of the project within the downtown area.

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

Most of the City is relatively flat and prominent views, other than adjacent buildings, are limited. The project site and area has minimal to no scenic views due to the existing built environment with no designated scenic resources. Therefore, the project would not diminish scenic views or damage any scenic resources in the project area and implementation of the project would not result in a significant impact on a scenic vista. **[Same Impact as Approved Project (Less than Significant Impact)]**

[4] Public views are those that are experienced from publicly accessible vantage points.
[5] ArcGIS. Transit Priority Areas (2021). Accessed March 1, 2022. https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5.

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

There are no state-designated scenic highways located within or near the downtown area. The nearest state-designated highway is SR 9, located more than eight miles southwest of the project site. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a state scenic highway. **[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?

The project site is located within an urbanized area of downtown. 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. 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, vehicular headlights, and external building lights resulting in more visible nighttime lighting than currently exists on-site. The proposed project would be subject to Section 20.75.360 of the City's Municipal Code[6] 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. Compliance with the Downtown Design Guidelines, City policies, and regulations would protect the night sky and control the amount of light shining on streets, sidewalks, and residential properties. Additionally, all lighting shall be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants (City's Municipal Code Section 20.55.103). Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **[Same Impact as Approved Project (Less than Significant Impact)]**

[6] 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.[7]

4.2.1.2 *Existing Conditions*

The project site is located within downtown San José which does not contain agricultural or forest land uses. In addition, the project site is not subject to a Williamson Act contract.[8]

[7] 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)).

[8] ArcGIS. "Williamson Act Properties." Accessed May 13, 2022. https://www.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce.

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 DSAP Amendment and 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?

The project site is located in an urbanized area of downtown San José that does not contain 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. Therefore, the project would not impact Prime Farmland, Unique Farmland, or Farmland of Statewide Importance through conversion to non-agricultural use. **[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 under Williamson Act contract and is not zoned for agricultural use. Therefore, construction of the project would not conflict with these designations resulting in no impact. **[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 for forest land, timberland, or timberland zoned Timberland Production. Therefore, construction of the project would not conflict with these designations resulting in no impact. **[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?

The project site is located in a developed area that does not contain forest land and would not result in a loss of forest land or conversion of 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 site is located in an urbanized area that does not contain any farmland or forest land. Therefore, the project would not facilitate the unplanned conversion of farmland elsewhere in San José to non-agricultural uses or forest land to non-forest use. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based on an Air Quality Assessment prepared by Illingworth & Rodkin, Inc. in May 2022.[9] A copy of this report is included as Appendix A of this document.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[10] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
O_3	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

[9] The size of the proposed land uses in the air quality analysis is based on an older, larger version of the project. The project applicant has since updated the design of the project to include fewer dwelling units, parking spaces, and a smaller retail area. The conclusions of the air quality analysis would not change as a result of the updated project description since the sum-total changes would result in minor changes to emissions.

[10] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[11] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean

[11] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed May 13, 2022. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[12]

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. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines.

[12] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed May 13, 2022. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

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 air quality and are applicable to the project 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 transit access improvements; parking strategies that reduce automobile travel through parking supply and pricing management; and requirements for TDM programs for large employers.

General Plan Policies - Air Quality	
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.4	Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

General Plan Policies - Air Quality	
MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separation distance will be determined based upon the type, size and operations of the facility.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.1.3 *Existing Conditions*

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

BAAQMD is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: CO, O_3, NO_2, and PM_{10} and $PM_{2.5}$. These pollutants are considered criteria pollutants by the U.S. Environmental Protection Agency (U.S. EPA) and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. Table 4.3-2 shows violations of state and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2017-2019 period (the most recent years for which data is available).[13]

Table 4.3-2: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2017	2018	2019
SAN JOSÉ STATION				
Ozone	State 1-hour	3	0	1
	Federal 8-hour	4	0	2
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0

[13] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

Table 4.3-2: Ambient Air Quality Standards Violations and Highest Concentrations				
Pollutant	**Standard**	**Days Exceeding Standard**		
		2017	**2018**	**2019**
	State 24-hour	6	4	4
$PM_{2.5}$	Federal 24-hour	6	15	0
Source: Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries." Accessed May 13, 2022. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.				

"Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area, as a whole, does not meet state or federal ambient air quality standards for ground level O_3 and $PM_{2.5}$, nor does it meet state standards for PM_{10}. The Bay Area is considered in attainment or unclassified for all other pollutants.

The nearest sensitive receptors are the residents located approximately 15 feet north of the project site.

4.3.2 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 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?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the DSAP Amendment and the Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors. The Downtown Strategy 2040 FEIR did, however, identify a significant unavoidable cumulative regional air quality impact, as discussed below.

4.3.2.1 *Thresholds of Significance*

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-3 below.

Table 4.3-3: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Annual Daily Emissions (pounds/year)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)	

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-4 below, the proposed project would be consistent with the 2017 CAP measures.

Table 4.3-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project site is located in proximity to Caltrain, the Altamont Commuter Express (ACE), Amtrak, and VTA bus and light rail. The San José Diridon Transit Center is located approximately 800 feet from the site. The proposed project would provide 176 bicycle parking spaces which meets the City's bicycle parking requirement. The project is proposing a transit use incentive program, an on-site TDM coordinator, and unbundled parking as part of its TDM plan. Therefore, the project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	As mentioned above, the project would include bicycle parking consistent with City standards. The project area has adequate pedestrian facilities including sidewalks, crosswalks, and pedestrian signal heads. In addition, the existing Class II bicycle lanes along the Stockton Avenue and Santa Clara Street frontages would be replaced with Class IV raised protected bicycle lanes as part of this project. As mentioned above, the proposed project would provide 176 bicycle parking spaces. Therefore, the project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	As mentioned above, the project would be located in proximity to multiple transit services; therefore, the project is consistent with this measure (refer to *Section 4.17 Transportation* for more information).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24), the City's Green Building Ordinance, Reach Code Ordinance (Reach Code), and the most recent CALGreen requirements. In addition, the project would be designed to achieve minimum LEED certification. Therefore, the project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over

Table 4.3-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	standard construction. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	Any trees removed would be required to be replaced in accordance with the City's tree replacement policy. Therefore, the project is consistent with this control measure.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which 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. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

Implementation of the project would be consistent with the applicable control measures identified in the 2017 CAP and would not conflict with or obstruct implementation of the 2017 CAP.

Construction Criteria Pollutant Emissions

The California Emissions Estimator model (CalEEMod) Version 2020.4.0 was used to estimate emissions from project construction, construction vehicle trips, and evaporative emissions. The following proposed land uses were input into CalEEMod, which included 497 dwelling units entered as "Apartments High-Rise", 7,684 square feet entered as "Strip Mall", and 398 parking spaces entered as "Enclosed Parking Structure with Elevator".[14] Demolition of existing buildings on-site and soil export were also input into CalEEMod (refer to Appendix A for more information on

[14] The size of the proposed land uses in the air quality analysis is based on an older, larger version of the project. The project applicant has since updated the design of the project to include fewer dwelling units, parking spaces, and a smaller retail area. The conclusions of the air quality analysis would not change as a result of the updated project description since the sum-total changes would result in minor changes to emissions.

construction inputs). The construction schedule assumes that the project would begin construction in February 2024 and would be built over a period of approximately 22 months (up to 454 construction workdays). Table 4.3-5 shows the estimated daily air emissions from construction of the proposed project.

Table 4.3-5: Construction Emissions from the Project[1]

Description	ROG	NO_x	PM_{10}	$PM_{2.5}$
Construction Emissions Per Year (Tons)				
2024	0.97	1.95	0.10	0.08
2025	3.02	1.54	0.08	0.06
Annualized Daily Construction Emissions Per Year (Pounds Per Day)				
2024 (223 construction workdays)	8.70	17.45	0.93	0.68
2025 (231 construction workdays)	26.17	13.35	0.74	0.49
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Threshold Exceeded?	**No**	**No**	**No**	**No**

[1]**Note:** Emission estimates do not include implementation of BAAQMD best management practices.

As shown in the table above, project construction period emissions would not exceed the BAAQMD significance thresholds. The proposed project would, however, still be required to implement BAAQMD's best management practices for fugitive dust control (PM_{10} and $PM_{2.5}$) from construction activities, which have been adopted by the City as Standard Permit Conditions. Implementation of the following Standard Permit Conditions would further reduce emissions from construction activity.

Standard Permit Conditions:

Construction-related Air Quality. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California airborne toxics control

measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP.

Operational Criteria Pollutant Emissions

Operational criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future residents, employees, and patrons of the site. Vehicle trip generation rates, energy usage, and other default model assumptions for solid waste generation and water usage/wastewater disposal were input into CalEEMod to estimate the emissions from operation of the project (refer to Appendix A for the CalEEMod inputs). Table 4.3-6 below shows an estimate of emissions from operation of the proposed project using CalEEMod. Full operation of the site was assumed to occur in 2026.

Table 4.3-6: Operational Emissions for the Project

Description	ROG	NO_x	PM_{10}	$PM_{2.5}$
2026 Project Operational Emissions (tons/year)	3.48	0.76	1.48	0.39
BAAQMD Thresholds (tons/year)	10	10	15	10
Threshold Exceeded?	**No**	**No**	**No**	**No**
2026 Project Operational Emissions (pounds/day)	19.07	4.17	8.11	2.14
BAAQMD Thresholds (pounds/year)	54	54	82	54
Threshold Exceeded?	**No**	**No**	**No**	**No**

Note: Assumes 365-day operation.

As shown in the table above, the operational criteria pollutant emissions would not exceed BAAQMD significance thresholds. Although the proposed project would not, by itself, result in any air pollutant emissions exceeding an established significance threshold, it would contribute to the previously identified significant air quality impacts resulting from full build out of the Downtown Strategy 2040. The proposed project is located in the downtown area which has the lowest VMT of any plan area in the City and is located in proximity to public transit and other services and amenities which would reduce the project's VMT. Therefore, implementation of the project would not conflict with or obstruct implementation of the 2017 CAP.

The proposed project would not exceed the BAAQMD significance threshold for construction and operational criteria emissions. In addition, the project would be consistent with the applicable control measures. Therefore, the proposed project would not conflict with or obstruct implementation of the 2017 CAP. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

b) Would the project 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?

Per the Downtown Strategy 2040 FEIR, build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. Per the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in non-attainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As shown in the analysis above, the proposed project would not, by itself, result in any air pollutant emissions exceeding BAAQMD significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Dust Generation

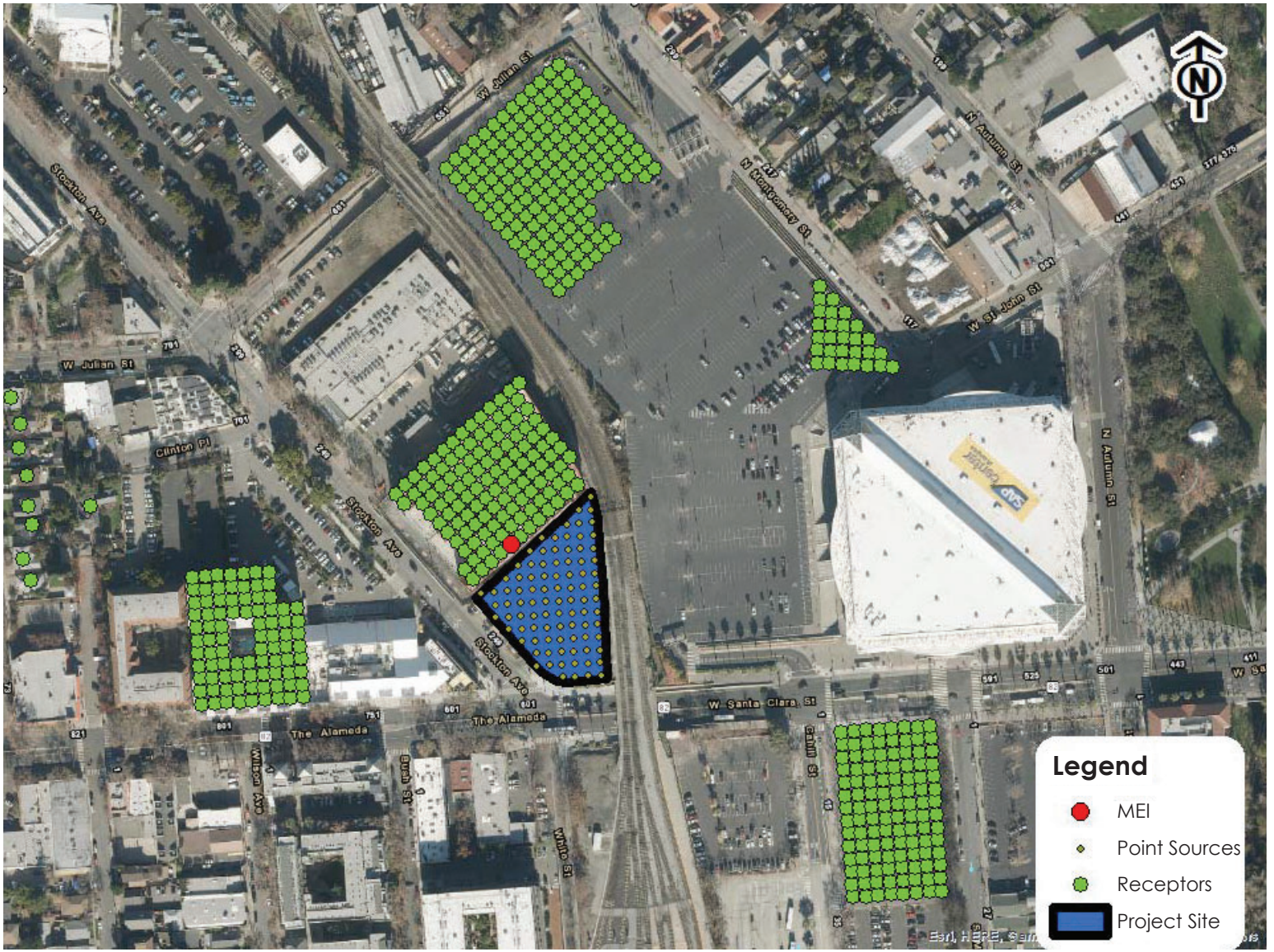
As mentioned under checklist question a, the proposed project would be required to comply with the City's Standard Permit Condition to reduce construction-related fugitive dust emissions. Therefore, the sensitive receptors' exposure to construction dust and other particulate matter would be reduced.

Project Construction and Operation – Community Risk Impacts

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC, and could pose as a health risk to nearby sensitive receptors. A health risk assessment was completed to evaluate potential health effects to nearby sensitive receptors (within 1,000 feet of the project site) from construction emissions of DPM and $PM_{2.5}$.[15] The CalEEMod and EMFAC2021 models were used which provides total annual PM_{10} exhaust emissions (DPM) for the off-road construction equipment and on-road vehicles. Additionally, the U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing sensitive receptors in the vicinity of the project construction area. The U.S. EPA AERMOD dispersion model, assumptions, and results are described further in Appendix A of this document.

The maximum-modeled annual DPM and $PM_{2.5}$ concentrations were identified at the residence located on the third floor approximately 15 feet north of the project site (refer to Figure 4.3-1). Sensitive receptors are designated in green and the maximum exposed individual (MEI) from construction is designated in red. The construction MEI would have a cancer risk of 44.16 cases per one million for infants which exceeds the BAAQMD significance threshold of 10 cases per one million. The maximum residential cancer risk for adults would be 0.74 cases per one million which is below the BAAQMD threshold of 10 cases per one million. The maximum-annual $PM_{2.5}$ concentration and maximum hazard index (HI) was calculated to be 0.17 $\mu g/m^3$ and 0.03,

[15] DPM is identified by California as a TAC due to the potential to cause cancer.



Source: Illingworth & Rodkin, Inc., May 17, 2022.

PROJECT SITE AND LOCATIONS OF OFF-SITE RECEPTORS AND MEI | FIGURE 4.3-1

respectively, which would not exceed the BAAQMD significance threshold of 0.3 µg/m^3 for maximum-annual $PM_{2.5}$ and a HI of greater than 1.0.

Impact AIR-1: Construction activities associated with the proposed project would expose the maximum exposed individual (MEI) to a cancer risk of 44.16 cases per one million (for infants) which is which exceeds the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 cases per one million.

Mitigation Measure

In addition to the Standard Permit Conditions listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce TAC emissions impacts.

MM AIR-1.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All construction equipment (larger than 25 horsepower) operating on-site for more than two days continuously (or 20 hours total) shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 final or interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$).
    - If Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 80 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
    - Electrical or non-diesel fueled equipment shall be used.
- Line power shall be provided to the site during the early phases of construction to minimize the use of diesel-powered equipment, such as generators and welders.
- Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 80 percent or greater. The plan shall be accompanied by a letter signed by an air quality specialist and shall be submitted for review and approval by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any

demolition, grading, or building permits (whichever occurs first). Elements of the plan could include a combination of some of the following measures:

- Use Tier 4 or alternatively fueled equipment (refer to first sub bullet above),
- Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
- Use of electrically-powered equipment,
- Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
- Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

With implementation of the required Standard Permit Conditions for dust and Mitigation Measure AIR-1.1, the project's construction cancer risk would be reduced 7.10 cases per one million for infants which would not exceed BAAQMD significance threshold for cancer risk.

Project Operation - Community Risk Impacts

Project traffic and generators during project operation could result in community risk impacts. No project stationary sources (i.e., generators) are proposed. Operation of the project would have long-term emissions from mobile sources (i.e., traffic). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

Per BAAQMD, roadways with less than 10,000 total vehicles per day would have a less than significant TAC impact. Projects with the potential to cause or contribute to increased cancer risk from traffic include those that have high numbers of diesel-powered on road trucks or use off-road diesel equipment on-site (e.g., distribution center, a quarry, or a manufacturing facility), may potentially expose existing or future planned receptors to substantial cancer risk levels and/or health hazards. The project's trip generation was estimated from the traffic analysis and CalEEMod. The proposed project was estimated to generate up to 2,014 new daily trips.[16] Projects with the potential to cause or contribute to increased cancer risk from traffic include those that have attract high numbers of diesel-powered on road trucks or use off-road diesel equipment on site (e.g., distribution center, a quarry, or a manufacturing facility), may potentially expose existing or future planned receptors to substantial cancer risk levels and/or health hazards. The proposed project, by itself, would not generate enough trips to generate a TAC source; therefore, the project traffic emissions

[16] The air quality analysis is based on an older, larger version of the project. The project applicant has since updated the design of the project to include fewer dwelling units, parking spaces, and a smaller retail area. The conclusions of the air quality analysis would not change as a result of the updated project description since the sum-total changes would result in minor changes to emissions.

would be negligible and is not included in this analysis. The project would result in a less than significant operational TAC impact to adjacent sensitive receptors.

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

As discussed under checklist question a above, the proposed project would result in a less than significant project-level operational and construction criteria pollutant impact. As a result, the project would result in a less than significant health impact to sensitive receptors. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. The odor emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. While operation of the proposed project would result in exhaust odors from delivery trucks and the use of cleaning supplies and maintenance chemicals, which would generate intermittent odors in the areas of use, these intermittent odors would not be considered significant and would not affect people off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.2.2 *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 air quality conditions affecting a proposed project. Pursuant to General Plan Policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure that future sensitive receptors on-site are not exposed to substantial TAC emissions. Community health risk assessments typically look at all substantial sources of TACs within 1,000 feet of sensitive receptors. These sources include rail lines, freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of

TACs. Refer to Figure 4.3-2 for the locations of the project site, on-site residential receptors, and mobile and stationary TAC sources.

Mobile Sources

Local Roadways

Sources of mobile TAC emissions within 1,000 feet of the project site include West Santa Clara Street and Stockton Avenue. Based on the operational year of the project (2026), West Santa Clara Street and Stockton Avenue would have average daily traffic (ADTs) of 20,504 and 11,967, respectively. Cancer risks associated with each roadway are greatest closest to those roadways and decrease with distance. The highest impacts from both roadways would occur at a second floor receptor nearest each roadway.

Caltrain

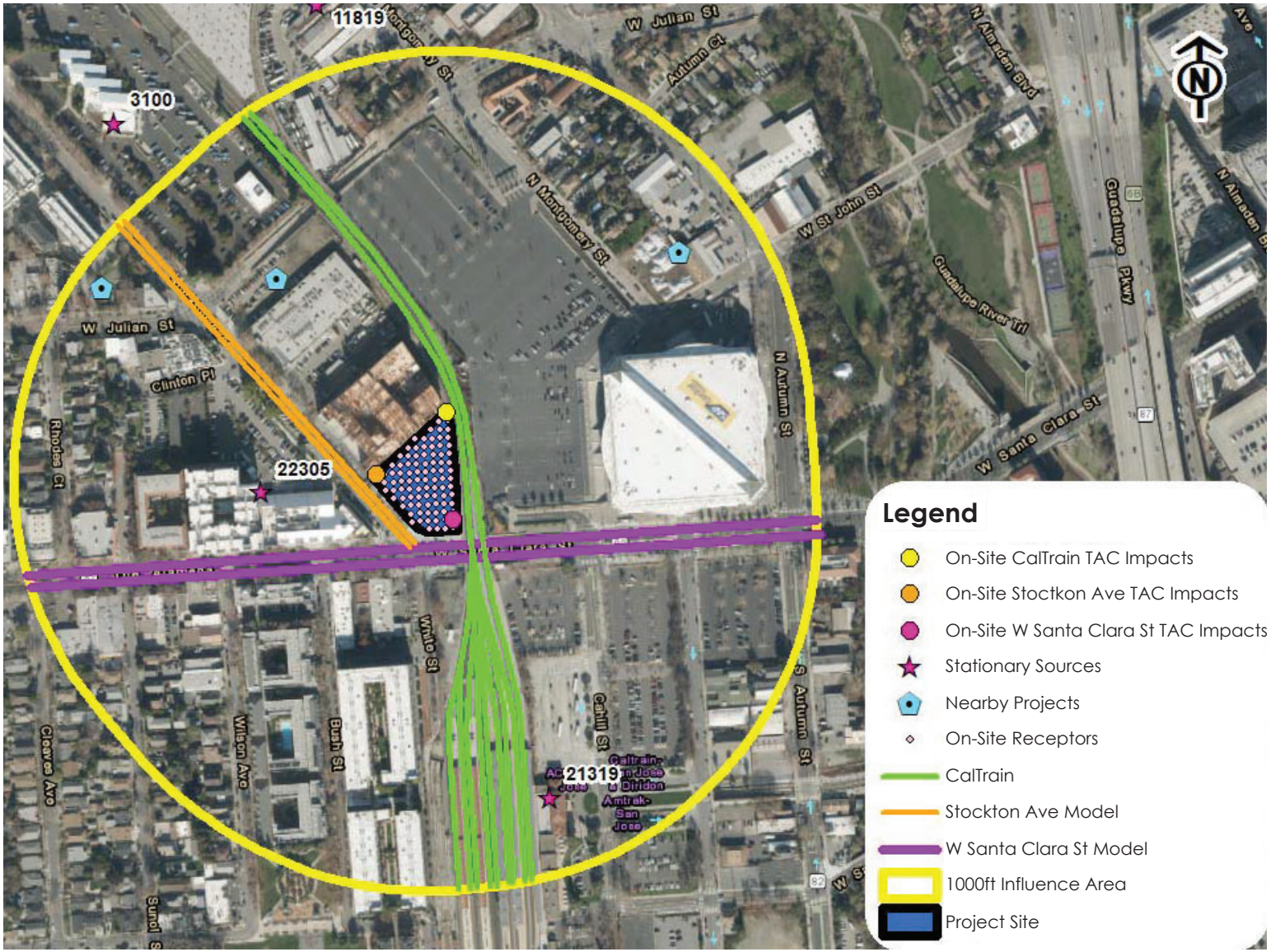
Rail activity on these lines currently generates DPM and $PM_{2.5}$ emissions from locomotive exhaust. The rail lines are used primarily for passenger service; however, there is some freight service by trains using diesel fueled locomotives. Passenger rail service along these rail lines includes diesel-fueled trains for Caltrain, ACE, and Amtrak. Currently all of Caltrain's trains use diesel locomotives. The Peninsula Corridor Electrification Project[17] would electrify the Caltrain Corridor from San Francisco to the Tamien Caltrain Station in San José by changing from diesel locomotives to electric trains. Electrified service is anticipated to begin in late 2024[18] and the entire San José to San Francisco fleet would be electric trains five to eight years after electric service begins.[19] With Caltrain electrification starting in late 2024 there would be 19 daily weekday trips using trains with diesel locomotives. All other Caltrain trains would be electric. On an annual average basis this would be a total of 14 daily trains using diesel locomotives. All trains used for freight service and the ACE and Amtrak passenger trains are assumed to continue to use diesel powered locomotives in the future. Refer to Appendix A for the methodology used to analyze rail line community risk impacts.

For the purposes of this analysis, rail exposure was assumed to begin in 2026 (operational year). The highest impacts from the tracks would occur at the second floor at the eastern edge of the proposed building, closest to the tracks.

Stationary Sources

Stationary sources are facilities that contain sources of TACs such as a generator or gas station. Nearby stationary sources were identified using BAAQMD's *Permitted Stationary Sources 2018* geographic information system map website which identifies the location of stationary sources and their estimated risk and hazard impacts. Four operational stationary sources (e.g., one gas station, one auto body coating operation, and two generators) were identified.

[17] Caltrain, 2014. *Peninsula Corridor Electrification Project. Final Environmental Impact Report.* December 2014.
[18] Caltrain, 2021. *Caltrain Electrification Delayed to 2024*. June 3, 2021. Accessed July 6, 2022. *www.caltrain.com/about/MediaRelations/news/Caltrain_Electrification_Delayed_to_2024.html*.
[19] Illingworth & Rodkin, Inc. *Apollo Mixed Use Development Air Quality and Greenhouse Gas Assessment*. April 28, 2022.



Source: Illingworth & Rodkin, Inc., May 17, 2022.

LOCATION OF PROJECT SITE, ON-SITE RESIDENTIAL RECEPTORS, AND MOBILE AND STATIONARY TAC SOURCES | FIGURE 4.3-2

Construction Risk Impacts from Nearby Development

Within 1,000 feet of project site, there are three projects (Stockton Avenue Hotel File No. SP19-063, Julian/Stockton Mixed Use File No. PD17-029, and Lot E Parking Structure[20] File No. ER20-011) that could have overlapping construction.[21] For the purposes of this analysis, it was conservatively assumed the entire construction period from the proposed project would overlap with the construction schedules of nearby developments. This approach provides an overestimate of the community risk and hazard levels because it assumes that maximum impacts from the nearby development occurs concurrently with the proposed project at the proposed project's MEI. Table 4.3-7 below provides a summary of nearby TAC and $PM_{2.5}$ sources of air pollution and Figure 4.3-3 shows the project site and the nearby TAC and $PM_{2.5}$ sources, as well as construction risks from the nearby development.

Table 4.3-7: Cumulative Sources to Future Project Residences

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Cumulative Sources			
West Santa Clara Street, ADT 20,124	1.84	0.07	<0.01
Stockton Avenue, ADT 11,745	1.54	0.07	<0.01
Trains (Caltrain, ACE, and Amtrak)	9.90	0.01	<0.01
Facility ID #3100 - Gas Station, MEI at 1000+ feet	<0.01	<0.01	<0.01
Facility ID #11819 - Auto Body Coating Operation, MEI at 1000+ feet	-	-	<0.01
Facility ID #21319 - Generators, MEI at 1000+ feet	0.10	<0.01	<0.01
Facility ID #22305 - Generators, MEI at 380 feet	0.19	0.07	<0.01
Cumulative Temporary Construction Sources[1,2]			
Stockton Avenue Hotel, 540 feet northwest	<3.80	<0.06	<0.01
Julian/Stockton Mixed Use, 780 feet northwest	<5.40	<0.04	<0.01
Lot E Parking Structure, 615 feet northeast	<8.17	<0.09	<0.02
Combined Total	**<22.78**	**<0.34**	**<0.09**
BAAQMD Combined Source Threshold	***100***	***0.8***	***10.0***
Exceed Threshold?	No	No	No

Notes: [1] It was conservatively assumed that these nearby developments within 1,000 feet of the site would have overlapping construction. This approach provides an overestimate of the community risk and hazard

[20] Referred to as SAP Center Garage in the air quality report.

[21] The mitigated construction risks and hazard impact values for certain developments were available from their respective air quality reports or on the City's Environmental Review website. For developments that did not have available construction impact results at the time of this study, it was assumed the construction risks would be less than the BAAQMD single-source thresholds for community risks and hazards. If the nearby developments were more than 500 feet from the project site, the construction risks were assumed to be half of the BAAQMD single source thresholds due to the distance and dispersion between the source and receptors. Note that 250 Stockton Avenue Office Project (File No. H21-02) was not included in the nearby development list because the air quality analysis only included projects that were listed as approved or under construction (within 1,000 feet of the project site) on the City's Key Economic Projects List. Projects that are listed as approved or under construction would have a higher chance of having overlapping construction with the proposed project. Since the 250 Stockton Avenue Office Project does not meet that criteria yet, it was not included in the cumulative project list. Palm, Zachary. Illingworth & Rodkin, Inc. Personal Communication. May 19, 2022.

Table 4.3-7: Cumulative Sources to Future Project Residences			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
levels because it assumes that maximum impacts from the nearby development occurs concurrently with the proposed project at the proposed project's MEI. [2] The Downtown West (File Nos. GP19-009, PDC19-039, AND PD19-029), located approximately 70 feet east of the project site, would be built over a period of at least 10 years. Since the project variables (e.g., construction timeframe) is subject to change, this project is not included in the nearby developments list. Additionally, given that the latest building efficiency standards require MERV13 filtration in multi-family units, impacts from Downtown West at the project site would be lowered. Source: California Energy Commission. 2022 Nonresidential and Multifamily Compliance Manual. Accessed July 11, 2022. https://efiling.energy.ca.gov/GetDocument.aspx?tn=243495 and Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. July 11, 2022.			

The combined total for cancer risk, annual $PM_{2.5}$ concentration, and HI would not exceed the BAAQMD significance thresholds of 100 cases per one million, 0.8 $\mu g/m^3$, and HI of 10.0. Therefore, future sensitive receptors on-site would not be exposed to substantial TAC emissions, consistent with General Plan Policies MS-10.1, MS-11.1, and MS-11.2.

Source: Illingworth & Rodkin, Inc., May 17, 2022.

PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 4.3-3

4.4 BIOLOGICAL RESOURCES

The following discussion is based upon an Arborist Report prepared by HortScience | Bartlett Consulting in February 2022. This report is attached as Appendix B to this document.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under State and federal Endangered Species Acts are considered special-status species. Federal and State endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under State and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[22] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

[22] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed May 13, 2022. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), VTA, USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

Envision San José 2040 General Plan

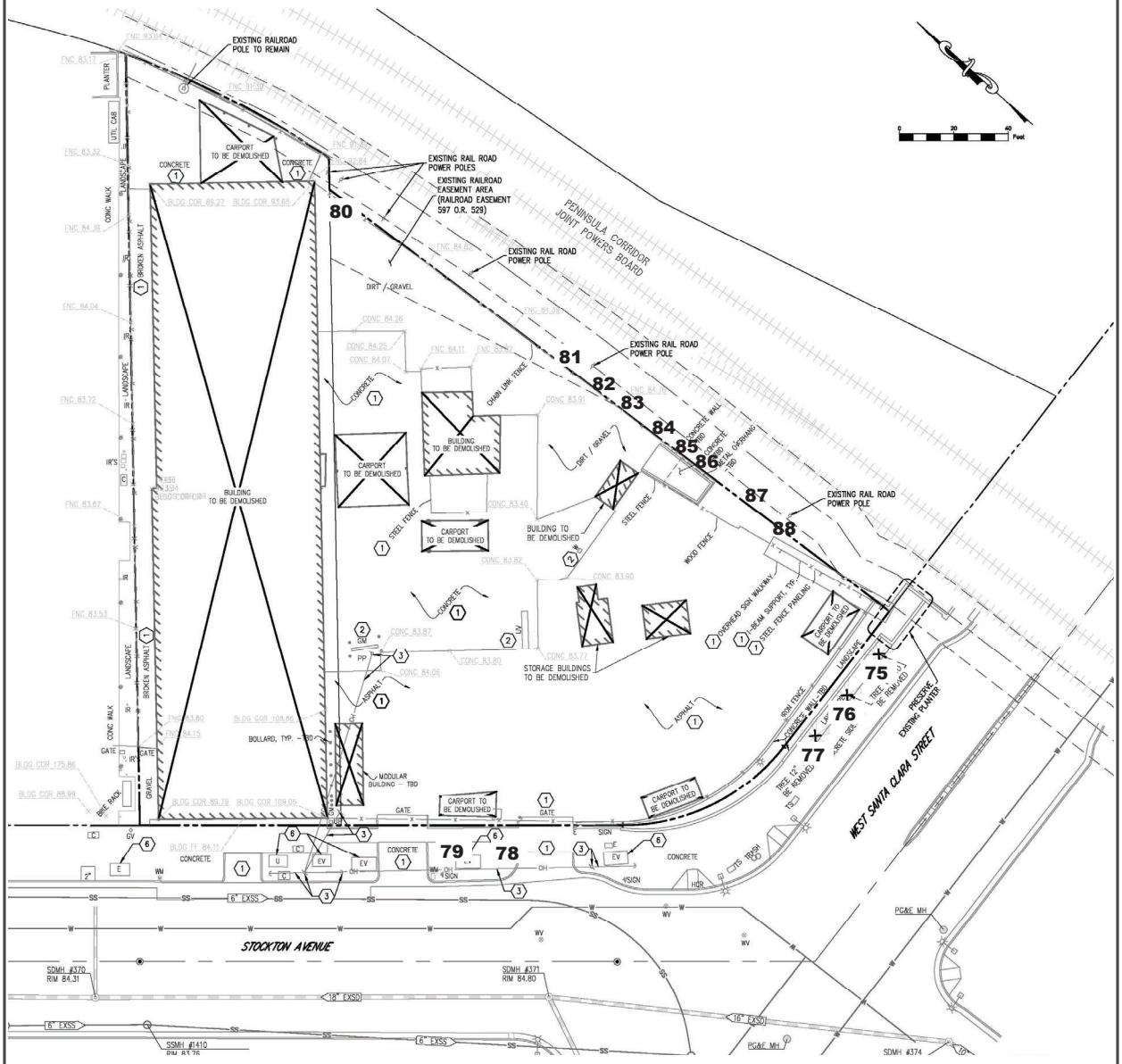
The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

General Plan Policies – Biological Resources	
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.
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.

4.4.1.2 *Existing Conditions*

The project site is currently developed with five small commercial buildings with very little vegetation. Based on the tree survey prepared by HortScience | Bartlett Consulting in February 2022, a total of 14 non-native trees were surveyed (one on-site, five off-site street trees, and eight off-site). Of the 14 trees; there are five Mexican fan palm trees (off-site street trees) and nine Tree of heaven trees (one on-site and the remaining are located off-site). All five Mexican fan palm trees (Tree Nos. 75-79) and one Tree of heaven tree (Tree No. 80) are proposed for removal.[23] Since the native vegetation of the area is no long present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area. Table 4.4-1 lists all trees identified as part of the tree survey and the location of the trees is shown in Figure 4.4-1.

[23] The arborist did not have tree tags 1-74; therefore, the tree survey started at 75 instead of 1.



——— Project Boundary # Tree Location

Source: HortScience | Bartlett Consulting, January 2022.

TREE LOCATION MAP | FIGURE 4.4-1

Table 4.4-1: Tree Survey				
Tree No.	**Scientific Name**	**Common Name**	**Circumference (Inches)**	**Diameter (inches)**
***75**	***Washingtonia robusta***	**Mexican fan palm**	**43.96**	**14**
***76**	***Washingtonia robusta***	**Mexican fan palm**	**37.68**	**12**
***77**	***Washingtonia robusta***	**Mexican fan palm**	**43.96**	**14**
***78**	***Washingtonia robusta***	**Mexican fan palm**	**21.98**	**7**
***79**	***Washingtonia robusta***	**Mexican fan palm**	**28.26**	**9**
***80**	***Ailanthus altissima***	**Tree of heaven**	**75.36**	**16,8**
81	*Ailanthus altissima*	Tree of heaven	25.12	4,3,1
82	*Ailanthus altissima*	Tree of heaven	28.25	3,3,3
83	*Ailanthus altissima*	Tree of heaven	25.12	3,3,2
84	*Ailanthus altissima*	Tree of heaven	21.98	3,2,2
85	*Ailanthus altissima*	Tree of heaven	12.56	3,1
86	*Ailanthus altissima*	Tree of heaven	9.42	1,1,1
87	*Ailanthus altissima*	Tree of heaven	21.98	3,2,2
88	*Ailanthus altissima*	Tree of heaven	18.84	2,2,2

Notes: Ordinance sized trees are 38+ inches in circumference
The arborist did not have tree tags 1-74; therefore, the tree survey started at 75 instead of 1.
* denotes trees to be removed
Bold denotes ordinance-sized trees

4.4.2 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) 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)?	☐	☐	☐	☒	☐

	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:					
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, 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?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the DSAP Amendment and the Downtown Strategy FEIR, the proposed project would not result in significant biological impacts, as described below.

a) Would the project 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 CDFW or USFWS?

The project site is located within the downtown area with no sensitive or natural habitats that currently exist on-site. Habitats in developed areas, such as the project site, are low in species diversity and include predominately urban adapted birds and animals.

Migratory birds, like nesting raptors, are protected under the MBTA and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive

efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. The project, as proposed, would remove one on-site tree and five street trees which could provide nesting and/or foraging habitat for migratory birds including raptors.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measure

In accordance with the MBTA, CDFW, and General Plan Policies ER-5.1 and ER-5.2 and consistent with the Downtown Strategy 2040 FEIR, the following mitigation measure is included to reduce impacts to raptors and migratory birds during construction.

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the applicant shall submit an ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

With implementation of Mitigation Measure BIO-1.1, the project's impact to nesting birds and raptors would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation Incorporated)]**

b) Would the project 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?

The only natural habitats in the vicinity of the downtown area are the Los Gatos Creek and Guadalupe River riparian corridors.[24] The closest riparian corridor to the project site is Guadalupe River, located approximately 0.2 miles east. Based on the distance of Guadalupe River from the project site, implementation of the proposed project would not result in a substantial adverse effect on any riparian habitat or sensitive natural community. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) Would the project have a substantial adverse effect on State or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

There are no federally protected wetlands within, or adjacent, to the project site. Therefore, the proposed project would not adversely affect protected wetlands through construction activities. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project 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?

The project site is in a developed, urbanized area of downtown. No natural habitat exists on-site that would support endangered, threatened, or special-status wildlife species. The project site is not used as a wildlife corridor by any native resident or migratory fish or wildlife species. Implementation of the proposed project would not interfere with the movement of any fish or wildlife species. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Redevelopment of areas within the downtown would not substantially affect the community forest[25] due to the relatively low value of existing habitat. For the purposes of this analysis, it is assumed that all six trees on and adjacent to the site, all of which are non-native, would be removed. Consistent with the Downtown Strategy 2040 FEIR, the project would be required to comply with the following Standard Permit Conditions.

[24] City of San José *San José Downtown Strategy 2040 Integrated Final EIR.* December 2018.
[25] Per the Downtown Strategy 2040 FEIR, development within Growth Areas could result in direct and indirect impacts to the City's "community forest," which consists of the ornamental trees, stands of native trees, and remnant orchard trees found in developed areas of San José.

Standard Permit Conditions:

Tree Replacement. Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 4.4-2 below, as amended.

Table 4.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed	Replacement Ratio Based on Type of Tree to be Removed			Minimum Size of Each Replacement Tree**
	Native	Non-Native	Orchard	
38 inches or more	5:1*	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

*x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-family Residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
**A 24-inch box replacement tree = two 15-gallon replacement trees
Single Family and Two-dwelling properties may replace trees at a ratio of 1:1.

Tree replacement ratios for street trees would not apply as street trees are overseen by the Department of Transportation (DOT). In accordance with City policy, the on-site tree (Tree no. 80) would be replaced at a 4:1 ratio with 15-gallon container trees, meaning that the total number of trees required to be planted on-site would be four. The species of trees to be planted would be determined in consultation with the City Arborist and staff from the Department of Planning, Building and Code Enforcement.

If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The proposed project would be required to comply with the identified Standard Permit Conditions above. Therefore, the proposed project would not conflict with any ordinance protecting biological resources and would not conflict with a tree preservation policy or ordinance. **[Same Impact as Approved Project (Less Than Significant Impact)]**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

The project site is located within the SCVHP[26] and is designated as "Urban-Suburban" land. Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;[27]
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
    - The project is located in an area identified as "Rural Development Equal to or Greater than Two Acres is Covered," or "Urban Development Equal to or Greater than Two Acres is Covered" or,
    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. The project site is, however, 1.1 acres in size (below the 2.0-acre threshold) and is not subject to any land cover fee. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatagency.org.

With implementation of the above Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[26] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed May 13, 2022. https://scvhabitatagency.org/193/GIS-Data-Key-Maps.

[27] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

4.5 CULTURAL RESOURCES

The following discussion is based upon a Literature Search, Sacred Lands File Search, and Historical Resource Assessment (HRA), and California Department of Parks and Recreation (DPR) form completed by PaleoWest in June 2022. The HRA and DPR form are attached as Appendix C to this document. A copy of the Literature Search and Sacred Lands File Search, which are confidential documents, are on file at the City of San José Department of Planning, Building and Code Enforcement and is available upon request with appropriate credentials.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease, and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

City of San José

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

San José Downtown Design Guidelines and Standards

The City's Downtown Design Guidelines and Standards (updated in 2020) provide guidance for the form and design of buildings in the downtown area, appearance in the larger cityscape, and their interface with the pedestrian level. The Downtown Design Guidelines and Standards also set rules for new buildings and external alterations to non-historic buildings being built near and adjacent to historic buildings and other key structures within the City's Downtown Design Guidelines and Standards boundary.

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 cultural resources and are applicable to the project.

General Plan Policies - Cultural Resource	
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.1.2 *Existing Conditions*

Site Historic

Prehistoric

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The nearest waterway to the project site is Guadalupe River, located approximately 0.2 miles east.

Historic – Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California led to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally near the old San José City Hall located on North First Street. Because the location was prone to flooding, the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo was located approximately 0.7 miles east of the project site.

Historic – Post-Mission Period to Mid-20th Century

In the mid-1800's the project area began to be redeveloped as the United States took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

Based on the Phase I Environmental Site Assessments (ESAs) prepared for the site, from 1884 to 1891, the 32 Stockton Avenue site was developed with a residence[28] within the Alameda Gardens subdivision. The subdivision developed in the late nineteenth century with large residential homes and commercial buildings along The Alameda and Stockton Avenue northwest toward the City of Santa Clara. By 1915, the site was developed with a gas station. From 1927 to the present, the 32 Stockton Avenue site has been occupied by various automotive businesses. The automotive/equipment steam cleaning and vehicle washing business that is currently present on-site was constructed on-site in 1991 (approximately 31 years old).[29]

The two-story building located at 60 Stockton Avenue[30] was constructed circa 1917 along with two other industrial buildings located at 106-120 Stockton Avenue. The entire factory comprised 51,000 square feet of industrial space and was occupied in 1918 by the John. S. Smith Manufacturing Company The John S, Smith Manufacturing Company was started by John Smith, an immigrant from Nova Scotia, British Colombia who moved to San José with his family in 1900. He started the

[28] AEI Consultants. *Phase I Environmental Site Assessment*. June 1, 2021.
[29] Architectural Resources Group. *Historical Resources Technical Report Downtown West Mixed-Use Plan*. August 24, 2020.
[30] The site was originally associated with 18 Stockton Avenue.

business in 1902-1903 and operated it out of a wood-frame building at 225 The Alameda before moving it to 60 Stockton Avenue in 1918. The John S. Smith Manufacturing Company was incorporated as the Smith Manufacturing Company in 1921. By 1922, an additional 19,500 square feet of space was constructed on a parcel to the north (138 Stockton Avenue) and the company manufactured equipment exclusively for the fruit industry, growers, canners and dried fruit processors. The line of products included a combined dipper, grader and automatic spreader; a power cylinder spreader; a combined dipper and spreader; a combined dipper, rinser and spreader; steel tanks. Dipper basket, field car, transfer car, turntable, dried fruit grader, dried fruit receiving car, standard fruit barrow and box truck. In 1923, the Smith Manufacturing Company was sold to Sprague-Sells, a company that manufactured corn processing equipment. The Smith Manufacturing Company name was retained, but the equipment was sold under the Sprague-Sells label. In 1927, Sprague-Sells merged with the Food Machinery Company (FMC), but part of the Smith Manufacturing Company was removed from the sale. Two years later the Smith Manufacturing Company reappeared in the front two-story section of the building at 60 Stockton Avenue and at 160 Stockton Avenue. The rear single-story manufacturing area on the site was occupied by Western Foundry. John Smith died in 1936, but the company remained in business with his son Charles O. Smith serving as president. During the next twelve years, Charles Smith formed a partnership with George Gardner (former president of President of a Peas Can Pack Manufacturing Company) who became the operations manager in the new company called Gardner-Smith Inc. Charles Smith died 1948, but the business was continued by his son Oliver Smith until 1955. In 1957, Reliable Pattern Works, established in 1928 by James McEwan and Joseph DiSalva, occupied the building and altered the entrance and warehouse as they expanded from the building McEwan owned nearby at 138 Stockton Avenue into the vacant building where the business remained until 1983. Since that time, a variety of businesses occupied the building, including automobile service businesses.

Based on a literature search prepared for the project, the project area has moderate sensitivity for containing archaeological resources due to its distance from Guadalupe River.

60 Stockton Avenue

The two-story building located at 60 Stockton Avenue, constructed circa 1917, is comprised of two elements: a front two-story section which is primarily stucco and a rear one-story manufacturing area. The two-story building facing Stockton Avenue has a symmetrical façade which consists of a solid base with three vertical bays and recessed windows on both floors. The one-story rear section is a wood-frame structure.

The building located 60 Stockton Avenue was previously recorded and evaluated in 1992 (Laffey) and again in 2009. The property was documented by Archives and Architecture, LLC. in 2009 on a DPR 523-series record. In 2022, PaleoWest surveyed the property and no significant changes to the character or integrity of the building were noted and its condition and appearance was consistent with descriptions previously prepared. The 1992 and 2009 evaluations determined that the property is not eligible for the listing in the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR) due to the absence of historical and/or architectural significance. No new historical information regarding the building has come to light. Therefore, PaleoWest concurred with the previous findings that building as not eligible for listing in the NRHP or the CRHR for the following reasons: 1) it is not individually representative of any important patterns of development within the City, nor is it associated with significant events, 2) it is not associated with persons of local significance, 3) it is not a distinguished example of a specific architectural style, and 4) it does not have the potential to yield any prehistory or history of the area.

The previous evaluation did not consider the property's eligibility as a Candidate City Landmark or Contributing Structure in a Candidate City Landmark District. The criteria for listing a property as a City Landmark, along with an evaluation of 60 Stockton Avenue, is provided below. PaleoWest determined that the property is not eligible for listing as a Candidate City Landmark. Additional detail of the analysis is provided in Appendix C.

City of San José City Landmark Evaluation

The following is an evaluation of property against the City of San José's Historic Landmark Designation Criteria, as outlined in the San José Municipal Code Section 13.48.100.H.

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;

   The building does not possess special character, interest, or value to the local, regional, state, or national history, trends in history, or cultural of the community. Therefore, the property is not eligible under this criterion.

2. Its location as a site of a significant historic event;

   The building is not located at the site of a significant historic event and is not eligible under this criterion.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;

   The building is not associated with any person(s) who significantly contributed to the local, regional, state, or national history. Therefore, the property is not eligible under this criterion.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;

   The building does not exemplify cultural, economic, social, or historic heritage of San José. Therefore, the property is not eligible under this criterion.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

   The building has been substantially altered and does not portray a group of people in history. Therefore, the property is not eligible under this criterion.

6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

   The building is utilitarian in design and has no notable character-defining features. Therefore, the property is not eligible under this criterion.

7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;

   The building's architectural style and design does not represent the work of a master architect, building, artist or craftsman. Therefore, the property is not eligible under this criterion.

8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

   The building does not contain any unique or architectural innovations. Therefore, the property is not eligible under this criterion.

In summary, the building located 60 Stockton Avenue is not eligible for listing in the NRHP, CRHR, or the City's HRI as a Candidate City Landmark.

32 Stockton Avenue

As mentioned previously, the automotive/equipment steam cleaning and vehicle washing business that is currently present on-site was constructed on-site in 1991 (approximately 31 years old).[31] No analysis was completed for the automotive/equipment steam cleaning and vehicle washing business as it is not age-eligible (over 50 years old).[32]

Off-Site Properties Adjacent/Near the Project Site

In addition to records searches identifying previously recorded cultural resources, a reconnaissance survey was carried out to identify properties located adjacent to or nearby the project site. The area

[31] Architectural Resources Group. *Historical Resources Technical Report Downtown West Mixed-Use Plan*. August 24, 2020.
[32] Ibid.

surrounding the project site consists of a mix of commercial and residential development, as shown in Table 4.5-1 below.

Table 4.5-1: Surrounding Land Uses

APN	Address	Year Built (approx.)	Use	Direction from Site
259-28-001	32 Stockton Avenue	1991	Commercial	North
259-28-002	60 Stockton Avenue	1917	Commercial	North
259-28-046	130 Stockton Avenue	2019	Residential, Mixed-use	North
259-28-000	Cahill Station and Santa Clara Street/The Alameda Underpass	1935	Industrial/Transportation	Southeast
261-34-020	Southern Pacific Depot Historic District	1932-1935	Industrial/Transportation	Southeast
261-01-098	777 The Alameda	2013	Commercial	West
261-01-112	787 The Alameda	2017	Residential, Mixed-use	West
261-33-054	730 The Alameda	1963	Commercial	Southwest
261-33-047	734 The Alameda	1930	Commercial	Southwest
261-33-039	746 The Alameda	1965	Commercial	Southwest

The mixed-use residential development uses near the site are primarily new construction with the earliest buildings developed in the 1990s. The commercial uses near the site consist of an auto repair facility, a grocery store and a brewery, a glass and mirror shop, a medical office and a design firm. These businesses were constructed between approximately 1917 and 2013, and primarily consist of one- and two-story buildings. The properties located at 60 Stockton Avenue, 730 The Alameda and 746 The Alameda, were determined ineligible for listing in the NRHP or the CRHR by JRP Historical Consulting, LLC as part of the "VTA's BART Silicon Valley—Phase II Extension Project: Supplemental Built Environment Survey Report," 2016. The property located at 734 The Alameda (Cal Pak District Manager's Office) is a designated City Landmark and is eligible for listing the NRHP and CRHR. In addition, the Southern Pacific Depot Historic District, which includes the Cahill Station and Santa Clara Street/The Alameda Underpass as a contributing structure, is a designated City Landmark and is listed in the NRHP and the CRHR. The Cal Pak District Manager's Office and the Southern Pacific Depot Historic District are the only historical resources within 200 feet of the project site.

Southern Pacific Depot National Historic District and the Southern Pacific Depot City Landmark

The project site is located across West Santa Clara Street to the north from the Southern Pacific Depot National Historic District and the Southern Pacific Depot City Landmark. The historic district was listed in the NRHP in 1993 with a period of significance of 1932-1935 and includes contributing structures constructed to complement the new rail facility. The Cahill Station and Santa Clara Street/The Alameda Underpass (referred to as the San José Underpass, Bridge No 37-45, 04-SC1-82, at P.M. 8.40 in the CALTRANS Bridge Inventory), located approximately 500 feet north of the Southern Pacific Depot, is a contributing structure to the historic district. The structure is comprised of 43 simple span rolled steel beams on a reinforced concrete pier with windows, and double-walled abutments with pedestrian passages. The two spans total 82 feet in length, and carry three tracks of

the Southern Pacific Depot's north yard throat over SR 82. The bridge has solid parapet railings, with a large enameled Southern Pacific herald placed above the center pier on both sides of the bridge. Railing ends posts are topped by Beaux-Arts luminaires cast by the Joshua Hendy Iron Works in Sunnyvale. Additionally, the Cahill Station and Santa Clara Street/The Alameda Underpass is located adjacent to the project site.

4.5.2 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) 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 as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the DSAP FEIR and the Downtown Strategy FEIR, the proposed project would not result in significant cultural resources impacts, as described below.

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

Impacts to On-Site Structures

As discussed above, the existing building at 60 Stockton Avenue is not eligible for listing in the NRHP, CRHR, or the San José HRI as a Candidate City Landmark. There are no historical resources under CEQA located on-site; therefore, demolition of the existing buildings on-site would not create an adverse change in the significance of a historical resource.

Impacts to Off-Site Structures

For a project to cause a substantial adverse change in the significance of the identified historic resources near the project, it must demolish or materially alter in an adverse manner those physical characteristics that convey the resources' historic significance and accounts for their identification as San José City Landmarks or Candidate City landmarks, or eligibility for listing on the CRHR or NRHP.

There are two historical resources located within 200 feet of the project site; the Cal Pak District Manager's Office at 734 The Alameda and the Southern Pacific Depot Historic District with the adjacent contributing structure, the Cahill Station and Santa Clara Street/The Alameda Underpass. However, the proposed project does not involve the physical demolition, destruction, relocation, or alteration of either of these historical resources and their significance would not be materially impaired. Therefore, the proposed project would not cause a substantial adverse change in the significance of the Cal Pak District Manager's Office or the Southern Pacific Depot Historic District.

As discussed in *Section 4.13*, Noise and Vibration, vibration levels at the 734 The Alameda site would not exceed the 0.08 in/sec PPV threshold for historic structures. The southeastern corner of the project site is located approximately 30 feet from the Cahill Station and Santa Clara Street/The Alameda Underpass, which is a contributing structure to the Southern Pacific Depot National Historic District. As discussed in *Section 4.13*, the Cahill Station and Santa Clara Street/The Alameda Underpass is designed to withstand vibrations from trains traveling on the underpass; therefore, vibrations due to construction activities 30 feet or more from the underpass would not result in any damage. Therefore, construction activities associated with the project would have a less than significant impact on nearby historic resources.

Implementation of the proposed project would not result in a substantial adverse change in the significance of any historical resource. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

The project area, including the project site, has moderate sensitivity for containing archaeological resources due to its distance from Guadalupe River. In accordance with General Plan Policy ER-10.3, the proposed project would implement the following Standard Permit Condition to reduce or avoid impacts to subsurface cultural resources.

Standard Permit Condition:

- **Subsurface Cultural Resources**. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if

applicable). Project personnel shall not collect or move any cultural materials.

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

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

Construction activities associated with the project have the potential to disturb human remains. Consistent with General Plan Policy ER-10.2, the proposed project would be required to comply with the following Standard Permit Conditions to ensure human remains would not be disturbed.

Standard Permit Condition:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building or Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the identified Standard Permit Condition, impacts to human remains would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.6 ENERGY

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 legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[33]

[33] California Building Standards Commission. "California Building Standards Code." Accessed April 20, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

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.[34]

City of San José

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 José. 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 electric vehicle (EV) charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

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.[35]
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

[34] California Air Resources Board. "The Advanced Clean Cars Program." Accessed April 20, 2022. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/about.
[35] Providing 100-percent carbon-free base power is still the target, however, it has been delayed and is still not in effect as of May 2022.

Energy and Water Building Performance Ordinance

In December 2018, the City of San José voted to adopt the Energy and Water Building Performance Ordinance consistent with Climate Smart San José. This ordinance requires commercial and multi-family buildings 20,000 square feet and over to track their yearly whole building energy and water usage data with the EPA platform ENERGYSTAR Portfolio Manager and share this data with the City. Implementation of the ordinance will help the City reach GHG emissions reduction and water conservation goals by encouraging efficiency in large commercial and multi-family buildings.

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.

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-2.11	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 interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
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.

General Plan Policies - Energy	
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 resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
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[36]	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 to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

[36] 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	
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 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[37] Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,807 trillion Btu) for industrial uses, and 39 percent (3,060 trillion Btu) for transportation.[38] 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 2020 was consumed primarily by the commercial sector (73 percent), followed by the residential sector consuming 27 percent. In 2019, a total of approximately 16,436 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[39]

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[40] form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[41] In 2020, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 31 percent, the industrial sector used 34 percent, and transportation accounted for one percent. [42] In 2020, Santa Clara County

[37] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 20, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[38] Ibid.
[39] California Energy Commission. "Electricity Consumption by County." Accessed April 20, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[40] Providing 100-percent carbon-free base power is still the target, however, it has been delayed and is still not in effect as of May 2022.
[41] California Gas and Electric Utilities. *2020 California Gas Report.* Accessed April 20, 2022. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[42] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 20, 2022. https://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.

used approximately two percent of the state's total consumption of natural gas.[43]

Fuel for Motor Vehicles

In 2020, 14.0 billion gallons of gasoline were sold in California.[44] 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 25.4 mpg in 2020.[45] 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 subsequently revised to apply to cars and light trucks model years 2011 through 2020.[46,47]

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, or wasteful use 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 DSAP Amendment and 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?

[43] California Energy Commission. "Natural Gas Consumption by County." Accessed April 20, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[44] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed April 20, 2022. https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm.
[45] United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021.
[46] United States Department of Energy. "Energy Independence & Security Act of 2007." Accessed April 20, 2022. http://www.afdc.energy.gov/laws/eisa.
[47] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed April 20, 2022. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Construction

Construction would occur for 22 months (approximately 454 construction workdays). Construction activities would include demolition/site preparation, shoring/grading/excavation, below slab utilities, foundation/basement/structure, building construction, and architectural coating. 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 to Standard Permit Conditions identified in *Section 4.3, Air Quality*). Additionally, the project would be required to divert 75 percent of nonhazardous construction and demolition debris (refer to San José Municipal Code Section 9.10.2480). Therefore, implementation of 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 7,684 square feet of retail and up to 497 residential units.[48] 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	3,180,130	0	151,135
Enclosed Parking With Elevator	498,146	0	0
Strip Mall	85,292	0	17,144
Total:	**3,763,568**	**0**	**168,279**

Source: Illingworth & Rodkin, Inc. *Apollo Mixed Use Development Air Quality and Greenhouse Gas Assessment*. May 17, 2022.

Notes: [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. The project would include natural gas use only for the future commercial cooking establishment within the proposed retail space which is allowed as an exemption per the City's Ordinance 30502. For the purposes of this analysis, all natural gas use was set to zero due to the size of the proposed retail space.

[2] Apartments High-Rise Annual VMT 3,838,821/ 25.4 mpg = 151,135 gallons of gasoline.
Strip Mall Annual VMT 435,470 / 25.4 mpg = 17,144 gallons of gasoline.

The proposed project would result in a total increase in electricity usage of approximately 3,763,568 kWh and an increase in gasoline consumption of approximately 168,279 gallons. 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, it was assumed that the no natural gas would be used.

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

[48] Illingworth & Rodkin, Inc. *Apollo Mixed Use Development Air Quality and Greenhouse Gas Assessment*. May 17, 2022. Note that the size of the proposed land uses in the air quality analysis is based on an older, larger version of the project. The project applicant has since updated the design of the project to include fewer dwelling units, parking spaces, and a smaller retail area. The conclusions of the air quality analysis would not change as a result of the updated project description since the sum-total changes would result in minor changes to emissions.

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. Although the proposed project does not include on-site renewable energy resources, the project would be designed and constructed in compliance with the Green Building Ordinance, Energy and Water Building Performance Ordinance, LEED certification (consistent with San José City Council Policy 6-32), and Reach Code.

The proposed project would provide a total of 176 bicycle parking spaces. Additionally, the project site is adequately served by existing transit services. The San José Diridon Transit Center is located approximately 800 feet from the site (refer to *Section 4.17 Transportation*). The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site and would reduce gasoline consumption.

Therefore, 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 at the TotalGreen level (i.e., 100 percent carbon-free electricity) 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, Green Building Ordinance, Energy and Water Building Performance Ordinance, minimum LEED certification, and Reach Code. 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 in part on a Custom Soil Resource Report generated from the Natural Resources Conservation Service's website in March 2022. A copy of the report is attached in Appendix D.

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 2019 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes.[49] 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). A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center Report, SCEC, 1999). A recommended minimum depth of 50 feet shall be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.

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.
ES-4.10	Update the San José Building Code, Fire Prevention Code, and Municipal Code as necessary to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes.
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.

[49] Refer to the City's Municipal Code Section 24.03.100 – Adoption of technical provisions of California Building Code.

General Plan Policies - Geology, Soils, and Seismic Hazards	
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-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
EC-3.5	Locate, design and construct vital public utilities, communication infrastructure, and transportation facilities in a manner that maximizes risk reduction and functionality during and after an earthquake.
EC-3.6	Restrict development in close proximity to water retention levees or dams unless it is demonstrated that such facilities will be stable and remain intact during and following an earthquake.
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.
EC-4.2	Approve development 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 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 a 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 1 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 project site is located in Santa Clara Valley, which is bounded by the Diablo Range to the east, the Santa Teresa Hills to the south, and the Santa Cruz Mountains to the west. The Santa Clara Valley is underlain by sedimentary and metamorphic rocks of the Franciscan Complex. Overlying these rocks are alluvial sediments deposited by streams draining the adjacent mountains during recent geologic times (Holocene age). The alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay, and gravel.

The project site and area is relatively flat and is underlain by the Urbanland-Hangerone complex of zero to two percent slopes. The soils on-site consist of clay, clay loam, and gravelly loam and have low to very high 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[50] and no active faults have been mapped on-site. Active faults near the project site are shown below in Table 4.7-1.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	10.4 miles
San Andreas	10.0 miles
Calaveras	9.6 miles
Monte-Vista Shannon	7.3 miles

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. Based on the Santa Clara County Geologic Hazard Zones map[51], 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

[50] United States Geologic Survey. "Alquist-Priolo Faults." Accessed April 21, 2022. https://earthquake.usgs.gov/education/geologicmaps/apfaults.php.
[51] County of Santa Clara. "Geological Maps and Data." Accessed April 21, 2022. https://stgenpln.blob.core.windows.net/document/GEO_GeohazardATLAS.pdf.

and Coyote Creek. Guadalupe River and Coyote Creek are located approximately 0.2 miles and 1.8 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

Based on a nearby site located approximately 350 feet south of the project site, groundwater depth on-site is estimated to range between 14 to 30 feet below the ground surface (bgs) and flows in the northeast direction.[52] 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 will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐

[52] AEI Consultants. *Phase I Environmental Site Assessment*. June 1, 2021.

	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:					
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 DSAP Amendment and 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?

The project site is located within the San Francisco Bay Area, one of the most seismically active areas in the U.S. As mentioned previously, there are no active faults in the immediate project area. The closest active fault to the project site is the Monte-Vista Shannon fault zone, located approximately 7.3 miles southwest. The project site is located within an area with low to very high expansion potential. Because the site is located approximately 0.2 miles west of the Guadalupe River, the potential for lateral spreading during a seismic event would be low. The downtown area, including the project site, is relatively flat and would have no landslide hazard. As mentioned previously, the project site is located within a potential liquefaction zone.

Consistent with the Downtown Strategy 2040 FEIR, the project would be subject to the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City

of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

With implementation of the Standard Permit Condition, 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?

Ground disturbance during construction of the project, including excavation of the below-grade parking garage, would expose soils and increase the potential for wind and/or water erosion at the site. The project would be required to comply with all applicable City regulatory programs pertaining to construction related erosion including the City's NPDES General Construction Permit, urban runoff policies, and the Municipal Code. 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.
- The project shall be constructed in accordance with the 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.
- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

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?

The project site is located within a potential liquefaction zone. The nearest waterway, Guadalupe River, is located approximately 0.2 miles east of the project site. Due to the location of the site relative to the Guadalupe River, the potential for lateral spreading is low. As mentioned previously, since the project site is relatively flat, the potential for landslides is low. With implementation of the identified Standard Permit Condition under checklist question a, the project would not result in a significant geologic hazards impact. **[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 site is located within an area with low to very high soil 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 Conditions under checklist questions a and b, 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, developed 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 10 feet bgs for the below-grade 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)]**

4.7.3 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. Additionally, General Plan Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. Consistent with the Downtown Strategy 2040 FEIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[53] shall be prepared and 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 (refer to the Standard Permit Condition under checklist question a).

[53] The analysis must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California." CDMG Special Publication 117. 1997.

The project site contain soils with low to very high expansion potential and is located within a potential liquefaction zone. As mentioned above, the proposed project would be built and maintained in accordance with a design-specific geotechnical report (consistent with Action EC-4.11) and applicable regulations including the most recent CBC, which contains the 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 March 2022. The checklist is attached in Appendix E of this document.

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 Assembly Bill (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 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 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 José. 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

Since adoption of the Downtown Strategy 2040 FEIR in 2018, the City of San José has prepared and adopted an updated Greenhouse Gas Reduction Strategy (GHGRS) in 2020. The 2030 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 4.1 Air Quality, 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 in 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 practices, 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 the 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 five small commercial buildings which house various automotive businesses in downtown San José. GHG emissions are generated by daily traffic trips to and from the project site as well as electricity required for lighting, heating, and cooling of the buildings.

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 DSAP Amendment and 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-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Construction of the proposed project would occur over a period of 22 months which would result in a temporary increase in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site.

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. 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 would comply with the 2030 GHGRS, as discussed below under checklist question b. Therefore, the project would result in a less than significant GHG emissions impact.

The proposed project would result in a temporary increase in GHG emissions during construction. During operation of the proposed project, the project would comply with the 2030 GHGRS (refer discussion under checklist question b); 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

As mentioned under checklist question a, 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 the City's 2030 GHGRS is summarized below.

The project is consistent with the General Plan designation and planned growth analyzed in the Downtown Strategy 2040 FEIR. The proposed project would be required to comply with City Council Policy 6-32, the City's Private Sector Green Building Policy, 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 project would comply with Climate Smart San José, achieve the City's REACH Code and minimum LEED certification, Title 24, and participate in SJCE at the Total Green level (i.e.,100 percent carbon-free electricity). Additionally, to comply with the zero net carbon residential construction, the proposed project will

request an exemption for the use of gas infrastructure for the commercial cooking establishment within the proposed retail space (refer to the City of San José Ordinance No. 30502). Therefore, the project is consistent with GHGRS's #1, #2 and #3. The project is not proposing to retrofit an existing building; therefore, the project would be consistent with GHGRS #4. In addition, the project would be required to comply with the City's construction and demolition waste diversion requirement (consistent with GHGRS #5). Consistent with GHGRS #6, the San José Diridon Transit Center is located approximately 800 feet from the site and the project includes a TDM plan (refer to *Section 3.1.5* for a list of proposed TDM measures). The project would include water-efficient landscaping and fixtures consistent with GHGRS #7. See Appendix E for additional description of measures proposed for GHGRS compliance. 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.

As discussed previously, 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 project would also participate in SJCE at the TotalGreen level (i.e., 100 percent carbon-free electricity). 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 Climate 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

The following discussion is based on Phase I ESAs prepared by AEI Consultants in December 2020 (32 Stockton Avenue) and June 2021 (60 Stockton Avenue). The reports are included as Appendices F and G of this document.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State

Water Resources Control Board (SWRCB). The project site is not listed in the Cortese List.[54]

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health (SCCDEH) reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Regional

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs

[54] CalEPA. "Cortese List Data Resources." Accessed May 13, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

do not enter municipal storm drain systems.[55] Beginning July 1, 2019, all applicants for a demolition permit or any other permit that involves the demolition of a building shall submit a Screen Assessment Form with their building permit application in San José.

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 hazards and hazardous materials and are applicable to the project.

General Plan Policies - Hazards and Hazardous Materials	
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.3	Where a property is located in near proximity of known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the

[55] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

General Plan Policies - Hazards and Hazardous Materials	
	satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
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-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.1.2 *Existing Conditions*

The project site is currently developed with five small commercial buildings which house various automotive businesses (totaling approximately 15,908 square feet). Groundwater on-site is estimated to range between 14 to 30 feet bgs and flows in the northeast direction.[56]

4.9.1.3 *History of Project Site*

A land use history of the project site was compiled based on a review of historical sources including Sanborn fire insurance maps, topographic maps, aerial photographs, City directory listings, and agency records.

32 Stockton Avenue

From 1884 to 1891, the site was developed with a residential building. By 1915, the site was developed with a gas station. From 1927 to present day, the site has been occupied by various

[56] AEI Consultants. *Phase I Environmental Site Assessment*. June 1, 2021.

automotive businesses. The automotive/equipment steam cleaning and vehicle washing business that is currently present on-site was constructed on-site in 1991 (approximately 31 years old).[57]

60 Stockton Avenue

From 1884 to 1915, the 60 Stockton Avenue site was developed with a residence, shed(s), and an outbuilding. Based on the Literature Search and Historical Resource Assessment completed by PaleoWest, the two-story building located at 60 Stockton Avenue was constructed in 1916. The Smith Manufacturing Company moved into the 60 Stockton Avenue building in 1918. In 1923, the Smith Manufacturing Company was sold to another company that manufactured corn processing equipment. In 1927, the corn processing equipment manufacturing company merged with another manufacturing company. Circa 1930, the rear manufacturing area was used as a foundry. The company closed down in 1955 and in 1957, a new manufacturing company occupied the building. The 60 Stockton Avenue building has continued its use as an automotive repair/auto body repair shop to present day.

4.9.1.4 *On-Site Sources of Contamination*

32 Stockton Avenue

The 32 Stockton Avenue site is listed in the EDR Historic Cleaner, California Environmental Reporting System (CERS) Hazardous Waste, Resource Conservation and Recovery Act (RCRA) Non-Gen, Facility Index System (FINDS), Enforcement and Compliance History Online (ECHO), Certified Unified Program Agencies (CUPA) Listings, HAZNET, Hazardous Materials Management (HAZMAT), CERS, Hazardous Waste Tracking System (HWTS), and California Hazardous Material Incident Reporting System (CHMIRS) databases. The site is listed in the CERS and CUPA databases due to the hazardous waste and chemical storage associated with the steam cleaning business. The site is listed in the RCRA database as a registered non-generator of hazardous waste with no reported violations. No information was provided in the FINDS and ECHO databases. The site is listed in four of the HAZNET listings for generating 0.6 to 1.8 tons of contaminated soil from site clean-ups. Based on a review of a 2001 Hazardous Waste Generator Self Audit Checklist from the Santa Clara County Department of Environmental Health (SCCDEH), the type of waste generated by the business was reported as "contaminated dirt/oil". It is assumed that these listings are related to sludge typically generated from the steam cleaning/carwash operations and not from an actual environmental cleanup from a release of hazardous substances/petroleum products. The site is listed in the HWTS database for being an active hazardous waste transporter facility and for removal and off-site disposal of other inorganic solid wastes, other organic solids and/or contaminated soils from site cleanup between 1993 and 2020. The CHMIRS listing is associated with illegal dumping of radiator fluid by the carwash in October 2015. No additional information about this was included in the EDR report.

As mentioned above, the site has been used as an automotive/equipment steam cleaning and vehicle washing business since 1927. Per the Phase I ESA, the facility contains a concrete pad under a canopy and two in-ground hydraulic lifts that are used to raise vehicles for steam cleaning the under carriage. Based on an interview with the property owner, it was assumed that the hydraulic lifts were

[57] Architectural Resources Group. *Historical Resources Technical Report Downtown West Mixed-Use Plan*. August 24, 2020.

installed pre-1977. Therefore, hydraulic fluid which may have contained PCBs (polychlorinated biphenyls) could have been released on-site. In addition, due to the shallow depth to groundwater at the property, groundwater could have been impacted by the release. Therefore, the presence of the hydraulic lifts represents a REC (recognized environmental concern). An REC refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property; due to release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment.

Additionally, the steam cleaning water consists of heated water mixed with cleaning solutions that are stored in the boiler/equipment building southeast of the steam cleaning pad. The rinse water discharges to trench drains on and adjacent to the wash pads, which is then pumped into a 1,500 gallon above-ground separator/holding tank. Wash water from this tank is then discharged to two in-ground, concrete-lined settling tanks/filter presses southwest of the boiler/equipment building. Water treatment chemicals and metal precipitate are then added to the water in the settling tanks. The wastewater is then discharged via piping to an approximate 300-400-gallon in-ground separator for further removal of any cleaning agents and/or solids. An exterior car washing business is located adjacent to the steam cleaning business. Similar to the steam cleaning business, wash water that is mixed with detergents discharges to trench drains on and adjacent to the wash pad, which then discharges to the 300-400-gallon above-ground separator. Additionally, wash water from the vehicle washing machines discharges to a surface trench drain that discharges directly to the 300-400-gallon separator. All wash/wastewater that enters the 300-400-gallon separator is then discharged to an above-ground, 1,500-gallon clarifier southwest of the vehicle washing area. Wastewater discharges from this clarifier to the sanitary sewer system under San José Water Pollution Control Plant permit. The settling tanks/filter presses are routinely serviced to remove the sludge, which is then allowed to dry on a concrete pad at the eastern end of the site. The dried sludge is then placed into drums and transported off-site. The HAZNET listings from 1986 and 1987 indicated that 5.6 and 6.25 tons of sludge was generated, respectively. Based on the Phase I ESA, there is a potential that contaminants (e.g., oils or solvents) present in the waste stream could impact the soil beneath the site if the clarifiers or associated drain system were compromised. Therefore, the presence of the clarifiers represent a REC.

Based on a 1915 Sanborn fire insurance map, a gas station was previously present on-site. No information regarding the status and operation of an underground storage tank (UST) was on file with the regulatory agencies. Additionally, no documentation was available confirming whether petroleum hydrocarbons were present on the subsurface. Therefore, the former gas station and storage of petroleum hydrocarbons in a UST is considered an REC.

The UPRR tracks are considered a REC due to the historical application of oils containing PCBs, herbicides, and arsenic for pest and weed control, as well as the potential presence of creosote on the rail ties, and the historical common practice of using coal cinders for track fill material. Concentrations of these contaminants would likely be confined to the near subsurface sediments and would not present a significant environmental health and safety concern to the occupants of the subject property or the underlying groundwater.

60 Stockton Avenue

The 60 Stockton Avenue site is listed in the ECHO, CUPA Listings, HWTS, EDR Historic Auto Stations, FINDS, HAZNET, Resource Conservation and Recovery Act-Small Quantity Generator (RCRA-SQG), CERS Hazardous Waste, Emergency Management Institute (EMI), HAZMAT, CERS, RCRA Non-Gen/NLR, and CERS databases for hazardous waste generation with no reported violations and its use as an auto repair facility since circa 1930. The historic and long term use of the subject property for automotive service purposes is considered a REC.

Asbestos and Lead-Based Paint

Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs and LBP may be present in the buildings proposed for demolition.

4.9.1.5 *Off-Site Sources of Contamination*

The Phase I ESA identified five nearby sites of concern that warranted additional discussion which are summarized below.

SAP Center/San José Arena

The addresses associated with this off-site facility are: 555-561 West St. John Street, 525 and 575 West Santa Clara Street, 80 North Montgomery, 565 West Santa Clara Street, 589 West Santa Clara Street, and West St. John Street and Montgomery Street. The SAP Center is listed in the CERS Hazardous Waste, CUPA Listings, HAZNET, CERS, HWTS, RCRA Non-Gen, Response, EnviroStor, Historic Cal-Sites, Deed, leaking underground storage tank (LUST), CORTESE, EDR HIST AUTO, HIST LUST, HIST CORTESE, Manufactured Gas Plant (MGP), and Spills, Leaks, Investigations, and Cleanups (SLIC) databases due to the historic industrial use of this property. The LUST cases associated with this site have been close by SCCDEH and RWQCB. Based on a review of the Response, EnviroStor, Cal-Sites and Deed databases, the City of San José Redevelopment Agency acquired 22 parcels in this former industrial area that was previously developed with a former PG&E coal gasification plant, various automobile repair and service businesses, USTs, oil/water clarifiers, and drums. Per GeoTracker, AEI Consultants prepared an Annual Groundwater Monitoring Report for this site on June 2019, which included the sampling of multiple groundwater wells throughout the property. The groundwater gradient is to the northeast, which is away from the SAP Center. A groundwater monitoring well, located along the western side of the site, contained non-detectable levels of petroleum hydrocarbon contaminants during the past several sampling events. Based on the status of this case with land use restrictions and results of the most recent groundwater sampling events, this site is not a significant environmental concern. The SAP Center is listed in the LUST, CORTESE, and CERS databases as a closed soil contamination case involving a release of gasoline. The case has been closed as of April 1997. Based on UST and clarifier removal, regulatory case closure and site redevelopment, this site is not a significant environmental concern. The SAP Center is also listed in the EDR HIST AUTO database due its former use as a gas station in 1930. Based on down-gradient position of this site relative to the subject property and site redevelopment, the review of regulatory files was not deemed necessary; therefore, the listing is not a significant environmental concern. The LUST, Historic LUST, Cortese, Historic Cortese and CERS databases indicated that this site is a closed soil contamination case involving a release of gasoline. The case was closed by RWQCB on July 25, 1997. The case closure summary obtained via

GeoTracker indicated that one 280-gallon gasoline UST was removed in August 1990, and one gasoline UST of unspecified size was removed in 1978. Based on UST removal, regulatory case closure and site redevelopment, this site is not a significant environmental concern. No pertinent information was included in the MGP database. This listing is associated with the historic manufactured gas plant as discussed above. No information was included in the SLIC database except that the site is a closed soil contamination case that has been closed as of March 1997. Based on the regulatory case closure, the site is not a significant environmental concern.

65 Cahill Street

The off-site facility located at 65 Cahill Street is listed in the SLIC, Brownfields, CHMIRS, EMI, California Integrated Water Quality System (CIWQS), and CERS databases associated with the Diridon Station site, including an open groundwater contamination case associated with the release of petroleum hydrocarbons. Former groundwater monitoring wells at this site were destroyed in 2019, and a case closure summary form is currently pending. Based on distance, cross-gradient position of this site relative to the subject property and pending case closure, this site is not a significant environmental concern.

730 The Alameda

The off-site facility located at 730 The Alameda is listed in the EDR HIST AUTO database due to its former use as an automotive service facility from 1966 to 1977 and in 1991 and 1992. No release occurred; therefore, the site is not a significant environmental concern.

Whole Foods

The off-site facility associated with 701 The Alameda, 735 The Alameda, 777 The Alameda, and 165 Stockton Avenue is listed in the EDR Historic Auto Stations, LUST, Historic LUST, CORTESE, Historic Cortese, and CERS databases due to its former use as a gas station in 1940 and 1950, and an auto repair business in 1955. The LUST, Historic LUST, Cortese, Historic Cortese and CERS databases indicated that the groundwater contamination case associated with a release of diesel fuel was closed as of September 1997. Based on the length of time since the diesel fuel UST was removed and LUST case closure, the listings are not a significant environmental concern. This off-site facility was also listed in the Resource Conservation and Recovery Act-Very Small Quantity Generators (RCRA-VSQG), CERS Hazardous Waste, CUPA Listings, HAZMAT, CERS, RCRA Non-Gen, and CUPA databases as a very small hazardous waste generator with no reported violations; therefore, this site is not a significant environmental concern.

120/138 Stockton Avenue

The off-site facility located at 120/138 Stockton Avenue is listed in the SLIC, NPDES, and CERS databases for soil contamination. The soils were excavated nine feet below-grade, stockpiled, and placed in a consolidated layer between six and nine feet below-grade and capped by a new building. The site has since been redeveloped; therefore, the listings are not a significant environmental concern. The site is also listed in the CUPA database as a registered hazardous waste generator. Based on the lack of a documented release, the site is not a significant environmental concern.

4.9.1.6 *Other Hazards*

Airports

Norman Y. Mineta San José International Airport is located approximately 1.7 miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is located within the Airport Influence Area (AIA). The proposed project is not located within a CLUP-defined safety zone[58] nor is it located in the vicinity of a private airstrip.

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure of a height greater than approximately 54 feet above the ground surface is required to be submitted to the FAA for review (under FAR Part 77). As the proposed project would have a maximum height of 198 feet and six inches, notification to the FAA is required to determine the potential for the project to create an aviation hazard.[59]

Wildland Fires

The project site is located in an urbanized area of San José and would not be subject to wildland fires.

4.9.2 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) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐

[58] Walter B. Windus, PE. Aviation Consultant. "Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport." May 2011. Accessed May 16, 2022. https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf.

[59] Norman Y. Mineta San José International Airport. Notice Requirement Criteria for Filing FAA Form 7460-1. September 2013.

	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:					
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, will 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?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the DSAP Amendment and the Downtown Strategy FEIR, the proposed project would not result in a significant hazard and hazardous materials impacts, as described below.

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction

As discussed in *Section 4.9.1.4*, contaminants (e.g., oils or solvents) in the waste stream could have impacted the soil beneath the site if the clarifiers on-site were compromised. Additionally, oils containing PCBs, herbicides, and arsenic for pest and weed control, as well as the potential presence of creosote on the rail ties and coal cinders for track fill material associated with the UPRR tracks could have contaminated the soils on-site. Any hazardous materials (e.g., debris or soil containing LBP, asbestos or coatings) that would be removed from the site during project demolition and construction would be properly disposed of. The project would be required to comply with General Plan policy EC-6.2 which requires proper storage, use, and disposal of hazardous materials and wastes at licensed facilities. In addition, the proposed project would implement Mitigation Measure HAZ-1.1 listed below (under checklist question b) to ensure that construction activities would not expose workers, the public, or the environment to hazardous materials.

Operation

Once the project is operational, the project would likely include the use and storage of cleaning supplies and maintenance chemicals in small quantities similar to adjacent land uses in the area. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. As a result, implementation of the proposed project would not create a significant hazard to the public or environment from the use, transport, or storage of these chemicals.

With implementation of Mitigation Measure HAZ-1.1 (below) and compliance with existing regulations, construction and operation of the project would not create a significant hazard to the public or environment from the use, transport, or storage of hazardous materials. **[Same Impact as Approved Project with Mitigation Incorporated (Less than Significant Impact)]**

b) Would the project 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?

On-Site Subsurface Contamination

Previous and current operations of the project site (e.g., automotive/equipment steam cleaning, vehicle washing business, and automotive repair/auto body repair shop) have been identified as RECs. As a result, construction activities associated with the proposed project could expose construction workers, the public, and the environment to hazardous materials.

Impact HAZ-1: Due to the historical and current operations of the site (e.g., automotive/equipment steam cleaning, vehicle washing business, and automotive repair/auto body repair shop), construction activities associated with the proposed project could expose construction workers, the public, and the environment to groundwater and/or soil contamination from

polychlorinated biphenyls, oils, herbicides, arsenic, creosote, coal cinders, petroleum hydrocarbons, and/or solvents.

Mitigation Measures

MM HAZ-1.1: Prior to the issuance of a demolition or grading permit, the project applicant shall retain an environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs). If the Phase II results indicate soil, soil vapor and/or groundwater contamination above ESLs, the applicant shall enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC). The applicant shall meet with the regulatory oversight agency and perform additional soil, soil gas and/or groundwater sampling and testing, as required, to adequately define the known and suspected contamination. A Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan shall be prepared and submitted to the regulatory oversight agency for their approval. The plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Director of the City of San José Planning, Building, and Code Enforcement Department, and the Environmental Compliance Officer in the City of San José's Environmental Services Department for review.

MM HAZ-1.2: Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall conduct a geophysical survey to identify the subsurface features of the site not previously evaluated. Any identified objects/structures shall be removed in coordination with SCCDEH requirements. The geophysical survey, evidence of regulatory oversight, and confirmation that identified objects/structures have been removed in accordance with SCCDEH requirements shall be provided to the Director of Planning, Building and Code Enforcement, or Director's designee, and the City of San José's Environmental Services Department prior to the issuance of any demolition, grading, or building permits (whichever occurs first).

With implementation of the identified mitigation measures, construction of the project would not significantly impact construction workers or nearby land uses to any contamination sources.

Asbestos-Containing Materials and Lead-Based Paint

Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs and LBP may be present in the existing buildings proposed for demolition (refer to *Section 4.9.1.4*). Therefore,

the following Standard Permit Conditions shall be implemented in order to reduce potential impacts from the presence of ACMs and LBP.

Standard Permit Conditions:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of ACMs and/or LBP.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

With implementation of the identified Standard Permit Conditions, demolition of the buildings containing ACMs and LBP would reduce potential hazardous materials impacts to construction workers, adjacent uses, and nearby residences to a less than significant level.

Polychlorinated Biphenyls

Consistent with RWQCB regulations, the project applicant shall be required to submit a PCB Screening Assessment Form when applying for a demolition permit to demolish the existing buildings on the project site. By complying with existing regulations, demolition of the buildings on-site would reduce potential PCB impacts to construction workers, adjacent uses, and nearby residences to a less than significant level.

Off-Site Contamination

No off-site facilities were determined to represent a significant environmental concern to the project site. Therefore, implementation of the project would not have the potential to exacerbate existing off-site soil or groundwater contamination sources and would not impact persons or properties off-site.

With implementation of Mitigation Measures HAZ-1.1 and HAZ-1.2 and the Standard Permit Conditions identified above, as well as compliance with existing regulations, the proposed project would result in a less than significant hazard to the public and/or the environment. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

There are no schools located within one-quarter mile of the project site. The nearest school is located a mile west of the project site. As mentioned under checklist question b, the project would be required to comply with existing regulations, the Standard Permit Conditions, and Mitigation Measures HAZ-1.1 and HAZ-1.2 to reduce impacts from ACMs, LBP, and PCBs, and soil and/or groundwater contamination. Therefore, implementation of the project would not emit hazardous emissions or handle hazardous materials, substances, or waste within an existing or proposed school. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project 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?

The proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Cortese List).[60] Therefore, construction and operation of the project would not create a significant hazard to the public or the environment, as it relates to disrupting contamination associated with a Cortese List site. **[Same Impact as Approved Project (Less than Significant Impact)]**

e) If 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, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

As mentioned previously, any proposed structure of a height greater than approximately 54 feet above the ground surface is required to be submitted to the FAA for review (under FAR Part 77). The proposed project would have a maximum height of 198 feet and six inches, notification to the FAA is required to determine the potential for the project to create an aviation hazard.[61] The proposed project would be required to implement the identified Standard Permit Condition below.

Standard Permit Condition:

- **FAA Clearance Required**. Prior to issuance of any Building Permit for construction, the permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83

[60] CalEPA. "Cortese List Data Resources." Accessed May 13, 2022. https://calepa.ca.gov/sitecleanup/corteselist.
[61] Norman Y. Mineta San José International Airport. Notice Requirement Criteria for Filing FAA Form 7460-1. September 2013.

datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

In addition to receiving a "Determination of No Hazard" from the FAA, the project would be required to follow all applicable General Plan policies and regulations outlined in the CLUP for the Norman Y. Mineta San José International Airport and Downtown Strategy 2040 FEIR.

Implementation of the identified Standard Permit Condition would ensure that the project does not result in a safety hazard or excessive noise exposure due to activities of the Norman Y. Mineta San José International Airport. **[Same Impact as Approved Project (Less than Significant Impact)]**

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The project would be built to current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. The proposed project would not impair or interfere with the implementation of the City's Emergency Operations Plan or any statewide emergency response or evacuation plans. **[Same Impact as Approved Project (Less than Significant Impact)]**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

The project site is located within downtown San José and is not adjacent to any wildland area. As a result, implementation of the project would not expose any people or structures to risk from wildland fires. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.9.3 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 hazards and hazardous materials conditions affecting a proposed project. General Plan Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation, as applicable, for the health of future users and to provide this information as part of the environmental review process.

The project shall implement Mitigation Measures HAZ-1.1 and HAZ-1.2 and the identified Standard Permit Conditions (refer to checklist question b above) to reduce exposure to potential contaminated soil and groundwater contamination from former uses of the site. With implementation of the required mitigation measures and Standard Permit Conditions, the proposed project would not result in human health and environmental hazards to future site users consistent with Policy EC-7.2.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

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 May 2022 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.[62] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 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: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flow controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[63]

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for polychlorinated biphenyls (PCBs) that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs waste load allocation in the Basin Plan by March 2030.[64] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to

[62] California Regional Water Quality Control Board San Francisco Region. *Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008*. May 11, 2022.
[63] The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.
[64] San Francisco Bay Regional Water Quality Control Board. Municipal Regional Stormwater Permit, Provision C.12. November 19, 2015.

storm drains during demolition. Buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

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.

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.[65]

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

[65] California Department of Water Resources. "Division of Safety of Dams." Accessed April 25, 2022. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams.

catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

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.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

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 Best Management Practices (BMPs) that will prevent the discharge of stormwater pollutants.

Demolition Permit Application – Managing Polychlorinated Biphenyls

Beginning July 1, 2019, all applicants for a demolition permit or any other permit that involves the demolition of a building must submit a Screening Assessment Form as required by the San Francisco Municipal Regional Stormwater Permit.

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.

General Plan Policies - Hydrology and Water Quality	
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
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 areas dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-1.2	Consistent with fiscal sustainability goals, provide and maintain adequate water, wastewater, and stormwater services to areas in the city that do not currently receive these City services upon funding and construction of the infrastructure necessary to provide them.
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 that define needed drainage improvements for proposed developments per City standards.

4.10.1.2 *Existing Conditions*

Flooding and Dam Failure

Based on Federal Emergency Management Agency's (FEMA) Flood Insurance Maps (Map 06085C0234H), the project site is located in Flood Zone D and Flood Zone AO.[66] Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City

[66] Federal Emergency Management Agency. Flood Insurance Map. Map Number 06085C0234H. May 18, 2009

floodplain requirements for Zone D. Flood Zone AO is an area with a flood depth of one to three feet during a 100-year flood.

The project site is located within the Anderson Dam and Lexington (Lenihan) Reservoir dam failure inundation areas.[67,68]

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.

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.

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 and there are no mountains in proximity of the site that would affect the site in the event of a mudflow.

Storm Drainage and Water Quality

The City of San José owns and maintains the municipal storm drainage system which serves the project site. Stormwater from the project site drains to the Guadalupe River. The Guadalupe River carries stormwater from the local storm drains into San Francisco Bay. There is no overland stormwater flow from the project site to any waterway.

The water quality of the Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. The Guadalupe River is currently listed on the 303(d) list for diazinon, mercury, and trash.[69]

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Based on a nearby site located approximately 350 feet south of the project site, groundwater depth on-site is estimated to range between 14 to 30 feet bgs and flows in the northeast direction.[70]

[67] Santa Clara Valley Water District. Anderson Dam and Reservoir Flood Inundation Maps. 2016. Accessed April 25, 2022.
[68] Santa Clara Valley Water District. Lexington Reservoir Flood Inundation Maps. 2019. Accessed April 25, 2022.
[69] State Water Resources Control Board. "2014 and 2016 California List of Water Quality Limited Segments Being Addressed by USEPA Approved TMDLs." Accessed April 25, 2022. https://www.waterboards.ca.gov/water_issues/programs/tmdl/2014_16state_ir_reports/category4a_report.shtml.
[70] AEI Consultants. *Phase I Environmental Site Assessment*. June 1, 2021.

Hydromodification

Based on the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVUPPP) 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.[71]

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:	☐	☐	☐	☒	☐
– 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?	☐	☐	☐	☒	☐

[71] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements." Accessed April 25, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/15563/636681333274630000.

	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) 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 DSAP Amendment and the Downtown Strategy 2040 FEIR, 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 during construction of the project to comply with regulations as established in the Construction General Permit. The project site is approximately 1.1 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.

As discussed under *Section 4.10.1.1*, all development projects in San José, whether subject to the Construction General Permit or not, 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 construction-related water quality impacts.

Standard Permit Conditions:

Construction-related Water Quality.

- 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 would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust, as necessary.

- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to 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 would 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 may also be installed at the request of 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.

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.

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 Management Policy 6-29 and the MRP.

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. To treat stormwater runoff, the project currently proposes media filters and flow-through planters. 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. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

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.

With implementation of the identified Standard Permit Conditions, 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.[72] Groundwater depth on-site is estimated to range from 14 to 30 feet bgs. As mentioned previously, the site would be excavated to a depth of approximately 10 feet bgs for the below-grade parking garage; therefore, construction and operation of the proposed project would not interfere with shallow groundwater. 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?

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 Areas	48,001	98	42,393	87	-5,608	-11
Pervious Areas	818	2	6,426	13	+5,608	+11
Total Area:	48,819	100	48,819	100		

Under existing conditions, the site is covered with approximately 48,001 square feet (98 percent) of impervious surface area. Under project conditions, the impervious surfaces on-site would decrease by approximately 5,608 square feet (11 percent) when compared to existing conditions which would result in a slight decrease in stormwater runoff. There is currently sufficient capacity in the stormwater drainage system to support the site. Therefore, implementation of the project would not exceed the capacity of the existing storm drainage system.

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. As a result, the proposed project would not substantially alter the existing drainage pattern of the site or area.

[72] Valley Water. Groundwater Management Plan. November 2021.

Drainage Pattern Impacts

Intensifying urban uses can affect the drainage pattern by increasing the coverage of impervious surfaces, which decreases the amount of stormwater runoff that is filtered into the ground and increases the peak volume and rate of runoff entering the storm drainage system.

The Santa Clara Street/The Alameda Underpass is subject to flooding during heavy storm events. As mentioned above, implementation of the project would result in a slight decrease in stormwater runoff from the site when compared to existing conditions. Additionally, since existing surfaces within the downtown area are largely impervious, future development (including the proposed project) would unlikely alter the existing drainage pattern such that substantial flooding or erosion would occur in the receiving water bodies.[73] Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

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 Flood Zones D and AO. As mentioned previously, Flood Zone AO is an area with a flood depth of one to three feet during a 100-year flood. General Plan Policy EC-5.1 requires evaluation of flood hazards prior to approval of development within a FEMA designated floodplain. New development shall be reviewed to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence or the 100-year flood. The project shall be required to comply with the City's Special Flood Hazard Area Regulations (refer to Chapter 17.08 of the City's Municipal Code). Therefore, implementation of the proposed project would not expose people or structures to flood hazards, consistent with General Plan Policy EC-5.1.

Additionally, the project site is located within the Anderson dam and Lexington Reservoir dam failure inundation zones. The California Division of Safety of Dams (DSOD) inspects dam on an annual basis and Valley Water routinely monitors the 10 dams, including the Anderson and Lexington dams. Therefore, the likelihood of flooding from dam failure is low and the project would not release pollutants due to dam inundation. For these reasons, the risk of release of pollutants would be a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

[73] City of San José. Downtown Strategy 2040 Draft Environmental Impact Report. September 2018.

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

The proposed project would not result in the release of pollutants from project construction or operation (refer to discussion under checklist question d). 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 Management 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 Environmental Setting

4.11.1.1 *Regulatory Framework*

City of San José

San José Downtown Design Guidelines and Standards

The City's Downtown Design Guidelines and Standards (updated in 2020) provide guidance for the form and design of buildings in the downtown area, appearance in the larger cityscape, and their interface with the pedestrian level. The Downtown Design Guidelines and Standards also set rules for new buildings and external alterations to non-historic buildings being built near and adjacent to historic and other key structures within the City's Downtown Design Guidelines and Standards boundary.

Comprehensive Land Use Plan for Norman Y. Mineta San José International Airport

The Comprehensive Land Use Plan (CLUP) for Mineta San José International Airport, adopted by the Santa Clara County Airport Land Use Commission (ALUC) on May 25, 2011 and amended on November 16, 2016, is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and the aircraft occupants. The CLUP is also intended to ensure that surrounding new land uses do not affect the airport's continued operation.

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-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles

General Plan Policies - Land Use	
	from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
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-through 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. 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 applicable 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-4.5	For new development in transition areas between identified Growth Areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is 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.

General Plan Policies - Land Use	
LU-3.4	Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize the 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.
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-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-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
IP-1.6	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use / Transportation Diagram and *Envision General Plan* goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards, including heights, to achieve vital mixed-use complete communities and facilitate their implementation.
IP-1.8	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

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 1.1-acre project site is comprised of two parcels (APNs 259-28-001 and -002) and is currently developed with a two-story automotive business, an automotive/equipment steam cleaning and vehicle washing business, multiple carports, and small storage buildings (totaling 15,908 square feet) in downtown San José. The site is bound by an apartment complex to the north, the Union Pacific Railroad and Caltrain tracks to the east, West Santa Clara Street to the south, and Stockton Avenue to the west. The project site is located within the DSAP.

The project site is designated *Downtown* under the City's General Plan and has a zoning designation of *DC*. 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.

Under the *DC* zoning designation, any project within a historic district shall conform to applicable guidelines adopted, and as amended by City Council (refer to *Section 20.70.110* of the City's Municipal Code).

Surrounding Land Uses

Development in the project area consists of commercial businesses and apartment complexes that range from one- to seven-stories in height. Located north of the project site is a seven-story apartment complex. Located east of the project site is the UPRR and Caltrain tracks. East of the rail tracks is the SAP Center and associated parking lot. Located south of the project site is West Santa Clara Street, an east-west, four-lane street that extends as West Santa Clara Street from First Street to Stockton Avenue. South of West Santa Clara Street/The Alameda are various commercial businesses and apartment complexes. The commercial businesses and apartment complex located immediately south of the site range from one to four stories. Located west of the project site is Stockton Avenue, a north-south, two-lane roadway that runs between the College Park Caltrain Station and Santa Clara Street/The Alameda. West of Stockton Avenue is a one- to two-story commercial building.

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?	☐	☐	☐	☒	☐

	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:					
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 DSAP Amendment and the Downtown Strategy 2040 FEIR, 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, but they may create conditions that adversely affect existing uses in the immediate vicinity. The commercial and residential land uses within the project vicinity range from one- to seven-stories. The project proposes to construct a 20-story residential tower with ground floor retail in the downtown area which is allowed under the *DC* zoning designation and compatible with the existing land uses in the area. The proposed project does not include any features that would physically divide the community (e.g., roadway, railway, or highway). As a result, implementation of the project would not 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, with implementation of the City's Standard Permit Conditions, the required Downtown Strategy 2040 FEIR, and regulatory requirements, the project would not result in a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Additionally, the project would be reviewed for compliance with applicable land use plans and policies. For these reasons, the impact would be 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)?

The proposed project is not located adjacent to any of the six major open space areas (e.g., St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park). Therefore, the proposed project would have a less than significant shade and shadow impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

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, SR 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.

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 will 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 DSAP Amendment and the Downtown Strategy 2040 FEIR, the proposed project would 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 proposed project site is not located in an area of San José that is known to contain mineral resources. As mentioned previously, Communications Hill has been identified as a regional source of construction aggregate materials. Communications Hill is located more than three miles southeast of the project site. Therefore, implementation of the project would not result in the loss of availability of locally important mineral resources. **[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; therefore, implementation of 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

The following discussion is based on a Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. in July 2022. A copy of this report is included as Appendix H of this document.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[74] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[74] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

Federal

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 4.13-1: Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

Additionally, the FTA has identified construction noise thresholds in the *Transit Noise and Vibration Impact Assessment Manual*,[75] which limit daytime construction noise to 80 dBA L_{eq} at residential land uses and to 90 dBA L_{eq} at commercial and industrial land uses.

State

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

[75] Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, FTA Report No. 0123, September 2018.

Transportation and Construction Guidance Manual

The California Department of Transportation published an update to the 2013 Transportation and Construction Guidance Manual in April 2020. The Manual developed a synthesis of various vibration criteria to assess the damage potential for representative categories of structures and effects upon people.

The guideline criteria are summarized in Table 4.13-2 below which includes seven categories. The first two categories (Categories 1 and 2) address human perceptibility of vibration only. The five remaining categories (Categories 3 through 7) address human perceptibility and potential for damage to buildings described as extremely fragile historic buildings, ruins, ancient monuments; fragile buildings; historic and some old buildings; older residential structures; new residential structures; and modern industrial/commercial buildings. Most, if not all, buildings in the downtown area would fall into Categories 5 through 7.

The goal in establishing vibration limits is to mitigate potential vibration impacts associated with demolition and construction activities to a less-than-significant level by establishing safe limits to protect structures from potential damage and to minimize vibration impacts on people and businesses.

Table 4.13-2: Construction Vibration Threshold Criteria

Category	Continuous PPV at affected building (inch/sec)	Human Reaction	Effect on Buildings
1	0.01	Barely perceptible	No effect
2	0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
3	0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of the vibration to which ruins and ancient monuments should be subjected
4	0.1	Strongly perceptible	Threshold at which there is a risk of cosmetic damage to fragile buildings with no risk of cosmetic damage to most buildings
5	0.25	Strongly perceptible to severe	Threshold at which there is a risk of damage to historic and some old buildings
6	0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential structures
7	0.5	Severe - Vibrations considered unpleasant	Threshold at which there is a risk of damage to new residential and modern commercial/industrial structures

Source: California Department of Transportation. *Transportation and Construction Vibration Guidance Manual*. April 2020.

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 4.13-3 below.

Table 4.13-3: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

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

General Plan Policies – Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an

General Plan Policies – Noise and Vibration	
	acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

General Plan Policies – Noise and Vibration	
EC-1.9	Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms.
EC-1.11	Require safe and compatible land uses within the Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

4.13.1.3 *Existing Conditions*

Noise

The existing noise environment at the project site is primarily from vehicular traffic along West Santa Clara Street and The Alameda and the UPRR. Aircraft associated with the Norman Y. Mineta San José International Airport and traffic noise from State Route 87 (SR 87) also contribute to the existing noise environment.

To quantify the existing noise environment on-site, a noise monitoring survey was completed at the site over three days in February 2022 which consisted of two long-term measurement (LT-1 and LT-2) and four short-term measurements (ST-1 through ST-4).

LT-1 was made approximately 50 feet east of the Stockton Avenue centerline. Hourly average noise levels at this location ranged from 61 to 71 dBA L_{eq} during the daytime hours (7:00 AM and 10:00 PM) and from 50 to 66 dBA L_{eq} during nighttime hours (10:00 PM and 7:00 AM). The day-night average noise level was 69 dBA DNL. During gameday at the SAP Center, daytime hourly average noise levels ranged from 64 to 71 dBA L_{eq} and nighttime hourly average noise levels ranged from 63 to 65 dBA L_{eq}. The day-night average noise level was 70 dBA DNL.

LT-2 was made approximately 40 feet west of the nearest UPRR tracks at 250 Stockton Avenue.[76] Hourly average noise levels at this location on non-game days ranged from 62 to 70 dBA L_{eq} during daytime hours and from 56 to 71 dBA L_{eq} during nighttime hours. The day-night average noise level was 72 dBA DNL. On gameday, daytime hourly average noise levels ranged from 64 to 70 dBA L_{eq} and nighttime hourly average noise levels[77] ranged from 70 to 74 dBA L_{eq}. The day-night average noise level was 75 dBA DNL.

ST-1 to ST-4 were made in 10-minute intervals. ST-1 was made along the UPRR tracks near the existing carwash on-site. The major noise sources measured at ST-1 included carwash operations, which ranged from 58 to 67 dBA; train horns, which ranged from 80 to 83 dBA; and aircraft flyovers, which ranged from 66 to 68 dBA. A vehicle starting in the parking lot was measured to be 64 dBA. In the absence of all these noise sources, ambient levels at ST-1 ranged from 52 to 54 dBA. The 10-minute L_{eq} measured at ST-1 was 67 dBA.

ST-2 was also made along the UPRR tracks, towards the northern portion of the project site. The major noise contributors at ST-2 included carwash operations, which ranged from 49 to 50 dBA; train horns from pass-by events, which ranged from 76 to 83 dBA; and aircraft flyovers, which ranged from 66 to 68 dBA. Typical ambient noise levels at ST-2 ranged from 54 to 56 dBA. The 10-minute L_{eq} measured at ST-2 was 61 dBA.

ST-3 was made approximately 45 feet east of the Stockton Avenue centerline. Major noise contributors at ST-3 included traffic noise along Stockton Avenue, which consisted mostly of passenger cars with noise levels ranging from 62 to 64 dBA. Typical ambient noise levels ranged from 56 to 58 dBA. A jet flying overhead generated noise levels of 72 dBA, and train horns generated noise levels ranging from 74 to 75 dBA. The 10-minute L_{eq} measured at ST-3 was 62 dBA. ST-4 was made approximately 50 feet north of the West Santa Clara Street/The Alameda centerline. Major noise contributors at ST-4 included traffic noise along West Santa Clara Street/The Alameda, which consisted of vehicles with noise levels ranging from 68 to 70 dBA, heavy trucks with noise levels ranging from 79 to 82 dBA, and buses with noise levels ranging from 76 to 80 dBA. Typical ambient noise levels ranged from 60 to 62 dBA. Aircraft flyovers generated noise levels of 66 to 68 dBA, and a train horn generated noise levels of 74 dBA. Other noise contributors included carwash operations with noise levels of 64 dBA, and a noisy vehicle, which reached levels up to 83 dBA. The 10-minute L_{eq} measured at ST-4 was 69 dBA.

[76] This location was selected as an alternative measurement location due to the logistical concerns with safely installing the noise meter at the project site.
[77] Nighttime hours during gameday are from 10:00 PM to 1:00 AM, when the gameday traffic would be exiting the parking lot.

The noise monitoring locations are shown in Figure 4.13-1 below, and Table 4.13-4 and Table 4.13-5 below summarizes the short-term and long-term acoustical locations and measurements, respectively.

Table 4.13-4: Summary of Short-Term Noise Measurements (dBA)

Measurement	Location	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	L_{eq}
ST-1	Adjacent to UPRR tracks, center of project site	83	81	67	57	52	67
ST-2	Adjacent to UPRR tracks, northern portion of project site	83	73	60	51	49	61
ST-3	Approximately 45 feet east of Stockton Avenue centerline	75	72	65	59	54	62
ST-4	Approximately 50 feet north of the West Santa Clara Street/The Alameda centerline	83	79	72	66	59	69

Table 4.13-5: Summary of Long-Term Noise Measurements (dBA)

Measurement	Location	Daytime Level (dBA L_{eq})	Night-Time Level (dBA L_{eq})	Average Noise Level (dBA DNL)
LT-1	Approximately 50 feet east of Stockton Avenue centerline	**Non-gameday**		
		61-71	50-66	69
		Gameday		
		64-71	63-65	70
LT-2	Approximately 40 feet west of nearest UPRR tracks at 250 Stockton Avenue	**Non-gameday**		
		62-70	56-71	72
		Gameday		
		64-70	70-74	75

Vibration

Sixteen vibration measurements from individual train activity were recorded in February 2022 near LT-2 at 250 Stockton Avenue (V-1), approximately 40 feet from the edge of the nearest UPRR tracks. While the track elevation may vary from the project site, vibration levels at the site would be equal to or less than the measurements made at 250 Stockton Avenue. Vibration levels ranged from 67 to 72 VdB with an average vibration level of 69 VdB. Refer to Figure 4.13-1 above for the vibration monitoring location and Table 7 of Appendix H which summarizes the 16 measurements made at V-1.

NOISE AND VIBRATION MONITORING LOCATIONS | FIGURE 4.13-1

4.13.2 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:					
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?	☐	☐	☐	☒	☐

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project-generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the addition of project noise, a noise level increase of five dBA DNL or greater is considered significant.

City of San José Standards

The City of San José relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain normally acceptable.

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of five mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of two mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

Noise Impacts

Similar to the capacity build out evaluated in the DSAP Amendment and the Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to noise and vibration, as described below.

a) Would the project result in 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?

Project-Generated Traffic Noise Impacts

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

To determine the effect of project-generated traffic on the nearby residences, two existing plus project traffic scenarios were compared to existing conditions. The project's contribution to the overall noise level increase was found to be up to two dBA DNL or less along the roadways in the project vicinity. Therefore, the proposed project would not result in a permanent noise increase of three dBA DNL or more.

Additionally, Table 3.12-6 of the Downtown Strategy and Table 22 of the DSAP Amendment summarizes all affected intersections located within the downtown. Build out of the Downtown Strategy 2040 would result in significant unavoidable traffic noise impacts along segments of Santa Clara Street, Autumn Street, West San Carlos Street, Bird Avenue, Julian Street, Almaden Boulevard, Race Street, The Alameda, King Road, First Street, Fruitdale Avenue, Alma Avenue, Naglee Avenue, and Keyes Street. The DSAP Amendment identified a significant traffic noise increases along segments of Montgomery Street, Stockton Avenue, and West San Carlos Street. The project site is located along Stockton Avenue between West Julian Street and West Santa Clara Street which would have a noise increase of three dBA DNL above existing conditions. As mentioned above, the project's contribution to the overall noise increase would be two dBA DNL or less. For these reasons, the proposed project would not generate a substantial permanent increase in ambient noise levels in excess of established thresholds.

Mechanical Equipment

A green roof/solar ready space is proposed on the roof. Solar panels are quiet and would not generate measurable noise levels at the property lines.

The proposed project is expected to include mechanical equipment such as HVAC units. HVAC units typically cycle on and off continuously throughout a 24-hour period; therefore, at any given time, multiple units could be operating simultaneously on the roof. At a distance of three feet, typical heating pumps generate noise ranging from 56 to 66 dBA. At a distance of three feet and assuming up to 10 heating pumps would run simultaneously at any given time, hourly average noise levels would range from 66 to 76 dBA L_{eq}. Air handling units for buildings of this size typically generate noise levels up to 62 dBA at a distance of 20 feet. Assuming up to 10 air handling units would operate simultaneously at any given time, noise levels generated by the air handling units would be up to 72 dBA L_{eq} at this distance. When combined with the heating pumps, hourly average noise levels for the worst-case scenario would be up to 89 dBA L_{eq} at three feet.

The mechanical equipment on the roof would be over 198 feet above the ground and the existing buildings in the immediate project vicinity would be up to seven stories. The elevation of the rooftop equipment would provide at least 20 dBA reduction for all existing receptors. Additionally, parapet walls are proposed surrounding the rooftop. While the height of these parapet walls were not available at the time the Noise and Vibration Assessment was prepared, the total attenuation from the combination of the rooftop elevation and the parapet wall would provide a conservative 25 dBA reduction for all existing receptors. The following table shows the estimated mechanical equipment noise exposure to the surrounding land uses from approximately 10 feet from the nearest building edge.

Table 4.13-6: Estimated Operational Noise Levels for the Rooftop Equipment				
Receptor	**Distance from Rooftop Equipment**	**Hourly L_{eq}, dBA[1]**	**DNL, dBA[1]**	**Noise Level Increase, dBA DNL**
North - Residential & Office Building	15 feet	50	**56**	0
West - Commercial	110 feet	32	39	0
Southwest - Commercial	170 feet	29	35	0
East - SAP Center	395 feet	21	28	0
Note: [1]A conservative 25 dBA reduction was applied to the noise levels due to the elevation of the rooftop equipment for existing receptors.				

As shown in the table above, mechanical equipment noise levels would exceed the City's threshold of 55 dBA DL at the existing residential and office building to the north. The noise level increase due to mechanical equipment noise would not exceed the City's threshold at the existing land uses to the west, southwest, and east.

Impact NOI-1: Operational noise levels from mechanical equipment would exceed the City's 55 dBA DNL threshold at the residential and office building located north of the site.

Mitigation Measure

To ensure compliance with General Plan Policies EC-1.2 and EC-1.9, the proposed project will be required to implement the following mitigation measure to ensure the project maintains a noise level of 55 dBA or less at the property lines of nearby receptors.

MM NOI-1.1: Prior to the issuance of any building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirement at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from the nearest residences), where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building or Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

With implementation of Mitigation Measure NOI-1, the project would have a less than significant operational noise impact from mechanical equipment.

Truck Loading and Unloading

Loading zones would be located within the parking structure at the ground level. The noise from loading and unloading activities would be shielded from the surrounding noise-sensitive receptors. For the purposes of this analysis, it is assumed that all deliveries and on-site maintenance activities would occur during the daytime between 7:00 AM and 10:00 PM. Truck deliveries on-site would not generate levels exceeding the City's thresholds at the nearby noise-sensitive land uses.

Construction Noise Impacts

Project construction would occur over a period of approximately 22 months. Construction activities generate considerable amounts of noise, especially during earthmoving activities when heavy equipment is used (refer to Table 10 of Appendix G for the list of construction equipment and the estimated construction noise of the two loudest piece of equipment). Pile driving is not proposed as part of the project.

Table 4.13-7 below lists the construction phase and the estimated construction noise levels at nearby land uses. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor.

Table 4.13-7: Estimated Construction Noise Levels at Nearby Land Uses

Phase of Construction	Calculated Hourly Average Noise Levels, L_{eq} (dBA)			
	North Residential and Office (105 feet)	West Commercial (200ft)	Southwest Commercial (275ft)	East SAP Center (465ft)
Demolition/Site Preparation	79 dBA L_{eq}	74 dBA L_{eq}	71 dBA L_{eq}	67 dBA L_{eq}
Shoring/Grading/ Excavation	80 dBA L_{eq}	74 dBA L_{eq}	71 dBA L_{eq}	67 dBA L_{eq}
Below Slab Utilities	77 dBA L_{eq}	71 dBA L_{eq}	68 dBA L_{eq}	64 dBA L_{eq}
Foundation/ Basement/ Structure	79 dBA L_{eq}	74 dBA L_{eq}	71 dBA L_{eq}	66 dBA L_{eq}
Building –Exterior	74 dBA L_{eq}	69 dBA L_{eq}	66 dBA L_{eq}	61 dBA L_{eq}
Building – Interior/ Architectural Coating	69 dBA L_{eq}	63 dBA L_{eq}	61 dBA L_{eq}	56 dBA L_{eq}

Notes: The distance is measured from the center of the construction site to the nearest property lines of noise-sensitive receptors.
The construction noise levels were calculated using the Federal Highway Administration (FHWA) software – Roadway Construction Noise Model (RCNM).

As mentioned in *Section 4.13.1.2*, the FTA has identified construction noise thresholds which limit daytime construction noise to 80 dBA L_{eq} at residential land uses and to 90 dBA L_{eq} at commercial and industrial land uses. As shown in the table above, construction noise levels would range from 56 to 80 dBA L_{eq}. Therefore, construction noise levels would not be exceeded at the residential and commercial land uses in the project vicinity during project construction. While specific construction

activities would at times exceed these thresholds when work is conducted near shared property lines, construction would move throughout the project site during the planned 22-month period and thus would not constitute a significant temporary increase. Since project construction would last for a period of more than one year and is within 500 feet of existing residential uses and within 200 feet of existing commercial uses, construction of the project would result a significant impact (per General Plan Policy EC-1.7).

Impact NOI-2: Construction noise levels would exceed ambient levels by five dBA or more for a period of more than 12 months, which is considered a significant impact pursuant to General Plan Policy EC-1.7.

Mitigation Measure

Consistent with the Downtown Strategy 2040 FEIR and the Municipal Code, the proposed project would be required to implement the following measures during all phases of demolition and project construction.

MM NOI-2.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to reduce noise impacts on neighboring residents and other noise-sensitive uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits.

As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday unless permission is granted with a development permit or other planning approval.[78] No construction activities are permitted on the weekends at sites within 500 feet of a residence. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

[78] The City's standard hours of construction are Monday to Friday, 7:00 AM to 7:00 PM. As mentioned in *Section 3.1.8*, the project construction would occur Monday to Friday, 7:00 AM to 5:00 PM which is within the City's allowable hours.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. A temporary eight-foot noise barrier shall be constructed along the south property line of the project site to shield adjacent residential land uses from ground-level construction equipment and activities. The noise barrier shall be solid over the face and at the base of the barrier in order to provide a five dBA noise reduction.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit all unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- A "noise disturbance coordinator" shall be designated to respond to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

With implementation of the identified Mitigation Measure NOI-2.1, the proposed project would have a less than significant construction noise impact.

As discussed above, with implementation of the identified mitigation, construction and operation of the proposed project would have a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

General Plan Policy EC-2.3 establishes a continuous vibration limit of 0.08 inch/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a continuous vibration limit of 0.2 inch/sec PPV to minimize damage at buildings of normal conventional construction. The nearest existing structure identified in the City's HRI is located at 734 The Alameda, which is approximately 200 feet southwest of the project site. No other historical buildings are located within 200 feet of the project site. The southeastern corner of the project site is located approximately 30 feet from the Cahill Station and Santa Clara Street/The Alameda Underpass, a contributing structure to the Southern Pacific Depot National Historic District. However, the Cahill Station and Santa Clara Street/The Alameda Underpass structure is designed to withstand vibrations from trains traveling through the underpass; therefore, vibration due to construction activities 30 feet or more from the underpass structure would not result in damage and would be considered less than significant.[79] Historical structures are not discussed further in this section.

Construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment may generate substantial vibration in the immediate vicinity. Vibration levels that could be expected from construction equipment at the buildings in the project vicinity is summarized below in Table 4.13-8.

Table 4.13-8: Vibration Levels at Various Distances

Equipment		PPV (in/sec)				
		North Residential/ Office Building (15 feet)	**West Commercial Building (90 feet)**	**Southwest Commercial Building (125 feet)**	**Southwest Historic Building (200 feet)**	**East SAP Center (400 feet)**
Clam shovel drop		**0.354**	0.049	0.034	0.021	0.010
Hydromill (slurry wall)	in soil	0.014	0.002	0.001	0.001	0.0004
	in rock	0.030	0.004	0.003	0.002	0.001
Vibratory Roller		**0.368**	0.051	0.036	0.021	0.010
Hoe Ram		0.156	0.022	0.015	0.009	0.004
Large bulldozer		0.156	0.022	0.015	0.009	0.004
Caisson drilling		0.156	0.022	0.015	0.009	0.004
Loaded trucks		0.133	0.019	0.013	0.008	0.004
Jackhammer		0.061	0.009	0.006	0.004	0.002
Small bulldozer		0.005	0.001	0.001	0.0003	0.0001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, September 2018 as modified by Illingworth & Rodkin, Inc., March 2022.

[79] Janello, Carrie. Illingworth & Rodkin, Inc. Personal Communication. August 31, 2022.

As shown in the table above, vibration levels within 15 feet of the project site would exceed the 0.2 in/sec PPV threshold for buildings of conventional construction. Vibration levels at the nearest historical building (734 The Alameda) would not exceed the 0.08 in/sec PPV threshold. Due to the project site's distance to the overpass and exceedance of the buildings of conventional construction within 15 feet, it is reasonable to assume that vibration levels at the overpass would exceed the 0.08 in/sec PPV threshold.

Impact NOI-3: Construction vibration levels would exceed the 0.2 in/sec PPV threshold by up to 0.168 in/sec PPV for buildings of conventional construction within 15 feet of the project site.

Mitigation Measure

The Downtown Strategy 2040 FEIR recognized that construction vibration for future projects in downtown could exceed these thresholds and included mandatory measures to be implemented by future projects to reduce vibration impacts.

MM NOI-3.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs first. The Plan shall include, but not be limited to, the following measures:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors (e.g., residences located approximately 15 feet to the north).
- Smaller equipment to minimize vibration levels below 0.2 in/sec PPV shall be used at the property lines.
- Avoid the use of vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.

- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Use of heavy vibration-generating construction equipment shall be prohibited within 30 feet of the adjacent residences to the north.
- Document conditions of the adjacent residences to the north prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:
    - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of any construction activities identified as sources of high vibration levels.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 30 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.
- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- If vibration levels approach limits, construction shall be suspended and contingency measures shall be implemented to lower vibration or secure affect structures.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the adjacent residences to the north.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With implementation of the Mitigation Measure NOI-3.1, the project would have a less than significant construction vibration impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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?

The project site is located approximately 1.5 miles southeast of the Norman Y. Mineta San José International Airport. The project site is outside the 60 dBA CNEL contour line of the Norman Y. Mineta San José International Airport. The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and compliance with the local airport land use plans would reduce program-level aircraft noise impacts to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.13.2.1 *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 noise conditions affecting a proposed project. General Plan Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review. General Plan Policy EC-2.1 requires new development within 100 feet of light rail lines or other sources of groundborne vibration, to use setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the FTA.

Future Exterior Noise Levels

The City's acceptable exterior noise level standard is 60 dBA DNL or less for residential land uses (General Plan Policy EC-1.1). The project proposes an outdoor use deck and courtyard on the fourth floor and two sky decks on the 18th floor. In addition, shared balconies are proposed on multiple floors. Due to the size and short-term use of the balconies, these outdoor areas would not be subject to the City's normally acceptable exterior noise thresholds.

The outdoor use deck proposed on the fourth floor would be located along the western façade, with direct line-of-sight to Stockton Avenue. Due to the orientation of the building, this outdoor use area would also have some direct exposure to West Santa Clara Street/The Alameda. The center of the deck would be set back approximately 105 feet from the Stockton Avenue centerline and approximately 165 feet from the West Santa Clara Street/The Alameda centerline. The elevation of the fourth floor and the surrounding building façades would provide partial shielding of more than 15 dBA from the traffic noise. With the partial shielding, future exterior noise levels due to vehicular traffic noise would be below 60 dBA DNL. The courtyard proposed on the fourth floor would be located behind the deck and would be adequately shielded by the proposed building. Therefore, the future exterior noise levels would be below 60 dBA DNL.

The sky decks proposed on the 18th floor would be located at the end of the corridors; one facing Stockton Avenue and the other facing West Santa Clara Street/The Alameda. The sky deck facing Stockton Avenue would be located near the northwestern corner of the building and set back approximately 65 feet from Stockton Avenue. With the partial shielding from the sky deck elevation,

future exterior noise levels would be below 60 dBA DNL. The sky deck facing West Santa Clara Street/The Alameda would be located near the southeastern corner of the building and set back from West Santa Clara Street/The Alameda centerline by approximately 70 feet. With the partial shielding from the sky deck elevation, future exterior noise levels would be below 60 dBA DNL.

The future noise levels at the centers of the outdoor use areas associated with the residential component of the proposed project would meet the City's normally acceptable threshold of 60 dBA DNL. Therefore, the proposed project would be consistent with General Plan Policy EC-1.1

Future Interior Noise Levels

Residential Uses

The City's acceptable interior noise level standard is 45 dBA DNL or less for residential land uses. Interior noise levels vary depending on the design of the buildings and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction with windows partially open (for ventilation). Standard residential construction with windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, adequate forced-air mechanical ventilation can reduce interior noise levels to acceptable levels by allowing occupants the option of closing the windows to reduce noise.

Residential units are proposed on floors four through 19. The units located along the southern façade would be set back from the West Santa Clara Street/The Alameda centerline by approximately 60 feet. At this distance, the units would be exposed to future exterior noise levels up to 72 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be up to 57 dBA DNL.

Residential units located along the western façade would be set back from the Stockton Avenue centerline by approximately 50 feet. At this distance, the units would be exposed to future exterior noise levels up to 73 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be up to 58 dBA DNL.

Residential units along the eastern façade would be exposed to train noise since the UPRR tracks would be located approximately 25 feet from the nearest building façade. At this distance, the units be exposed to future exterior noise levels up to 77 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would range from 62 dBA DNL.

The City's acceptable interior noise level of 45 dBA DNL for residential uses would be exceeded (even with windows partially open). To comply with the City's interior noise requirement, the project shall implement the Conditions of Approval listed below.

Conditions of Approval:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design

incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit and to 50 dBA $L_{eq(1\text{-}hr)}$ or lower within nonresidential interiors. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- Preliminary calculations indicate that residential units along the southern and western building façades would require windows and doors with a minimum rating of 35 sound transmission class (STC) with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- Preliminary calculations indicate that residential units along the eastern building façade would require windows and doors with a minimum rating of 45 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

Commercial Uses

The CALGreen standards specify an interior noise environment attributable to exterior sources not to exceed an hourly equivalent noise level ($L_{eq\ (1\text{-}hr)}$) of 50 dBA in occupied areas of nonresidential uses during any hour of operation. Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems and would provide an additional five dBA reduction.

Ground floor retail is proposed and would be set back from the West Santa Clara Street/The Alameda and Stockton Avenue centerlines by 60 feet and 50 feet, respectively. Daytime hourly average noise levels at the ground floor exterior would be up to 74 dBA L_{eq} at the building façade, with day-night average noise level up to 74 dBA DNL. The standard construction materials in combination with forced-air mechanical ventilation would comply with the daytime threshold of 50 dBA $L_{eq(1\text{-}hr)}$. Nevertheless, a project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 50 dBA $L_{eq(1\text{-}hr)}$ (refer to the Conditions of Approval listed above). The proposed project would comply with General Plan Policy EC-1.1.

Future Vibration Levels

Two hours of train activity resulted in seven trains per hour from 11:00 AM to 1:00 PM. Assuming the train pass-by frequency would be consistent for every daytime hour (7:00 AM and 10:00 PM) and fewer than seven train pass-by for every nighttime hour (10:00 PM and 7:00 AM), then over 70 train pass-bys would occur in a given 24-hour period. This would fall into Category 2 of the FTA vibration impact criteria.

Train pass-bys along the center and far tracks would have vibration levels of 67 to 72 VdB. Therefore, trains passing by the nearest building façade (which would be 25 feet from the edge of the

nearest track) would be exposed to vibration levels up to 75 VdB. According to the FTA Manual[80], vibration level exposure due to train activity would include adjustment factors applied to the measurements to account for coupling loss; amplification due to resonances of floors, walls, and ceilings; and floor-to-floor attenuation. At the ground level, a five dB reduction would be applied to the proposed building, resulting in worst-case vibration level exposure of 70 VdB or below at the eastern building façade. Floors two through five would include a one dB of reduction at each floor and the remaining floors would include two dB of additional reduction. Vibration levels at the proposed building would not exceed the 72 VdB threshold. The proposed project would be compatible with the future vibration environment at the project site and General Plan Policy EC-2.1.

[80] Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

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.[81] 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).[82]

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).

[81] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed May 5, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[82] Metropolitan Transportation Commission and Association of Bay Area Governments. "Plan Bay Area 2040 Final Plan." Accessed May 5, 2022. http://2040.planbayarea.org/what-is-plan-bay-area-2040.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 976,482 in January 2022 with 344,112 housing units and an average of 2.91 persons per household.[83] By 2040, the City's population is projected to reach 1,334,100.[84]

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 DSAP Amendment and 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)?

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to

[83] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2021-2022." Accessed May 5, 2022. https://dof.ca.gov/forecasting/demographics/estimates/estimates-e5-2010-2021/.

[84] City of San José. "Population." Accessed May 5, 2022. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/data-and-maps/demographics/population.

population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The project would construct up to 471 residential units and approximately 7,661 square feet of retail space. The increase in the resident population (1,371 new residents[85]) and employee population (31 new employees[86]) would be within the overall development capacity assumed in the Downtown Strategy 2040. As a result, the project would not induce substantial unplanned population growth in an area, either directly or indirectly. **[Same Impact 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?

The project site is currently developed with five small commercial buildings which house various automotive businesses. No residences are currently present on-site; therefore, construction of the project would not displace people or housing or necessitate the construction of housing elsewhere. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[85] The average number of residents is calculated from 2.91 persons per household from the State of California Department of Finance.
[86] The number of workers was estimated based on approximately one retail employee per 250 square feet of small retail space. Strategic Economics. 2016. San José Market Overview and Employment Lands Analysis. January 20, 2016.

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-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.

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, use as a goal 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, use as a goal 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. 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-3.4	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-3.9	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.
ES-3.20	Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.
FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
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.
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.

General Plan Policies - Public Facilities and Services	
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 ¾ 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.

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site is provided by the City of San José Fire Department (SJFD). The SJFD currently consists of 33 fire stations, 32 engine companies, nine truck companies, three squad units, and numerous specialty teams and vehicles.[87] The closest fire station to the project site is Station 1, located at 225 North Market Street, approximately 0.6 miles northeast from the project site.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). Police headquarters are located at 201 West Mission Street, approximately 1.1 miles northeast of the project site.

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 7th Street (approximately 1.1 miles northeast of the site), Hoover Middle School, located at 1635 Park Avenue (approximately 1.0 miles west of the site), and Lincoln High School, located at 555 Dana Avenue (approximately 1.1 miles southwest of the site).

Parks

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.[88] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 48 community centers, 10 regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Arena Green Park and Cahill Park, located approximately 0.2 miles east and 0.2 miles south, respectively.

[87] City of San José. "City of San José Annual Report on City Services 2020-21." Accessed May 5, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.
[88] City of San José. *Fast Facts*. November 12, 2020.

Libraries

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library consists of one main library (Dr. Martin Luther King Jr. Library) and 24 branch libraries.[89] The nearest library to the project site is the Dr. Martin Luther King Jr. Library located approximately 1.0 east of the site.

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, the 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 development evaluated in the DSAP Amendment and 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?

Implementation of the project would place 1,371 new residents and 31 new employees on-site which would result 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. Based on the plans provided by the applicant, emergency vehicles would have access to the project site along the Santa Clara Street and Stockton Avenue frontages. For these reasons, 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)]**

[89] San José Public Library. "Locations & Hours." Accessed July 23, 2021. https://www.sjpl.org/locations.

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?

The proposed project would increase the employee and resident population of the City which would increase the demand for police services on-site. The proposed project would be constructed in conformance with current building codes and would be required to be maintained consistent with applicable City policies identified in the Downtown Strategy 2040 FEIR. Therefore, no new or expanded police facilities would be required and implementation of the project would not result in a physical impact on the environment. **[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?

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.[90] It is estimated that the project would generate a total of 65 new elementary school students, 28 middle school students, and 35 high school students. The addition of up to 128 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.

As a result, 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)]**

[90] 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?

As mentioned in *Section 4.14.2*, the proposed project would generate up to 1,371 new residents and up to 31 new employees which would increase the number of residents and employees utilizing local recreational facilities. The nearest parks to the project site are Arena Green Park and Cahill Park, located approximately 0.2 miles east and 0.2 miles south, respectively.

The project would include an indoor/outdoor yoga area, an outdoor/indoor fitness space, a pool and pool deck, a terrace, a courtyard, a fitness center, and lounge areas. The proposed amenities could offset some of the project's demand on existing parks and recreational facilities. 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 proposed project would be required to comply with the City's PDO/PIO and, as a result, implementation of 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's General Plan Policy ES-2.2 has a goal to provide 0.59 square feet of library facilities per capita. While the proposed project may increase the demand on neighborhood libraries, the Downtown Strategy 2040 FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. Therefore, implementation of the proposed project would not result in substantial adverse physical impacts to San José library facilities. **[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-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 shall 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.[91] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 48 community centers, 10 regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Arena Green Park and Cahill Park, located approximately 0.2 miles east and 0.2 miles south, respectively.

[91] City of San José. *Fast Facts*. November 12, 2020.

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 will 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 DSAP FEIR and 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?

The City of San José 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 be required to pay all applicable PDO/PIO fees to help offset the project's recreation impacts, as applicable, consistent with City requirements. 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. For these reasons, 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?

On-site amenities would include the following: an indoor/outdoor yoga area, an outdoor/indoor fitness space, a pool and pool deck, a terrace, a courtyard, a fitness center, and lounge areas are proposed. The proposed amenities could offset some of the project's demand on existing parks and recreational facilities. As a result, the project would not substantially increase the use of existing neighborhood and regional recreational facilities such that substantial physical deterioration of these facilities would occur or be exacerbated. The project does not propose or require the construction or expansion of recreational facilities. For these reasons, implementation of the project would have a less than significant impact on recreation resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

The following analysis is based on a Local Transportation Analysis (LTA) and TDM completed by Hexagon Transportation Consultants, Inc. in April 2022.[92] The following analysis is also based upon a Department of Transportation Memorandum prepared in October 2022. A copy of the LTA and TDM are included in Appendix I of this document and a copy of the memorandum is included in Appendix J 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 vehicle miles traveled (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 are 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

[92] The size of the proposed land uses in the LTA is based on an older, larger version of the project. The project applicant has since updated the design of the project to include fewer dwelling units, parking spaces, and a smaller retail area. In addition, the number of parking spaces would not affect the number of trips or operations analysis. Therefore, the conclusions of the LTA would not change as a result of the updated project description.

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.

City of San José

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 vehicle miles traveled (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.
TR-1.3	Increase substantially the proportion of travel using modes other than the single-occupant vehicle. The 2030 and 2040 mode split targets for all trips made by San José residents, workers, and visitors are presented in the following table:

<table>
<tr><th colspan="2">General Plan Policies - Transportation</th></tr>
<tr><td></td><td>
<table>
<tr><th colspan="4">Mode Split Targets for 2030 and 2040</th></tr>
<tr><th rowspan="2">Mode</th><th colspan="3">Commute Trips to and From San José</th></tr>
<tr><th>2019</th><th>2030 Goal</th><th>2040 Goal</th></tr>
<tr><td>Drive alone</td><td>80%</td><td>No more than 45%</td><td>No more than 25%</td></tr>
<tr><td>Shared Mobility/Carpool</td><td>12%</td><td>At least 25%</td><td>At least 25%</td></tr>
<tr><td>Transit</td><td>5%</td><td>At least 10%</td><td>At least 20%</td></tr>
<tr><td>Bicycle</td><td>Less than 2%</td><td>At least 10%</td><td>At least 15%</td></tr>
<tr><td>Walk</td><td>Less than 2%</td><td>At least 10%</td><td>At least 15%</td></tr>
<tr><td colspan="4">Source: The 2008 mode split data were obtained from the American Community Survey (2008).</td></tr>
</table>
</td></tr>
<tr><td>TR-1.4</td><td>Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.
Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.
Area Development Policy. An “area development policy” may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.</td></tr>
</table>

General Plan Policies - Transportation	
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 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.
TR-5.3	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.
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-8.9	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 to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional Access

Regional access to the site is provided via Interstate 280 (I-280) and SR 87.

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-101 in San José to I-80 in San Francisco. It is an eight-lane freeway with some auxiliary lanes in the vicinity of downtown San José.

Local Access

Local site access is provided by Santa Clara Street, Stockton Avenue, The Alameda, Julian Street, Barack Obama Boulevard, Montgomery Street, and Race Street.

Santa Clara Street is an east-west, four-lane street that extends as West Santa Clara Street from First Street to Stockton Avenue. Santa Clara Street is designated as a Grand Boulevard[93] in the City's General Plan.

Stockton Avenue is a north-south, two-lane roadway that runs between the College Park Caltrain Station and Santa Clara Street/The Alameda.

The Alameda is a north-south, four-lane roadway, designated as a Grand Boulevard in the City's General Plan. The Alameda runs from Santa Clara University to Stockton Avenue, where it becomes Santa Clara Street.

Julian Street is an east-west, two-lane roadway between The Alameda and Montgomery Street. This roadway is designated as a City Local Connector Street.[94]

Barack Obama Boulevard is a north-south roadway that is designated as a City Connector Street. Barack Obama Boulevard runs between Auzerais Avenue and St. John Street. Between Auzerais Avenue and Park Avenue, Barack Obama Boulevard consists of two northbound travel lanes and three southbound travel lanes. Between Park Avenue and Santa Clara Street, Barack Obama Boulevard is a two-lane, one-way northbound roadway that works as a couplet with Montgomery Street. North of Santa Clara Street, Barack Obama Boulevard is a two-lane two-way roadway. **Montgomery Street** is a north-south roadway that extends between Santa Clara Street and Park Avenue. Montgomery Street is a two-lane, one-way southbound, General Plan-designated Main Street that works as a couplet with Barack Obama Boulevard.

Race Street is a north-south roadway that extends from The Alameda to Fruitdale Avenue. Race Street is designated as an On-Street Primary Bicycle Facility in the General Plan. It is a two-lane roadway, with the exception of a four-lane segment between Saddle Rack Street and I-280 off-ramp.

Pedestrian and Bicycle Facilities

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Class II striped bicycle lanes are present on the following roadways:

- Stockton Avenue, along its entire extent

[93] 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.

[94] Connector streets typically have four to six travel lanes and would accommodate moderate to high volumes of through traffic within and beyond the City. Automobiles, bicycles, pedestrians, and trucks are prioritized equally. Transit use is accommodated

- The Alameda/Santa Clara Street, between Stockton Avenue and Almaden Boulevard
- Julian Street, between The Alameda and Stockton Avenue
- Race Street, between The Alameda and Park Avenue
- Race Street, between San Carlos Street and Parkmoor Avenue
- Barack Obama Boulevard, between Santa Clara Street and Auzerais Avenue

Class III bicycle routes with signage are provided along the following roadways:

- Sunol Street, between The Alameda and Auzerais Avenue
- Montgomery Street, between Julian Street and St. John Street
- St. John Street, along its entire extent

Additionally, Class IV bicycle facilities (protected bicycle lanes) are currently being installed throughout the downtown as part of the Better Bikeways project. Protected bicycle lanes have been implemented along the following roadways:

- San Fernando Street, between Cahill Street and Tenth Street
- Cahill Street, between San Fernando and Santa Clara Street
- Barack Obama Boulevard, between Santa Clara Street and St. John Street
- Park Avenue, between Barack Obama Boulevard and Laurel Grove Lane

The Guadalupe River trail system, an 11-mile continuous Class I bike path, runs through the City of San José along the Guadalupe River. The trail can be accessed from Santa Clara Street and St. John Street. Existing bicycle facilities are shown on Figure 4.17-1.

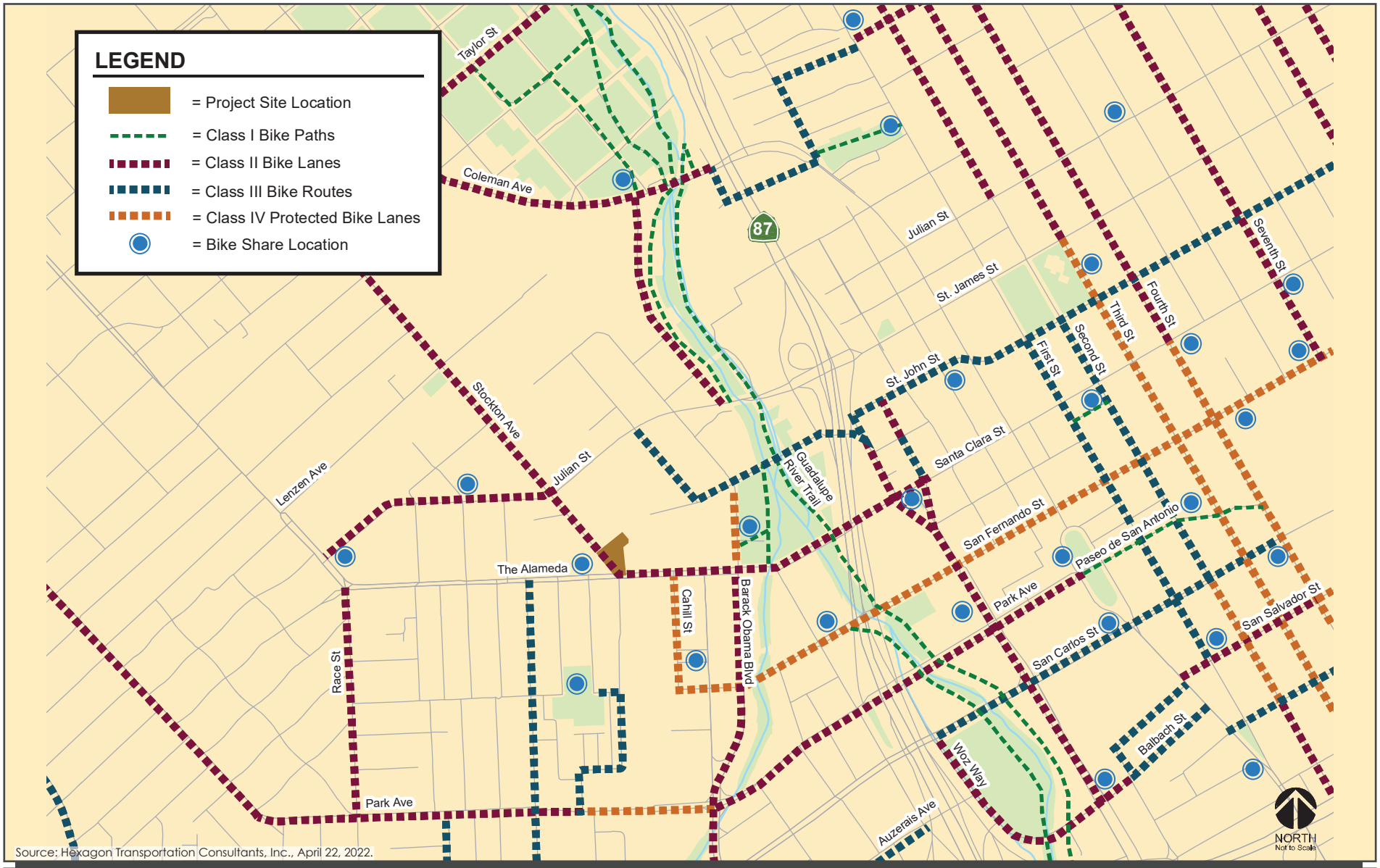
Pedestrian Facilities

Pedestrian facilities within the project area consist primarily of sidewalks along the surrounding streets including all project frontages. Crosswalks and pedestrian signal heads are present on all signalized intersections within the project area. The majority of the crosswalks at the signalized intersections in the vicinity of the project site (except at the Stockton Avenue and Julian Street intersection) consist of high visibility crosswalks and countdown signal heads that enhance pedestrian visibility and safety while crossing the intersections. There are also pedestrian-activated, mid-block crosswalks along The Alameda, between Stockton Avenue and Race Street.

Overall, the existing pedestrian facilities in the immediate vicinity provide good connectivity and provide pedestrians with safe routes to other areas within the project area.

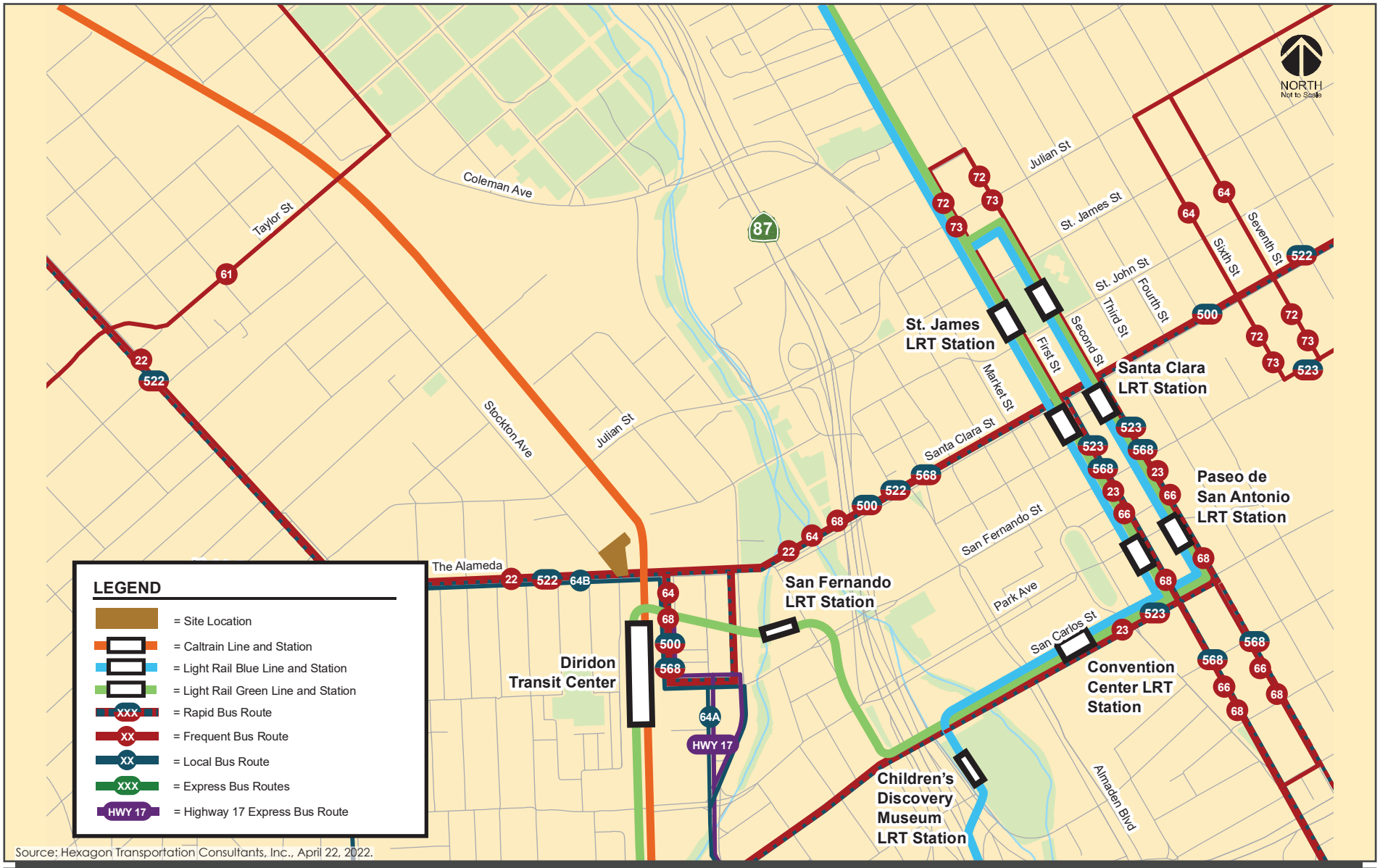
Transit Service

Transit services in the project area are provided by the VTA, Caltrain, ACE, and Amtrak. The project site is located approximately 800 feet from the Downtown 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. Existing transit facilities are shown on Figure 4.17-2.



Source: Hexagon Transportation Consultants, Inc., April 22, 2022.

EXISTING BICYCLE FACILITIES | FIGURE 4.17-1



Source: Hexagon Transportation Consultants, Inc., April 22, 2022.

EXISTING TRANSIT FACILITIES | FIGURE 4.17-2

Bus Service

The downtown area is served by many local bus lines. Existing bus lines near the project site are listed in Table 4.17-1 below. The nearest bus stops are located at The Alameda/Bush Street and Santa Clara Street/Cahill Street intersections.

Table 4.17-1: Existing Bus Service Near the Project Site

Route	Route Description	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 via Stevens Creek	12-15
Local Route 64A	McKee & White to Ohlone-Chynoweth Station	30
Local Route 64B	McKee & White to Almaden Expressway & Camden	30
Frequent Route 68	San José Diridon Station to Gilroy Transit Center	15-20
Rapid Route 500	San José Diridon Station to Downtown San José	15-20
Rapid Route 522	Palo Alto Transit Center to Eastridge Transit Center	10-15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	15-20
Rapid Route 568	Gilroy/Morgan Hill to San José Diridon Station	15-40
Highway 17 Express	Downtown Santa Cruz/Scotts Valley to Downtown San José	20-35

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.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain and is accessible from the Diridon Station. The San José Diridon Transit Center is located approximately 800 feet from the site. 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, 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) For a land use project, 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 land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

Similar to the development evaluated in the DSAP Amendment and 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

The Downtown Streetscape Master Plan (DSMP) provides design guidelines for existing and future development to enhance the pedestrian experience in the greater downtown area. There are many Downtown Pedestrian Network Streets (DPNS) located within the vicinity of the project site. The DSMP policies state that vehicles crossing the sidewalk are often a safety hazard for pedestrians and measures should be taken within any new project design to minimize the number of curb cuts and driveways. The project driveway would be 26 feet wide which would meet the City's driveway width requirement. As mentioned previously, the existing pedestrian facilities in the immediate vicinity provide good connectivity and provide pedestrians with safe routes within the project area. The applicant is proposing to widen the project frontage sidewalks from approximately 20 to 22 feet wide.

As mentioned in *Section 4.17.1.2*, there are Class II, Class III, and Class IV bicycle facilities located in the vicinity of the project site. The project site is well served by various existing bicycle facilities; therefore, implementation of the proposed project would not conflict with any policies or plans regarding bicycle facilities or decrease the safety of these facilities. As proposed, the existing Class II bicycle lanes along the Stockton Avenue and Santa Clara street frontages would be replaced with

Class IV raised protected bicycle lanes. Therefore, implementation of the proposed project would not conflict with any policies or plans regarding bicycle and/or pedestrian facilities or decrease the safety of these facilities.

Transit Facilities

The project site is in proximity to several major transit services. The project site is located approximately 800 feet from the Diridon Transit Center and is immediately across Santa Clara Street from the northern throat into the station, within the boundaries of the Diridon Station Area Urban Village planning area. The DSAP land use diagram conceptualizes the project site as an Employment/Commercial land use area. There are bus lines located at The Alameda/Bush Street and Santa Clara Street/Cahill Street intersections. As mentioned previously, Santa Clara Street is designated as a Grand Boulevard. Since the proposed project fronts Santa Clara Street, the project will be required to implement the following Grand Boulevard design principles (refer to Appendix I for more information):

- Provide a minimum 16-foot sidewalk width along its frontage on Santa Clara Street
- Minimize driveway cuts to minimize transit delay
- Provide enhanced shelters for transit services

A memo from the City of San José DOT (included as Appendix J) was prepared on October 6, 2022 to provide information on the proposed project as it relates to the DSAP, the California High-Speed Rail Authority's (Authority) San José to Merced and San José to San Francisco segments, and the DISC. DOT's memorandum identifies that the proposed project would "conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities" under CEQA.

As described in the DOT memorandum, the conceptual DISC Transit Boundary was included in the Amended DSAP, which City Council adopted on May 25, 2021. The City is one of the lead agencies for the DISC, a joint effort of the City of San José, Caltrain, VTA, the Authority, and MTC (collectively "the Partner Agencies") that is planning for the reconstruction and expansion of the San José Diridon Station, as set forth in the Cooperative Agreement the City entered in July 2018.

The DISC is a conceptual plan of possible layouts for a future expanded Diridon Station. The DISC planning process is currently evaluating how to expand and redesign Diridon Station as a world-class transit center that provides intermodal connections and integration with the surrounding neighborhoods. The DISC Plan process focuses on station design, including the spatial configuration determining how the various track and station elements will fit together and relate to the surrounding neighborhood. Through a community input process and ongoing technical work with the partner agencies, a preferred "Concept Layout" for the DISC Plan has been identified. To accommodate the potential future growth of passenger rail, the Concept Layout anticipates widening the rail right-of-way north and south of Diridon Station, including into a portion of the project site. In February 2020, the San José City Council and the Caltrain board endorsed the Concept Layout, and the VTA board endorsed it in June 2020. A significant portion of the project site is located within the conceptual DISC Transit Boundary. However, as stated on page 17 of the Amended DSAP, "Additionally, the Partner Agencies, including the City of San José, the Peninsula Corridor Joint Powers Board (PCJPB,

also known as Caltrain), VTA, and the Authority, will continue to work together to develop the footprint of the station and approach tracks, as well as to clarify construction staging and phasing assumptions".

The preferred DISC Concept Layout is still preliminary, as the plans have yet to be finalized or reconciled with the Preferred Alternative for High-Speed Rail that received environmental clearance in August 2022. Environmental review for the DISC (which will include analysis under both CEQA and the National Environmental Policy Act) has not been initiated; no clear timeline exists for construction, although it is anticipated to occur before 2040; and no dedicated funding is currently in place to construct the improvements.

As conceptualized, the DISC, if it were to be approved for implementation, would require acquisition of land surrounding the station to accommodate future rail services, and this process has yet to be defined or initiated. Discretionary approval by the lead agency would also be required for any project necessary for the realization of the DISC and would be subject to environmental review. As the project site is located next to the existing rail corridor within the DISC Conceptual Transit Boundary Line, the LTA concluded that the project would encroach into the DISC Conceptual Transit Boundary Line.[95] However, the DISC is a conceptual plan that discusses potential changes that could be made to expand Diridon Station but is not under consideration for approval as a project for implementation. As such, the proposed project would not interfere with any approved or finalized plan with regard to transit services.

The DSAP addresses the future growth of rail service along the Caltrain right-of-way and the need to plan for this increased service. The Amended DSAP also changed the General Plan land use designation of the site from Urban Village to Downtown, a land use designation that allows development of residential, office, retail, and entertainment uses of up to 800 dwelling units to the acre or a floor area ratio of up to 30.0. The City's General Plan considers the subject site for development, and the proposed project is consistent with the General Plan that guides development in the City.

DOT's memo notes that the project site is also located entirely within the footprint of the Alternative 4 alignment of the High-Speed Rail (HSR) project. Diridon Station, as well as the project site, are located within the San José to Merced and San José to San Francisco segments of the HSR project. On April 28, 2022, the Authority certified the EIR for the San José to Merced segment of the project and selected Alternative 4 as the preferred alternative alignment for HSR. Alternative 4 includes the proposed project site, for various transportation purposes. In August 2022, the San José to San Francisco segment of the California HSR received environmental clearance (https://hsr.ca.gov/high-speed-rail-in-california/project-sections/san-francisco-to-san-jose). No final engineered plans have been approved for the San José to Merced or San José to San Francisco segments HSR at this time, and no dedicated funding is currently in place to construct the improvements.

During preliminary project scoping and review, the City determined that the project could proceed as an Addendum to the Downtown Strategy 2040 Integrated Final EIR, which was approved in 2018. The preliminary project scoping and review by the City occurred through September 2021, and the

[95] Arcadis U.S., Inc. San José Diridon Integrated Station Concept Plan Layout Development Report. November 2019.

proposed project was submitted to the City for review in October 2021. The baseline for evaluating the project is the date the City decided to prepare an Addendum for the project, which occurred prior to the April 2022 approval of the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the HSR Merced to San José and the August 2022 approval of the EIR/EIS for the HSR San José to San Francisco segments. The City has the land use authority over the project site and development proposed on a privately owned land is permissible if it is consistent with the local land use and zoning.

The proposed project would be operational in 2026. The project site is located within the DSAP, the Transit Boundary of the DISC, and the footprint of the preferred alignment for the San José to San Francisco segment of the HSR project. As discussed, the DISC is a conceptual plan that is not under consideration for approval as a project for implementation at this time, and the proposed project would not interfere with any approved or finalized plan for the DISC. The Authority may need to acquire the project site in order to develop the alignment as analyzed in the August 2022 environmental clearance for its San José to San Francisco segment, because the City is the authority for local land use. The final design and construction of the San José to San Francisco HSR segment are still subject to future funding and are unknown at this time. Considering that the preferred HSR alternative was not available under the baseline conditions, the site is currently owned and controlled by the project applicant, and the proposed project is consistent with the General Plan, it can be reasonably concluded that the project does not currently conflict with the HSR transit plan under the baseline conditions. Section 15151 of the CEQA Guidelines discusses that disagreement among experts does not make an EIR inadequate, but that the EIR, or as is the case with the project, Addendum to the Downtown Strategy 2040 Integrated Final EIR, should summarize the main points of disagreement among the experts.

However, as explained above, the environmental review for this proposed project commenced before HSR EIRs were approved in April and August 2022. As such, 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, except for the HSR project discussed above. **[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 and subsequent Initial Study/Addendum for the DSAP Amendment, 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). Per the DSAP Amendment, build out of the Downtown Strategy 2040 FEIR and DSAP Amendment would improve VMT within the downtown (refer to Table 28 of the DSAP Amendment). Therefore, would have a less than significant VMT impact. The project site is located 800 feet from the Diridon Transit Center and would have a density of 429 dwelling units per acre. As a result, 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)?

Based on the site plan provided by the applicant, one two-way driveway is proposed on Stockton Avenue which would provide access to the parking garage. As mentioned above, the proposed driveway would be 26 feet wide which meets the City's requirement for two-way, multi-family residential driveways. In addition, the City typically requires parking entrances to be located at least 50 feet from the back of the sidewalk in order to provide adequate stacking space for a minimum of two inbound vehicles. There are no existing trees or visual obstructions along the project frontage that would hinder sight distance at the project driveway. There is existing street parking present on Stockton Avenue in the vicinity of the proposed driveway.

Adequate site distance would be required for the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. Stockton Avenue has a posted speed limit of 30 miles per hour (mph). Based on AASHTO standards, the stopping distance for a roadway with a posted speed limit of 30 mph is 200 feet. A driver exiting the project driveways must be able to see 200 feet to the north and south along Stockton Avenue to stop and avoid a collision.

Based on the proposed site plan, vehicles exiting the project driveway would be able to see southbound traffic at least 200 feet from the driveway. Drivers would have a clear view of northbound traffic approaching the Stockton Avenue/Santa Clara Street intersection, approximately 150 feet south. Since all vehicles going northbound on Stockton Avenue would make right- or left-turns from the Santa Clara Street/The Alameda intersection, vehicular speeds along the project driveway would be significantly less than the posted speed limit. Assuming a speed of less than 25 mph, a 150-foot sight distance is adequate. There is no roadway curve on Stockton Avenue that would obstruct the vision of drivers exiting the project driveway. To ensure that adequate sight distance is not restricted by parked vehicles near the project driveway, red curbing can used east and west of the driveway. Therefore, the sight distance from the proposed driveway would be adequate. Further, the addition of visible and/or audible warning signals at the project driveway would ensure that pedestrians and bicyclists are alerted of vehicles exiting the project driveway.

The proposed project would be required to implement the following measures as Conditions of Approval.

Conditions of Approval:

- Place garage entrance gates at a minimum distance of 25 feet from back of sidewalk to allow vehicles to queue on-site rather than on the sidewalk.
- Implement appropriate visible and/or audible warning signals at the project driveway to alert pedestrians and bicyclists of vehicles exiting the project driveway.
- A new red curb equal to a car length (approximately 25 feet) shall be installed east and west of the proposed driveway to ensure exiting vehicles will have clear vision of oncoming traffic.

With implementation of the Conditions of Approval, 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. Based on the plans provided by the applicant, emergency vehicles would have access to the project site along the Santa Clara Street and Stockton Avenue frontages. Emergency vehicles would not enter the parking structure. Therefore, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.2 *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. An LTA was 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 "High-Rise Multi-family Housing" (Land Use Code 222) and "Strip Retail Plaza" (Land Use Code 822) published from the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, 10th Edition (2017).

A mixed-use development with complementary land uses (e.g., residential and retail) would result in a reduction of external site trips since a portion of the trips would not require entering or exiting the site. Therefore, a 15 percent trip reduction was applied based on the smaller retail component.[96]

[96] The reduction is applied to the smaller of the two trip generators and the same number of trips is then subtracted from the larger trip generator.

The project would qualify for a location-based adjustment. Based on the City's *VMT Evaluation Tool*, the project site is located within an urban low-transit area.[97] Residential and retail uses within urban low-transit areas have a vehicle mode share of 87 percent; therefore, a 13 percent reduction was applied to the estimated project trips.

Based on the City's *VMT Evaluation Tool*, the project is estimated to have a VMT of 8.27 per capita in an area that currently generates 9.23 VMT per capita. It is assumed that every percent reduction from the existing per capita VMT is equivalent to one percent reduction in peak hour vehicle trips. Therefore, a 10.4 percent reduction was applied to the estimated project trips. Table 4.17-2 below provides a summary of the trip generation rates and reductions.

Table 4.17-2: Project Trip Generation Estimates

Land Use	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Multi-family Housing (High-Rise)	2,256	46	88	134	89	70	159
- *Residential & Retail Reduction*	<63>	<1>	<2>	<3>	<4>	<4>	<8>
- *Location Based Reduction*	<285>	<6>	11>	<17>	<11>	<9>	<20>
- *VMT Reduction*	<198>	<4>	<8>	<12>	<8>	<6>	<14>
Strip Retail Plaza	418	11	7	18	26	25	51
- *Residential & Retail Reduction*	<63>	<2>	<1>	<3>	<4>	<4>	<8>
- *Location Based Reduction*	<46>	<1>	<1>	<2>	<3>	<3>	<6>
Total Project Trips	2,019	43	72	115	85	69	154

As shown above, the project would generate up to 2,019 new daily trips with 115 trips during the AM Peak Hour and 154 trips during the PM Peak Hour.

Truck Site Access

Per Sections 20.70.430 and 20.70.435 of the City's Municipal Code, residential uses with dwelling units of 200 units or greater and less than 500 units shall provide at least two off-street loading spaces. Retail space with less than 10,000 square feet would not be required to provide a loading space.

The proposed project would be required to provide two off-street loading spaces for the residential units. The plan set shows two designated off-street loading zones located at the ground floor of the parking structure. The proposed loading zones would be 10 feet in width, 30 feet in length, and 15 feet in height and would meet the City's requirement for off-street loading zones.

Bicycle Parking

Per Table 20-190 of the City's Municipal Code, the proposed project would be required to provide one bicycle parking space per four residential units and three spaces (two short-term and one long-term) for the retail space. Therefore, the proposed project would be required to provide 128 bicycle parking spaces (52 short-term bicycle parking spaces and 76 long-term bicycle parking spaces). The

[97] Urban low-transit areas have good accessibility, low vacancy, and middle-aged housing stock.

project proposes a total of 176 bicycle parking spaces (24 short-term bicycle parking spaces and 152 long-term bicycle parking spaces). The project would meet the City's minimum bicycle parking requirement.

Vehicle Parking

Based on Table 20-140 of the City's Municipal Code, the project would be required to provide one off-street vehicle parking space for each residential unit. The project would not be required to provide additional off-street parking for the retail space. Based on the City's off-street parking requirements, the proposed project would be required to provide a total of 497 off-street parking spaces before any reductions. The project is proposing up to 398 parking spaces. Based on Section 20.90.220.A.1 of the City's Municipal Code, the project may receive up to a 50 percent reduction in the required off-street parking spaces with a development permit or a development exception if no development permit is required. For an off-street parking reduction of up to 20 percent, the following provisions must be met:

- The structure or use is located within two thousand feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the city's General Plan or the use is listed in Section 20.90.220.G; and
- The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

The project site is located within the downtown area and is located approximately 800 feet from the Diridon Transit Center. As mentioned above, the proposed project would meet the City's bicycle parking requirement per Table 20-90. Therefore, the project would be granted up to a 20 percent reduction in off-street parking spaces. With the allowed reduction, the project would meet the City's parking requirement.

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 DSAP Amendment and 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)?

Any prehistoric surface features or landscapes have been modified due to development of the project site and area. Nevertheless, Guadalupe River (located approximately 0.2 miles east of the project site) is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects.

AB 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. In addition, the City received a verbal notice from the Tamien Nation on June 17, 2021 and a written notice on 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. Because the project is being assessed under an Initial Study/Addendum, it is not subject to AB 52. While consultation under AB 52 is not required, PaleoWest contacted the NAHC in November 2021 and requested a Sacred Land File (SLF) search. The SLF search came back positive and, as a result, implementation of the project could result in potential impacts to TCRs. Project construction would comply with the following Conditions of Approval to avoid or minimize disturbance to previously undocumented tribal cultural resources.

Conditions of Approval:

- **Tribal Cultural Awareness Training.** Prior to issuance of any grading permits, the project applicant shall submit evidence to the Director of Planning, Building and Code Enforcement or the Director's designee that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by a qualified archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.
- **Monitoring.** A qualified Native American monitor, registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, in collaboration with a qualified archeologist, shall also be present during all earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping

In addition, any subsurface artifacts found on-site would comply with the standard measures identified in the Downtown Strategy 2040 FEIR. With implementation of the Conditions of Approval listed above and the Standard Permit Conditions identified in *Section 4.5 Cultural Resources*, potential impacts to TCRs would be reduced to less than significant. **[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?

As mentioned above under checklist question a, any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR and *Section 4.5 Cultural Resources*. Therefore, the project would not cause a substantial adverse change in the significance of a tribal cultural resource. **[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 José 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.

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.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal of 50 percent reduction in organic waste disposed 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 Compliance for Construction, Waste Reduction, Disposal and Recycling

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

San José Zero Waste Strategic Plan/Climate Smart San José

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

Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during demolition.

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.

General Plan Policies - Utilities & Service Systems	
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-3.4	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 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 mitigation for 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". Mitigation measures to improve the LOS to "D" or better can be provided by 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-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	Use San José's adopted Climate Smart San José plan as a tool to advance the General Plan Vision for Environmental Leadership. The Climate Smart San José plan is a comprehensive 32-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.

4.19.1.2 *Existing Conditions*

Potable Water

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 currently developed with five small commercial buildings which house various automotive businesses. The site currently uses approximately 4,098 gallons of water per day (gpd).[98]

Wastewater Services

Wastewater treatment in San José is provided by the San José-Santa Clara Regional Wastewater 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.[99] 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.[100]

There is an existing six-inch sanitary sewer line along Stockton Avenue that currently serves the site. 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. The existing buildings are estimated to generate approximately 3,483 gpd of wastewater.

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 storm drain manhole that connects to an 18-inch storm drain line located along Stockton Avenue that currently serves the site.

[98] Water usage rates were calculated using CalEEMod Appendix D (Automobile Care Center). CalEEMod. "Table 9.1: Water Use Rates." Accessed May 13, 2022. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.
[99] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed May 13, 2022. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.
[100] City of San José. Envision San José Environmental Impact Report. September 2011.

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. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total 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.[101]

All solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL). However, City certified construction and demolition recycling facilities should be used during the construction phase. The City has an existing contract with NISL with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2035.[102] The City has an annual disposal allocation for 395,000 tons per year. As of June 2022, NISL had approximately 12.7 million cubic yards of capacity remaining.[103]

The existing uses on-site are estimated to generate approximately 143 pounds of solid waste a day.[104]

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?	☐	☐	☐	☒	☐

[101] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.
[102] Huber, Rachelle. Environmental Manager, Republic Services. Personal Communication. June 2, 2022.
[103] Ibid.
[104] CalRecycle. "Estimated Solid Waste Generation Rates." Accessed May 13, 2022. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates. Based on the generation rate of 0.9 pounds per 100 square feet per day for auto dealer and service station.

	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:					
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?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Similar to the development evaluated in the DSAP Amendment and 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 85,618 gpd of water, a net increase of approximately 81,520 gpd of water compared to existing conditions. 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. There are sufficient water supplies available to serve the project during normal, dry, and multiple dry years. Therefore, the project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

Wastewater

For the purposes of this analysis, wastewater flow rates are assumed to be 80 percent of the total on-site water use. Implementation of the project would generate approximately 68,494 gpd of wastewater, a net increase of approximately 65,011 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 decrease of approximately 5,608 square feet when compared to existing conditions. All stormwater runoff generated on-site by the project would be treated with media filters and flow-through planters. The project would be required to comply with the NPDES MRP 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, natural gas, and telecommunications services. The project would intensify the development on the project site, however demand for these resources would be satisfied by existing services and construction of new or expanded facilities would not be required.

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 Strategy 2040, 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 connect to the City's existing sanitary sewer system. The project would comply with all applicable Public Works requirements prior to the issuance of building permits 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. 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 2,520 pounds of solid waste per day[105], a net increase of 2,377 pounds per day compared to existing conditions. As mentioned above, the project is part of planned growth in the downtown area; therefore, the proposed project would not cause the City to exceed the capacity of existing landfills that serve the City. As of June 2022, NISL had approximately 12.7 million cubic yards of capacity remaining.[106] 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 and sufficient landfill capacity to serve the proposed project. Therefore, 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 applicable 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)]**

[105] 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 and 2.5 pounds per 1,000 square feet per day for commercial retail.
[106] Huber, Rachelle. Environmental Manager, Republic Services. Personal Communication. June 2, 2022.

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.[107] 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.[108]

4.20.2 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
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?	☐	☐	☐	☒	☐

[107] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy*. January 1, 2017. Accessed May 3, 2022. https://www.sanjoseca.gov/Home/ShowDocument?id=9345.
[108] CALFIRE. "Wildland Hazard & Building Codes." Accessed May 3, 2022. 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?

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions, standard measures listed in the Downtown Strategy 2040 FEIR, and mitigation measures.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitats or any special-status species. The project would be required to implement Mitigation Measure BIO-1.1 to avoid abandonment of raptor and other protected migratory bird nests. The project would require discretionary approval by the City and would be subject to applicable SCVHP conditions and fees.

To avoid impacts to as yet unidentified archaeological resources and human remains, the proposed project shall implement the Standard Permit Conditions discussed in *Section 4.5 Cultural Resources*.

To reduce significant seismic and seismic-related impacts, the project shall be constructed in conformance with the recommendations of the design-level geotechnical investigation (refer to *Section 4.7 Geology and Soils*). The project would also implement the identified Standard Permit Conditions listed in *Section 4.7 Geology and Soils* to reduce construction-related erosion impacts. As discussed in *Section 4.9 Hazards and Hazardous Materials*, the project applicant shall be required to implement Mitigation Measures HAZ-1.1 and HAZ-1.2 to ensure that construction workers on-site would not be exposed to any soil or groundwater contamination from current and former uses of the site. Due to the age of the existing buildings on-site, the project would implement the identified Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or LBP.

As discussed in *Section 4.13 Noise and Vibration*, the project would be required to implement Mitigation Measures NOI-1.1 to ensure the project maintains a noise level of 55 dBA or less at the property lines of nearby receptors. As construction noise would exceed ambient levels by five dBA or more for a period of more than one year, which is considered a significant impact pursuant to General Plan Policy EC-1.7, the project would be required to implement Mitigation Measure NOI-2.1 to reduce construction noise. To reduce groundborne vibration impacts, the project would be required to comply with Mitigation Measures NOI-3.1. With implementation of the Standard Permit Conditions identified in *Section 4.5 Cultural Resources* and the Conditions of Project Approval identified in *Section 4.18 Tribal Cultural Resources*, potential impacts to TCRs would be reduced to less than significant. The proposed project would not result in new or more significant impacts than previously identified in the Downtown Strategy 2040 FEIR.

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 reduced 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, biological resources, cultural resources, energy, geology and soils, GHG, hydrology and water quality, 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 and noise and vibration impacts are discussed further below.

Cumulative Air Quality Impacts

As mentioned in *Section 4.3 Air Quality*, community health risk assessments typically look at all substantial sources of TACs within 1,000 feet of sensitive receptors. These sources include rail lines, freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs. The same mobile and stationary TAC sources identified previously were used in this health risk assessment (refer to *Section 4.3* and Appendix A for more information).

For the purposes of this cumulative analysis, the ADT for West Santa Clara Street and Stockton Avenue was based on AM and PM peak hour background plus project traffic volumes and rail exposure was assumed to begin in 2024 as this was when the third trimester/infant exposure would begin for the maximum construction cancer risk impact at the project MEI.

Table 4.21-1 below summarizes nearby mobile and stationary sources of TACs at the off-site MEI. Figure 4.3-3 in *Section 4.3* shows the project site and the nearby TAC and $PM_{2.5}$ sources, as well as construction risks from the nearby development.

Table 4.21-1: Cumulative Sources at Project MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction Impacts Mitigated	7.10 (infant)	0.03	<0.01
Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold? **Mitigated**	No	No	No
Cumulative Operational Sources			
West Santa Clara Street, ADT 20,124	0.62	0.04	<0.01
Stockton Avenue, ADT 11,745	0.52	0.04	<0.01
Trains (Caltrain, ACE, and Amtrak)	16.77	0.04	0.01
Facility ID #3100 - Gas Station, MEI at 1000+ feet	<0.01	<0.01	<0.01
Facility ID #11819 - Auto Body Coating Operation, MEI at 1000+ feet	-	-	<0.01
Facility ID #21319 - Generators, MEI at 1000+ feet	0.06	<0.01	<0.01
Facility ID #22305 - Generators, MEI at 380 feet	0.13	0.05	<0.01
Cumulative Temporary Construction Sources[1,2]			
Stockton Avenue Hotel, 540 feet northwest	<3.80	<0.06	<0.01
Julian/Stockton Mixed Use, 780 feet northwest	<5.40	<0.04	<0.01
Lot E Parking Structure, 615 feet northeast	<8.17	<0.09	<0.02
Combined Sources Mitigated	<34.41	<0.32	<0.10
BAAQMD Cumulative Source threshold	***100***	***0.8***	***10.0***
Exceed Threshold? **Mitigated**	No	No	No

Table 4.21-1: Cumulative Sources at Project MEI			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**

Notes: [1] It was conservatively assumed that these nearby developments within 1,000 feet of the site would have overlapping construction. This approach provides an overestimate of the community risk and hazard levels because it assumes that maximum impacts from the nearby development occurs concurrently with the proposed project at the proposed project's MEI.

[2] The Downtown West (File Nos. GP19-009, PDC19-039, AND PD19-029) would be built over a period of at least 10 years. Since the project variables (e.g., construction timeframe) is subject to change, this project is not included in the nearby developments list. While the Downtown West project identified a significant unavoidable construction health risk assessment impact, this would not affect the impact results at the project MEI since the impacts from Downtown West would be considered as a cumulative temporary construction source. Additionally, BAAQMD CEQA Guidelines state that in instances where a pre-existing cumulative health risk impact exist, the project's individual contribution to that cumulative impact should be analyzed. If project health risks would be reduced to below the single-source thresholds with best available mitigation measures, the project's contribution to pre-existing cumulative impacts would not be cumulatively considerable. Source: Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. July 11, 2022 and BAAQMD. 2017 CEQA Guidelines. May 2017. Page 5-16. https://www.baaqmd.gov/~/media/files/planning-andresearch/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en.

As shown in the table above, the BAAQMD significance cumulative threshold for cancer risk, annual $PM_{2.5}$ concentration, and HI would not be exceeded. Implementation of Mitigation Measure AIR-1.1 and the required Standard Permit Conditions for dust would further reduce project-level cancer risk impacts from project construction. Therefore, the project's contribution to existing cumulative impacts from cumulative construction sources would not be cumulatively considerable.

Cumulative Noise Impacts

While the project could have overlapping construction with nearby projects in the area, the proposed project would 1) not have shared receptors with direct exposure to both sites and/or 2) the projects would likely be constructed before construction of the proposed project begins.[109] Nevertheless, with implementation of the identified mitigation measures and Standard Permit Conditions, the construction noise levels from individual projects would be reduced to the extent possible during construction of each individual project, including the proposed project. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative noise impact.

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

[109] Note that the project site is also located within 1,000 feet of the Downtown West development (File Nos. GP19-009, PDC19-039, AND PD19-029) which is anticipated to be built over a period of at least 10 years.

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

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

Christopher Burton, *Director of Planning, Building and Code Enforcement*
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Tina Garg, *Supervising Planner*
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Local Transportation Analysis and Transportation Demand Management Plan

HortScience | Bartlett Consulting
Pleasanton, CA
Arborist Report

Illingworth & Rodkin, Inc.
Cotati, CA
Air Quality and Noise and Vibration Assessment

PaleoWest
Walnut Creek, CA
Literature Search and Historic Assessment