Draft Supplemental Environmental Impact Report (SEIR)

Woz Way Project

GP19-008 and H20-004

SCH# 2003042127

March 2021

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

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SUMMARY

Project Overview

The Project proposes construction of a two-tower structure (with a maximum height of 297 feet) with ground floor neighborhood-oriented retail on an approximately 2.93-acre site. The Project includes an amendment to the land use designation in the Vision 2040 San José General Plan as well. The project property located on the southwest corner of Woz Way and South Almaden Boulevard in the City of San José, Santa Clara County California.

The following is a summary of the significant impacts and mitigation measures addressed within this Supplemental Environmental Impact Report (SEIR). The project description and full discussion of impacts and mitigation measures can be found in the following chapters of this SEIR.

Summary of Significant Impacts

The following table, Table 1: Summary of Significant Impacts and Mitigation Measures, summarizes the significant effects of the Project on the environment and mitigation measures are identified to reduce the effects to a less than significant level, where applicable and feasible. A significant effect on the environment means a substantial, or potentially substantial, adverse change on the environment. Impacts that are less than significant are not described in this summary and can be found in the text of Appendix B (Initial Study) of this SEIR. A complete description of the Project and of its potentially significant impacts and proposed mitigation measures can be found in the text of the SEIR, which follow this summary.

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, the Initial Study, included as part of the Supplemental Environmental Impact Report (SEIR), tiers from the certified Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (SCH#2003042127). Where appropriate, the summary below notes where the conclusions regarding significant impacts are the same as those in the Downtown Strategy 2040 FEIR (e.g., [Same as Approved Project]); the program level project that evaluated development and redevelopment in Downtown San José and which includes the project site.

Table 1: Summary of Significant Impacts and Mitigation Measures

Significant Impacts	Mitigation Measures	Significance After Mitigation
Air Quality		
Impact AQ-2: Construction of the Project would result in a cumulatively considerable net increase of a criteria pollutant (ROG and Nitrous Oxide) , in exceedance of the BAAQMD thresholds, for which the project region is non-attainment under an applicable federal or state ambient air quality standard [Same Impact as Approved Project (Less Than Significant with Mitigation)]	**Mitigation Measure AQ-1** Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit implement a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's Designee. 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. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, equipment shall meet U.S. EPA Tier 4 emission standards. • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet 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 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. • Ensure that diesel engines, whether for off-road equipment or on-road vehicles, are not left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). Post legible and	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	visible signs in designated queuing areas and at the construction site to clearly notify operators of idling time limit. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. • Utilize low-VOC paint (50 g/L or less). The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall include, but not be limited to the following: • List of activities and estimated timing. • Equipment that would be used for each activity. • Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure. • How the construction contractor will ensure that the measures listed are monitored. • How the construction contractor will remedy any exceedance of the thresholds. • How often and the method the construction contractor will use to report compliance with this mitigation measure. 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	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	the issuance of any demolition, grading and/or building permits (whichever occurs earliest).	
Biological Resources		
Impact BIO-1: Project impacts on special status bats from future ground disturbances during on-site construction activities [Same Impact as Approved Project (Less Than Significant with Mitigation)]	***Mitigation Measure BIO-1:*** Mitigation measures that protect bat species from possible direct mortality are warranted. The project applicant shall implement the following measures to ensure that mortality to special status bats from future ground disturbances is avoided: • A detailed bat survey shall be conducted by a qualified bat biologist within 14 days of building demolition to determine if bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. These surveys shall include a visual inspection of potential roosting features and a search for presence of guano within the project site, planned construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. If daytime surveys are inconclusive, night emergence surveys shall be employed until the qualified bat biologist can conclude presence or absence for bats. Potential roosting features found during the survey shall be flagged or marked. • If no bats are roosting or breeding in these structures within 14 days of site demolition, then a letter report shall be prepared by the biologist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee. No further action would be required, and demolition can proceed.	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	• If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from demolition area during the appropriate time period (e.g., not when flightless young are present). The bat eviction plan shall include details for excluding bats from the roost site and monitoring to ensure that all bats have exited the roost prior to the start of activity and are unable to re-enter the roost until activity is completed. Any bat eviction shall be timed to avoid lactation and young-rearing. If bats are found roosting during the nursery season, they shall be monitored by a qualified biologist to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season. The project applicant shall submit evidence of completion of habitat assessment and results to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of a grading permit. Should a bat eviction plan be necessary, a copy of the bat eviction plan shall also be submitted to the Director or Director's designee for approval and comment prior to implementation.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
Impact BIO-2: Project would have an adverse impacts on the adjacent riparian corridor and birds utilizing the riparian corridor from potential loss of riparian habitat and/or collision with buildings [Same Impact as Approved Project (Less Than Significant with Mitigation)]	***Mitigation Measure BIO-2:*** To ensure non-native invasive plants do not move into the riparian corridor as a result of the proposed Project, the project applicant shall ensure that all landscaping within 100 feet of the riparian edge is comprised of locally native species. Species shall not be featured on the California Invasive Plant Council's Invasive Plant Inventory (www.cal-ipc.org/ip/nventory). • To ensure any irrigation associated with the Project does not adversely impact the riparian corridor, the Project applicant shall ensure that all irrigation systems installed within 100 feet of the riparian corridor habitat shall be designed so that there is no impact to riparian habitat (i.e., no erosion or over-spray into the riparian habitat. Specifically, irrigation systems within 100 feet of the riparian corridor, as defined in this SEIR, shall be designed to result in no erosion or over-spray into the riparian habitat. These irrigation systems shall be detailed in a site-specific habitat mitigation and monitoring plan (HMMP), which must be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits. • To reduce the potential indirect impact of the buildings' presence on wildlife and to provide cover habitat and limited screening of the riparian corridor from the proposed office towers, the Project shall install native tree and large shrub plantings in the available space between the buildings and the riparian edge. This is deemed suitable for riparian birds, since planting of large shrubs and trees is regarded as the most effective method to enhance bird species richness and diversity. Areas located immediately west of the two towers, between the planned development and	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	the riparian habitats, with a combined area of 4,470 square feet (2,560 sq. ft. and 1,910 sq. ft., respectively) shall be planted with suitable native trees and shrubs. To ensure that a suitable native habitat enhancement planting is achieved, the applicant shall develop a site-specific habitat mitigation and monitoring plan (HMMP) prepared by a qualified biologist and submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits. The HMMP is used to guide the on-site habitat restoration process, and shall include, at a minimum, the following elements: o A planting plan that lists the native trees and large shrubs that shall be included in the habitat restoration effort and which describes the site preparation requirements and irrigation requirements for the restoration area. The planting palate shall include primarily trees large shrubs. Trees shall include species such as, but not limited to, big-leaf maple (Acer macrophyllum), box elder (A. negundo), California buckeye (Aesculus californica), coast live oak, and valley oak. Shrubs in the plant list shall be comprised of species such as, but not limited to, blueblossom ceanothus (Ceanothus thyrsiflorus), coffeeberry (Frangula californica), and toyon (Heteromeles arbutifolia). Species to be used shall be consistent with the City's Riparian Corridor Policy Study and the Santa Clara Valley Water District's (SCVWD's) Guidelines and Standards for Land Use Near Streams, which includes but is not limited to using seeds and propagules collected from within the Guadalupe River watershed.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	○ Trees shall be large format trees (e.g., 36-inch box trees or larger) at the time of installation. These large trees are preferred in this instance to jump start the visual buffer between the buildings and the riparian habitat following completion of project development. ○ The plan shall identify species within the buffer area that shall not be allowed to persist, such as species listed as having a high ecological impact on the California Invasive Plant Council's Invasive Plant Inventory. Specifically, any tree-of-heaven propagules shall be eradicated as part of the mitigation effort. ○ A map defining the habitat restoration area which shall include planned locations for the plantings. ○ Monitoring shall occur once annually starting after the first growing season following installation of the plantings for a total of 5 monitoring years. Monitoring shall be conducted by a qualified biologist and shall focus on the health and development of the individual plantings. Target success goals shall include survivorship of trees and shrubs at 80% after 5 years with generally good to excellent health (as determined by the monitoring biologist). ○ Measures shall be included to account for failure to meet the success criteria, including replanting with additional years of monitoring, and adaptive management measures to minimize potential barriers to success. ○ An irrigation plan and seasonal guidelines for watering. ○ The HMMP shall also include a detailed plan for	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	implementation of maintenance, including irrigation monitoring, plant health monitoring, vandalism prevention, and weed management. The maintenance plan shall specify restrictions on uses of pesticides and fertilizers that are considered unsafe near natural aquatic habitats. ○ The HMMP shall be implemented immediately following completion of construction during the suitable installation period (typically November to April).	
Impact BIO-3: Project impacts on habitat in the riparian corridor [Same Impact as Approved Project (Less Than Significant with Mitigation)]	***Mitigation Measure BIO-1 and 2 (see above)***	Less than Significant
Impact BIO-4: The Project would impact nesting birds through tree removals. [New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant)]	***Mitigation Measure BIO-3:*** • Avoidance: The project applicant shall schedule demolition and construction activities 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), as amended. • Nesting Bird Surveys: If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the µiit,i~fi6n	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	of 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 breeding season (May 1st through August 15th inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. • Buffer Zones: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be • Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the 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 the Director's designee, prior to issuance of any grading or building permits.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
Cultural Resources		
Impact CUL-1: Project impact on the Candidate City Landmark District [New Impact from Approved Project (Significant and Unavoidable)]	***Mitigation Measure CUL-1:*** Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the Project site, the Project applicant shall prepare and submit, to the satisfaction of the Director of Planning or Director's designee evidence that the following actions have been satisfied. <u>Documentation:</u> The six structures comprising the Candidate City Landmark District shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components: • Drawings – Prepare sketch floor plans. • Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. • Written Data – HABS written documentation in short form. An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The Department of Parks and Recreation 523 forms prepared for the Project (included in Appendix G of the SEIR) can be used to fulfill the requirements for the written data report. The required documentation shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical	Significant and Unavoidable

Significant Impacts	Mitigation Measures	Significance After Mitigation
	Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's Designee. Additional copies shall be made available to other local research institutions, as requested, including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District, along with associated features, spaces, and landscaping. Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the Project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The Project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or Director's Designee that this condition has been met prior to the issuance of demolition permits. If the Project applicant or third party agrees to relocate the structure(s), the following measures must be followed: 1. The Director of Planning, Building, and Code Enforcement, or Director's designee must determine that the receiver site is suitable for the building(s). 2. Prior to relocation, the Project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building(s) prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work. 3. To protect the building(s) during relocation, the Project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building(s) needs to be reinforced/stabilized before the move. 4. Once moved, the building(s) shall be repaired and restored, as needed, by the Project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features. Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The Project applicant shall submit a memo report to the Director of Planning, Building and Code Enforcement or Director's designee documenting the relocation. <u>Salvage:</u> If the project applicant and/or no third party agrees to relocate the structures, the structures shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	Preservation Officer. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. Commemoration: The historic structures and associated features on the project site within the Candidate City Landmark District, shall be commemorated and curated to include: • Physical remnants from the site • Oral histories • Research • Historic photographs • Historic maps • Historic displays • Historic Marker consistent with the City's Marker Program for history The Project applicant shall submit an Action Plan to the Director of Planning, Building and Code Enforcement or Director's designee, proposing how the Candidate City Landmark District will be commemorated. The proposal will be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee. Following completion of the action, the Project applicant shall submit a memo report documenting the commemoration.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
Cumulative Cultural Resources		
Cumulative Impact CUL-1: Project construction would result in a cumulatively considerable contribution to the Downtown Strategy's previously identified significant impacts to historic resources. [Same Impact as Approved Project (Significant and Unavoidable)]	***Mitigation Measure CUL-1 (see above)***	Significant and Unavoidable
Noise and Vibration		
NOI-1: Project impact on noise levels from generation of temporary increase in ambient noise levels in the vicinity of the project. [Same Impact as Approved Project (Less Than Significant with Mitigation)]	***Mitigation Measure NOI-1*** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement 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 implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan and project, construction	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	activities for the proposed project shall include, but is not limited to, the following best management practices: • In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities. • Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). • Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Unnecessary idling of internal combustion engines shall be strictly prohibited. • Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	to screen stationary noise-generating equipment when located near adjoining sensitive land uses. • Utilize "quiet" air compressors and other stationary noise sources where technology exists. • Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction. • A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. • Pile-driving is prohibited. • Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. • Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors. • Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. • The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. • 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 Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. ***Mitigation Measure NOI-2*** Prior to the issuance of any development permits, the project applicant shall prepare a noise logistic plan that includes measures to reduce noise from construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m., Monday through Friday within 500 feet of existing residential land uses including concrete pouring during nighttime hours. 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 permits. The following measures would reduce nighttime noise impacts at nearby noise-sensitive residences and shall be included in the noise logistics plan:	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	• Limit the active equipment to as few pieces of equipment as possible. • To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours, and/or the work sites shall be arranged in a way that avoids the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to 5 dBA above the ambient near the operating equipment). • Limit nighttime concrete pouring to the northern location or a minimum distance of 270 feet from the sensitive receptor, where feasible. Restrict concrete trucks and pumps along Almaden Boulevard near sensitive receptor during all nighttime activities. Nighttime concrete trucks located closer than 270 feet shall install a temporary barrier with a minimum height of eight feet around the property line of the adjacent residence. • If nighttime construction noise continues to result in excessive disruption to nearby neighbors, implement a construction noise monitoring plan, which includes a provision for noise monitoring at the nearby receptors to confirm that nighttime construction noise levels meet nighttime noise level thresholds at the adjoining single-family residential. Construction monitoring shall occur for the first two days of construction for period of nighttime construction work to	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds (68 dBA Leq exterior noise level at the adjacent residence). These thresholds are based on existing ambient conditions. Additional noise monitoring shall be completed on a more frequent basis if needed, in response to complaints. In the event of noise complaints, the Project applicant will provide information to the Director of Planning, Building and Code Enforcement or Director's designee within 48 hours of being notified of the complaint, regarding the noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds. • Sensitive receptors identified by the noise-monitoring with the potential to be exposed to nighttime construction noise levels exceeding 68 dBA Leq at the adjacent residence shall be provided with vouchers for alternate accommodations for the duration of the nighttime construction. • Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
NOI-2: Project impact on vibration levels from generation of excessive groundborne vibration. [Same Impact as Approved Project (Less than Significant)]	***Mitigation Measure NOI-3*** Prior to the issuance of any grading permits, the Project applicant shall provide a Vibration Management Plan or other evidence acceptable to the City of San José that demonstrates that vibration control of demolition and construction activities shall be implemented wherever possible. The Project applicant shall prepare a list of all high vibratory equipment to be used and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Director's Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring. This includes performing high-vibration activities during the middle of the day and spaced as far apart as possible to avoid multiple high-vibration activities at once. Vehicle routes should avoid sensitive receptor area as much as possible. Pile-driving is prohibited. ***Mitigation Measure NOI-4*** Prior to issuance of any demolition or grading permits, the project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions at the adjacent historic sensitive receptor prior to, during, and after vibration generating construction activities. The project applicant shall submit the Plan to the City's Director of Planning, Building and Code Enforcement or Director's Designee prior to issuance of any demolition or grading permits for review and approval. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry	Less than Significant

Significant Impacts	Mitigation Measures	Significance After Mitigation
	accepted standard methods. The Plan shall include, but is not limited to, the following: • A photo survey, elevation survey, and crack monitoring survey for the historic residence. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and 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 said structure. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City. • A contingency section or plan to identify 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 further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits. o If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure. • Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.	

Significant Impacts	Mitigation Measures	Significance After Mitigation
	• Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the City's Director of Planning, Building and Code Enforcement or Director's Designee and the Historic Preservation Officer two weeks after completion of each phase identified in the project schedule. • 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.	

Cumulative Impacts

The project would have the following significant cumulative impacts:

- Demolition of the five single-family residential structures on-site within the eligible City Landmark District would result in a cumulatively considerable contribution to adverse impacts on historic resources as these are considered unique local resources and would result in a cumulatively significant historic building impact at a local level.

The cumulative impact would be significant and unavoidable. Please see Section 4.0 for a complete analysis.

Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the Project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain most of the basic objectives of the Project and could avoid or substantially lessen one or more of the significant effects" of the Project. Below is a summary of the Project alternatives. A full analysis of the Project alternatives is provided in Section 8.0 of this EIR, including additional alternatives that were considered and rejected from further consideration.

A. NO PROJECT ALTERNATIVE

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the Project is not approved, based on current plans and consistent with available infrastructure and community services."

The No Project – No Development Alternative would retain the existing single-family residential dwelling units and would continue the current residential use of the site. If the Project site were to remain as is, there would be no new impacts.

B. 100-FOOT SETBACK ALTERNATIVE

This alternative considers a site plan that avoids development within the 100-foot riparian edge setback established by the Santa Clara Valley Habitat Agency (Habitat Agency). Under this alternative, the Project would be designed to observe a 100-foot setback from the riparian corridor. This alternative would propose two office towers of the same height and uses as the Project, but would have a reduced size (i.e. smaller floor plates resulting in less office space and less retail space).

C. HISTORIC DISTRICT RELOCATION ALTERNATIVE

Under this alternative, the Project would relocate 5 of the 6 single-family residential structures that comprise the candidate City Landmark District from the Project site to a receiver site within the City. Only 5 of the 6 homes would be relocated because the 6th home (APN 264-31-042) is not under the applicant's ownership. However, should the 6th home (APN 264-31-042) come under ownership of the applicant, all 6 single-family residential structures that comprise the candidate City Landmark District from the Project site would be considered for relocation to a receiver site. Under this alternative, following the relocation of the structures to to a receiver site, the Project site would be developed with the same land uses and at a similar land use density as the proposed Project.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The environmentally superior alternative is the 100-Foot Setback Alternative because it would result in reduced impacts to biological resources as compared to development under the proposed Project or other alternatives. This alternative would still require demolition of the existing residential structures on-site and would have the same potential to impact the Candidate City Landmark District as the Project.

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) for the Woz Way Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

This is a Supplemental EIR to the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR SCH#2003042127) certified by the San José City Council in December 18, 2018 (Resolution No. 78942). As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed Project, as well as identifies mitigation measures and alternatives to the proposed Project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this Project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the Project. The basic requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, cumulative impacts, alternatives, and growth-inducing impacts. It is not the intent of an EIR to recommend either approval or denial of a Project.

1.2 SEIR OVERVIEW

Pursuant to CEQA Guidelines Section 15161, the Woz Way Project is analyzed as a project-level Supplemental EIR (SEIR) to the previously certified Downtown Strategy 2040 Final Environmental Impact Report (FEIR). This type of EIR focuses on the changes in the environment that would result from implementation of the Project, including construction and operation. The environmental issues are discussed in Section 3.0 and Appendix B of this SEIR.

DOWNTOWN STRATEGY 2040 FINAL ENVIRONMENTAL IMPACT REPORT

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR SCH#2003042127) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which updated the Downtown Strategy 2000 to be consistent with the Envision San José 2040 General Plan including an increase in the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year to 2040.

The Downtown Strategy 2040 Plan provides a vision for future housing, office, commercial, and hotel development within the Downtown area and has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. The Downtown Strategy FEIR evaluated the traffic and traffic-related air quality and noise impacts of Downtown development projects consistent with Envision San José 2040 General Plan land use designations and Downtown zoning districts up to the year 2040. The Downtown Strategy 2040 FEIR evaluated all remaining resource areas at a program level for site-specific conditions, including construction-related impacts that could not be feasibly evaluated in the absence of specific development project details. The Downtown Strategy 2040 FEIR identified mitigation measures and adopted Statements of Overriding Consideration for all identified impacts resulting from the maximum level of proposed development.

The Downtown Strategy 2040 Plan also explored other proposed changes, including a minor expansion of the Downtown area boundary to include two blocks on the east side of N. 4th Street between Julian Street and St. John Street, the designation of opportunity sites with a new Employment Priority Area Overlay to prioritize more intense commercial and office uses near the proposed Downtown BART station, and other related General Plan text amendments and land use designation changes to reflect the updated Downtown Strategy 2040.

The Downtown Strategy 2040 FEIR tiers off the analyses in the Envision San José 2040 General Plan (General Plan) FEIR and Downtown Strategy 2000 EIR and provided project-level review (where possible) and program-level review for future actions under the Downtown Strategy 2040. The Downtown Strategy 2040 FEIR's analysis assumed that project-level site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This SEIR provides that subsequent project-level environmental review.

The Downtown Strategy 2040 FEIR relied on the latest available CEQA guidelines at the time, including the 2017 version of the CEQA Guidelines Appendix G thresholds. Additionally, the Downtown Strategy 2040 FEIR included a few additional threshold questions, beyond the CEQA Guidelines Appendix G checklist, to capture downtown-specific concerns. This SEIR utilizes the latest available CEQA Guidelines Appendix G thresholds, from the 2020 version of the CEQA Guidelines, which differ slightly from the 2017 thresholds. The CEQA Guidelines Appendix G thresholds were updated in 2019, and again in 2020, to reflect the latest case law and to reorganize certain topics. In addition to using the 2020 Appendix G thresholds, this SEIR also includes analyses for the additional threshold questions, beyond the CEQA Guidelines Appendix G checklist, to analyze downtown-specific concerns. This methodology is consistent with other CEQA documents that have tiered off the Downtown Strategy 2040 FEIR in recent years.

PURPOSE OF THE SEIR

In accordance with CEQA Guidelines Section 15163, the Lead or Responsible Agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

(1) Any of the conditions described in Section 15162 (Subsequent EIRs and Negative Declarations) would require the preparation of a subsequent EIR, and

(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

As such, the City has prepared a SEIR to disclose any new or more severe impacts for the proposed Project; than that identified in the Downtown Strategy 2040 FEIR.

In accordance with CEQA, this SEIR provides objective information regarding the environmental consequences of the proposed Project to the decisions makers who will be considering and reviewing the proposed Project. The CEQA Guidelines contain the following general information of the role of an SEIR and its contents:

> **Section 15121(a) – Informational Document.** An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.

Section 15145 – Speculation. If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

Section 15151 – Standards for Adequacy of an EIR. An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

TIERING FROM PREVIOUS EIRS

In accordance with CEQA, this SEIR supplements the Downtown Strategy 2040 FEIR. The CEQA Guidelines contain the following information on tiering an environmental document:

Section 15152 – Tiering.

(a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the EIR or negative declaration solely on the issues specific to the later project.

(b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequences of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

FOCUS OF THE SUPPLEMENTAL REVIEW

The City of San José prepared an Initial Study (see Appendix B of this SEIR) that determined the need for an SEIR for the proposed Woz Way Project. The Initial Study determined that the supplemental analysis should focus its scope on biological, historic resources, and noise and vibration. The other environmental resource subjects, including but not limited to, aesthetics, agricultural/forestry resources, air quality, energy, greenhouse gases, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, population and housing, public services, land use, recreation, transportation, and utilities are analyzed in the Initial Study, consistent with CEQA requirements. The Project's impacts in these study areas were determined to be less than significant, and conform to General Plan policies that will be made conditions of approval of the Project, and/or it was determined that the

Project would not result in any new or more significant impacts, with mitigation for air quality, in these resource areas than those addressed in the Downtown Strategy 2040 FEIR.

As stated above, the analysis in the Initial Study determined that the only environmental resources with the potential to be significantly affected by the proposed Project would be biological and cultural resources. All other impacts from the proposed Project would be less than significant or consistent with the significant impacts previously disclosed in the Downtown Strategy 2040 FEIR and are not addressed further in this SEIR.

1.3 SEIR PROCESS

NOTICE OF PREPARATION AND SCOPING

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this SEIR. The original NOP was circulated to the public and responsible agencies for input on June 8, 2020 for a 30-day comment period and was extended to August 12 to allow for additional comments. The NOP provided a general description of the proposed Project and identified possible environmental impacts that could result from implementation of the Project. The City of San José also held a public scoping meeting on June 29, 2020 to discuss the Project and solicit public input as to the scope and contents of this SEIR.

This SEIR addresses those issues which were raised by the public and responsible agencies in response to the NOP. The NOP and copies of all the comment letters received are provided in Appendix A of this SEIR.

DRAFT SEIR PUBLIC REVIEW AND COMMENT PERIOD

Publication of this Draft SEIR will mark the beginning of a 45-day public review and comment period. During this period, the Draft SEIR will be available to local, state, and federal agencies and to interested organizations and individuals for review. Notice of this Draft SEIR will be sent directly to every agency, person, and organization that commented on the NOP. Written comments concerning the environmental review contained in this Draft SEIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, & Code Enforcement
Adam Petersen, Environmental Project Manager
200 E. Santa Clara Street, Tower 3rd Floor
San José, CA 95113-1905
adam.petersen@sanjoseca.gov

FINAL SEIR AND RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final SEIR in conformance with CEQA Guidelines Section 15132. The Final SEIR will consist of the following: revisions to the Draft SEIR text, as necessary; list of individuals and agencies commenting on the SEIR; responses to comments received on the SEIR, in accordance with CEQA Guidelines (Section 15088); and copies of letters received on the SEIR.

NOTICE OF DETERMINATION

If the Project is approved, the City of San José 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 15094(g)).

This SEIR and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, Tower 3rd floor, during normal business hours. However, in response to the COVID-19 and Shelter-in-Place policy, the referenced document as hard copies may no longer available as listed above. This SEIR and related documents can be accessed remotely until such time as City Hall opens for business as pre-COVID. These documents are available for review online here: https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/woz-way-project

Publication of this Draft SEIR will initiate the beginning of a 45-day public review period. During this period, the Draft SEIR will be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of this Draft SEIR will be sent directly to every agency, person, and organization that provided comment(s) on the NOP, as well as the Office of Planning and Research (OPR).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The proposed Project is in the southwest portion of downtown San José, in Santa Clara County, California (Figure 1). The Project site is on the southwest corner of Woz Way and South Almaden Boulevard (Figure 2). The Project site is bound by Woz Way to the north, South Almaden Boulevard to the east, I-280 to the south, and Guadalupe River and pedestrian pathway to the west. The Project site is located within the Downtown Strategy 2040 boundary in the City of San José. The eighteen (18) Assessor Parcel Numbers (APNs) that comprise the Project site are identified below.

APNs:

- 264-31-037
- 264-31-038
- 264-31-039
- 264-31-040
- 264-31-041
- 264-31-042[1]
- 264-31-043
- 264-31-044
- 264-31-061[2]
- 264-31-062
- 264-31-063
- 264-31-064
- 264-31-065
- 264-31-066
- 264-31-067
- 264-31-092
- 264-31-107
- 264-31-108

EXISTING CONDITIONS

The approximately 3.08-acre Project site, which comprises the whole of the Project actions, contains the 18 parcels listed above[3]. The Project site is currently developed with 17 single-family residential dwelling units, with landscaping and surface light fixtures along the frontages of these single-family residences. The Project site is developed with existing sidewalks that run along Locust Street, Woz Way, and South Almaden Boulevard.

Land uses surrounding the proposed Project site are as follows:

- **North** – surface parking lot[4] across from Woz Way
- **East** – single-story single-family homes, commercial/retail uses including the City of San José Convention Center across from Almaden Boulevard
- **South** – I-280
- **West** – Guadalupe River Park

[1] Parcel 264-31-042 is not included in the site development boundary and accounts for the difference between the 2.93-acre site development area and the 3.08-acre Project site area. It is not included in the site development area because it is not currently under the applicant's ownership.

[2] Parcel 294-31-061 is a vacant lot and is one of the 17 parcels within the 2.93-acre site development area. As such, only 16 single-family homes would be demolished.

3 The Project site totals 3.08 acres and comprises 18 parcels. The site development area is contained within the larger Project site boundary. The site development area totals 2.93 acres and contains 17 parcels.

[4] The Almaden Office project is currently going through the entitlement process for the demolition of the existing surface parking lot and the construction of an approximately 2.8 million-square foot building on a 3.67-gross acre site. A Notice of Preparation for an EIR for the project was filed in May 2019 and a Draft SEIR was circulated for public review in July 2020.

The Project site has a land use designation of *Public/Quasi-Public* under the City of San José General Plan and is located in the *DC-Downtown Primary Commercial* zoning district.

2.2 PROJECT DESCRIPTION

The Project applicant requests approval of a General Plan Amendment (GPA), which would change the land use designation from Public/Quasi Public to Downtown. The Project also entails a Site Development Permit, which would facilitate construction of the Project, as described below.

The 3.08-acre total Project site comprises the boundaries of the proposed General Plan Amendment (GPA). The GPA is proposed for the entire Project site, including all 18 parcels noted above and is shown in Figure 3.

Within the 3.08-acre Project site, site development would occur within the limits of an approximate 2.93-acre area. The Site Development Permit is proposed for 17 of the 18 parcels within the Project site, totaling approximately 2.93 acres, as shown in Figure 3. Specifically, 541 Vine Street (APN 246-31-042) is not included in the Site Development Permit boundary, but is included in the larger Project site boundary to address the request for a land use designation change consistent with the land use designation being requested for the other 17 parcels on the project site. 541 Vine Street (APN 246-31-042) is currently developed with a single-family home.

The proposed Project would entail development of two 20-story office towers, with a floor-to-area ratio (FAR) of 10.8 and a maximum height of 297 feet. The two towers would include a total of 1,226,600 square feet of office space and 10,107 square feet of retail space. The Project also proposes a total of 8,957 square feet of common open space in the form of a patio terrace atop the 4-story parking structure. The site development would have four levels of underground parking and four levels of at-grade and above ground parking.

The site development includes an internal driveway, located between the north and south towers. The primary pedestrian entrances to the north tower lobby is planned from Woz Way and the internal driveway. The primary pedestrian entrance to the south tower lobby is planned from the internal driveway, which has vehicular entrances and exits on both Woz Way and Almaden Boulevard.

Renderings of the proposed development are shown in Figure 4, Figure 5, and Figure 6. A site map for the proposed development is shown on Figure 7. The ground floor plan for the proposed development is shown in Figure 8. A typical office floor plan for the proposed development is shown in Figure 9.

Underground parking (Levels B1 to B4) and above ground parking (Levels 1 through 4) would be accessible from the internal driveway and Almaden Boulevard.

2.3 PROJECT COMPONENTS

The primary Project components are described below.

OFFICE

The project proposes two 20-story office towers, a maximum height of 297 feet. The total gross square footage would be approximately 1,851,858 square feet. The proposed Project also includes four levels of underground parking and four levels of on- and above- ground parking at the south tower. The design proposal includes the following:

- Approximately 1,226,600 square feet of office space and
- Approximately 10,107 square feet of retail space.
- The remainder of the gross square footage would comprise parking, and common open spaces.

RETAIL

The Project proposes approximately 10,107 square feet of retail space on the ground level, at the northeast corner of the project site, at the corner of Woz Way and Almaden Boulevard with entrances from Woz Way, Almaden Boulevard, and the internal driveway.

COMMON SPACE AND AMENITIES

The office common space and other included amenities would have a combined total of 8,957 square feet. The Project also proposes amenity deck space located on levels 7, 9, 11, 13, 15, 17, and 19.

SITE ACCESS AND PARKING

The proposed Project includes a total of 1,259 parking spaces. The four underground parking levels include 1,068 parking spaces and the four at- and above- ground parking levels include 191 parking spaces.

As shown in Figure 7, the Project includes an internal driveway, located between the proposed north and south towers, with ingress and egress on both Woz Way and Almaden Boulevard. The primary entrance to the north tower lobby is provided from Woz Way and also via the internal driveway. The primary entrance to the south tower lobby is provided from the internal driveway. Vehicle ingress and egress to all parking areas (Levels B1 to B4, and Levels 1 to 4) is provided via the internal driveway, on the north side of the south tower, and via a driveway on Almaden Boulevard.

The Project also includes two loading areas for trucks and waste management. One loading area, located at the northwest of the north tower, is accessible from Woz Way and the internal driveway; and the other loading area, located in the south tower ground floor parking garage (Level 1), is accessible from the internal driveway. The north tower loading area would have three loading spaces, and the south tower would have ten loading spaces.

Off-site improvements associated with the site development include local roadway improvements on Woz Way and improvements along the Project frontage on South Almaden Boulevard to accommodate the site development ingress and egress movements, vacating the existing Locust Street, and connections to existing utility infrastructure.

DEVELOPMENT-FREE RIPARIAN SETBACK

The boundary of the riparian corridor was defined as the top of a flood wall at the top edge of the hardscaped bank of the Guadalupe River, hereinto referred to as the top of bank. The Guadalupe River Park includes a hardscaped path and cement siding, along the boundary of the Project site. The vegetation of the riparian corridor does not extend beyond the hardscaped Guadalupe River Park. As such, the boundary of the riparian corridor was defined as the top of the hardscaped Guadalupe River Park, which serves as the top of bank for the Guadalupe River. The buildings proposed by the Project would not encroach within 35-feet of this set top of bank boundary. The Project, with the setback boundaries, is shown in Figure 13.

Stream setbacks measured from the top of the stream bank are required to be 35 to 100 feet, depending on the category of the stream. The Guadalupe River is a Category 1 stream. Setbacks for Category 1 streams are at least 100 feet. The 100-foot setback boundary is shown in Figure 12. As discussed above, the Project proposes a 35-foot setback from the Guadalupe River. The SCVHP provides a framework for allowable exceptions to these setbacks. The Project proposes an exception request from the Habitat Agency for approval of a reduced setback. This approval would be required for the Project to be allowed to develop within 100-feet of the riparian edge. The SCVHP recommended approval of the 35-foot setback for the Project on April 7, 2020 (See Appendix C).

UTILITIES

The proposed Project site is located within the Urban Service Area of the City of San José and is currently served by City services. Off-site facilities would not be required to be upgraded or expanded to serve the project. The proposed Project can be adequately served by existing utilities.

WASTEWATER TREATMENT

Wastewater treatment and disposal is provided by the San José/Santa Clara Regional Wastewater Facility (RWF), formerly known as the San José /Santa Clara Water Pollution Control Plant (WPCP); sanitary sewer lines maintained by the City of San José. There are two existing sanitary sewer manholes located on Woz Way and three existing sanitary sewer manholes located on Almaden Boulevard. The Project would create two new connection, via a 56-linear foot PVC pipe, from the Project site to the existing sanitary sewer system on Almaden Boulevard. The proposed Project would not result in any additional sanitary sewer manholes.

WATER SERVICE

Water service in the City is provided by San José Water Company (SJWC). According to the SJWC, site development would result in a total net potable water demand of approximately 131 acre-feet per year and represents an approximately 0.10% increase in total system usage when compared to the SJWC's pre-drought potable water production. Therefore, the SJWC has the capacity to serve the proposed Project through buildout based on current water supply capacity.

STORM DRAINAGE

The City of San José is responsible for the maintenance of the storm drainage collection system serving the Project site. Surface runoff at the Project site is currently captured in catch basins and underground pipelines, located on Woz Way and Almaden Boulevard. There are currently three existing storm drain manholes located on Woz Way. The proposed internal driveway would result in the construction of four catch basins connected by underground pipelines. The proposed Project would construct a new storm drain main with three manholes along Almaden Boulevard. Two new storm drain laterals will be constructed along Almaden Boulevard. The existing storm drain curb inlet along Almaden Boulevard will be reconstructed to conform to the new "bulb-out" sidewalk configuration. Two existing storm drain curb inlets along Woz Way will need to be reconstructed to conform to the new sidewalk configuration. The City of San José would continue to be responsible for maintaining stormwater facilities.

SOLID WASTE

Solid waste services are provided to the Project site by Garden City Sanitation (Garbage), California Waste Solutions (Recycling) and Green Waste Recovery (Yard Trimmings). Garden City Sanitation serves residential uses and would therefore not serve the Project. The Project would be serviced by the commercial solid waste service provider, Republic Services, for all solid waste.[5]

[5] For Project alternatives that would include residential uses, a mixed-use development may commingle the residential solid waste and commercial solid waste generated at the mixed-use development. The commingled waste may be collected by the City's authorized multi-family dwelling solid waste collector (GreenTeam of San José, (408) 282-4400)) if the total square footage of commercial building space in the mixed-use development is less than fifteen percent of the total building space (SJMC Sec 9.10.1810 combined waste streams). The commingled waste shall be collected by Republic Services if the total square footage of commercial building space in the mixed-use development is fifteen percent or more of the total building space.

Solid waste and recycling are hauled off to landfills located within the City, including:

- Newby Island Landfill: The City must use Newby Island Landfill for residential, commercial, and City facility waste streams. Newby Island also is a construction and demolition (C&D) Certified Facility under the Construction & Demolition Diversion (CDD) Program.
- Guadalupe Landfill: Guadalupe Landfill currently has a temporary C&D Certification for under the CDD Program until Dec 31st, 2020.
- Kirby Canyon Landfill: Kirby Canyon Landfill is not certified under the City's CDD Program.

NATURAL GAS & ELECTRICITY

Pacific Gas and Electric (PG&E) provides electric services to the Project site. The Project site would continue to be served by PG&E.

TELECOMMUNICATIONS

AT&T, Comcast, Viasat, Frontier, and Spectrum currently, and would continue to provide telecommunication, cable television, and Internet services to the Project site.

LANDSCAPING

The proposed Project would remove 52 trees, 31 of which would be ordinance sized trees. site development would also include plant areas which would consist of a mix of evergreen and deciduous shrubs, ornamental grasses, and turf. All plant species would be native to California, and predominantly native to the Bay Area where feasible. In addition, the proposed Project would incorporate the use of flow through planters.

GREEN BUILDING MEASURES

The proposed Project would conform to the City's green building policy and measures and with San José City Council Policy 6-32. City building codes require consistency with the California Green Building Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption.

The Project would comply with the City of San José Riparian Corridor Protection and Bird-Safe Design Policy. Project design would ensure that at least 90% of the exposed building façade materials, from the ground level to 40 feet high, and 60% of the exposed building façade materials above 40 feet high is not composed of transparent or reflective glass. To the extent feasible, the Project would use glass surfaces that are designed to be visible by birds and specifically designed to avoid bird collision.

The glass façade surfaces will be composed of a glass product designed to be visible to birds. Specifically, the Project proposes to include bird friendly glass with two different densities of acid-etched visual patterns. The density of etched dots in the glass visibility pattern will be densest at 2-inch by 2-inch spaced 5 millimeter (mm) dots on the ground floor up to 40-feet high, which is the portion of the façade where birds would be more likely to collide with buildings. A 4-inch by 4-inch spaced 6 mm etched dot pattern is proposed above the 40-foot elevations. Further, plantings in the interior of the buildings will not be installed close to transparent glass, which would help to minimize birds being attracted toward the buildings.

The Project will comply with the lighting guidelines of the Riparian Policy. On-site lighting will be designed and located to avoid light and glare impacts to wildlife within the riparian corridor. No lighting is proposed within the 35-foot setback area, and lighting directly adjacent to the setback area will be as low as practical (bollard lighting) while providing for safety considerations. Lighting will be directed downward and light sources will not be visible from the riparian area.

The Project will follow City of San José's green building design measures including achievement of a minimum of a LEED Silver certification. This LEED certification level indicates that the buildings will have some evening lighting conservation measures such as occupancy sensors on lighting and/or lighting programming to ensure interior lighting is limited after dark.

CONSTRUCTION

It is anticipated that the Project would be constructed over an approximate 31-month period, starting in mid- 2021[6]. The Project would be constructed in one comprehensive phase, and would follow a conventional construction sequence of demolition, site preparation, grading/earthwork, paving, building construction, and architectural coating.

Site development involves construction activities associated with demolition of the existing single-family homes and Locust Street, site preparation, grading, paving, building construction, and architectural coating applications, construction of the site development would not include pile driving. The site would be excavated to a depth of approximately 40 feet below grade for the four levels of parking. It is estimated that construction of the Project would require an export of approximately 191,000 cubic yards of soil.

Typical construction equipment associated with site development include, but are not limited to, graders, scrapers, and tractors during site preparation; graders, dozers, and tractors during grading; cranes, forklifts, generators, tractors, and welders during building construction; pavers, rollers, mixers, tractors, and paving equipment during paving; and air compressors during architectural coating. Typical equipment used during site development grading and excavation include heavy-duty trucks, backhoes, bulldozers, excavators, front-end loaders, and scrapers. The Project would generate the highest number of daily trips during the building construction phase, approximately 641 worker trips and 300 vendor trips, which would last approximately 410 days.

All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 50 horsepower will, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of any demolition permits, the project applicant will submit a construction operations plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met. Such equipment could include concrete/industrial saws, graders, scrapers, rollers, cranes, forklifts, generator sets, and air compressors. The construction contractor may use other measures to minimize construction period Diesel Particulate Matter (DPM) emissions to reduce the estimated cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 4 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel), added exhaust devices, or a combination of these measures could meet this requirement. If any of these alternative measures are proposed, the construction operations plans will include specifications of the equipment to be used during construction prior to the issuance of any demolition permits. If any of these alternative measures are proposed, the plan will be accompanied by a letter signed by a qualified air quality specialist, verifying the equipment included in the plan meets the emissions thresholds.

The Project would also be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's

[6] While construction is anticipated to begin in mid-2021, the Air Quality and Noise technical analysis assumed construction would begin in January 2021 to be conservative. Assuming an earlier year is conservative because a later construction year start date would result in lower emissions due to equipment fleet turnover and emission control regulations.

Municipal Code. The SWPPP would include best management practices (BMPs) to be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby bodies of water.

It is anticipated that construction would occur five days a week (Monday through Friday) from 7:00 am to 7:00 pm. At the time when the foundation is poured, construction operations would take place over one 24-hour period.

Consistent with the City's Municipal Code requirements, construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. 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.

DEMOLITION

The proposed Project involves demolition of 16 single-family residential structures and removal of 52 on-site trees, including 31 ordinance sized trees. Six of these 52 on-site trees to be removed are located along the riparian corridor boundary.

The 16 single-family residential structures to be demolished are all one-story, low-density, single-family dwellings[7]. These homes have all been purchased by the applicant and have been abandoned under the terms of the property sale/acquisition. As such, relocation assistance is not required. Demolition would result in approximately 2,761 tons of waste.

Site grading would require approximately 191,000 cubic yards of soil export. There are five facilities within a 20-mile radius that provide waste management services. This SEIR analysis assumes that the export could be off hauled to any of the waste disposal sites within a 20-mile radius of the Project site.

2.4 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the SEIR must identify the objectives sought by the proposed Project. The objectives of the Project are to:

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
2. Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
3. Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
4. Provide an office and retail development that provides a pedestrian-oriented uses and access that enlivens the Guadalupe River Park in the vicinity of the I-280/SR-87 interchange and the surrounding segment of Almaden Avenue.

[7] Intensity of residential uses to be demolished: 16 Dwelling Units/2.93-acre=5.46DU/acre

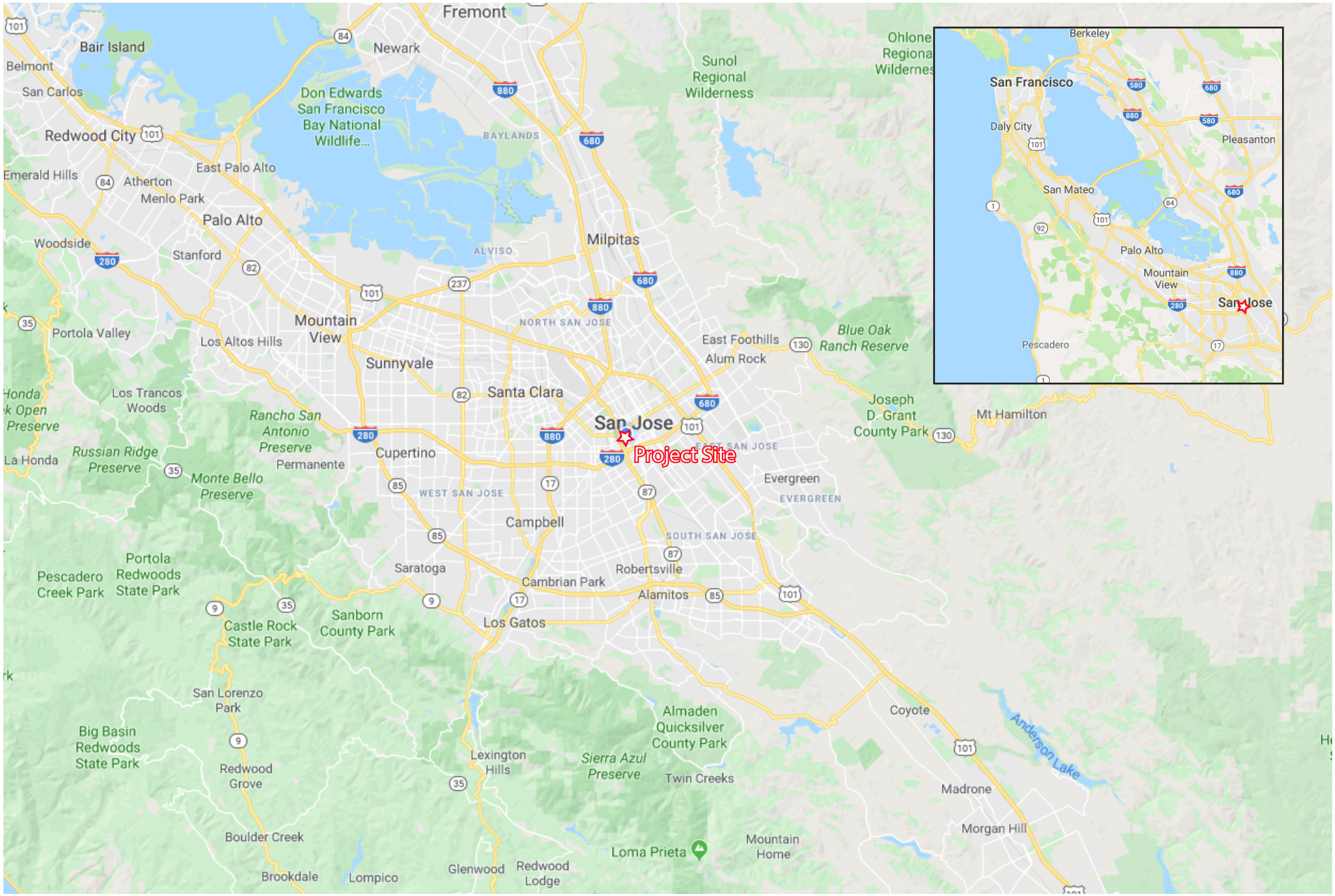
5. Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
6. Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
7. Create building transitions, setbacks, landscaping, and other measures to minimize development impacts on the adjacent Guadalupe River.
8. Provide appropriately scaled open space for gathering spaces and event spaces for the downtown business community.
9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.
10. Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.
11. Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.
12. Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.
13. Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region as a whole.
14. Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.
15. Construct a high-quality development.

2.5 USES OF THE SEIR

This SEIR is intended to provide the City of San José, other public agencies, and member of the public with the relevant environmental information needed in considering the proposed Project.

The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the Project addressed in this SEIR:

1. General Plan Amendment
2. Site Development Permit, including a reduced riparian corridor setback
3. Tentative Map
4. Demolition Permit
5. Grading Permit
6. Building Permit
7. Public Works Clearances



Source: Google Earth, 2020

Figure 1: Regional Map

Woz Way Project

Not to scale

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Source: Nearmap, 2020

Figure 2: Project Vicinity Map

Woz Way Project

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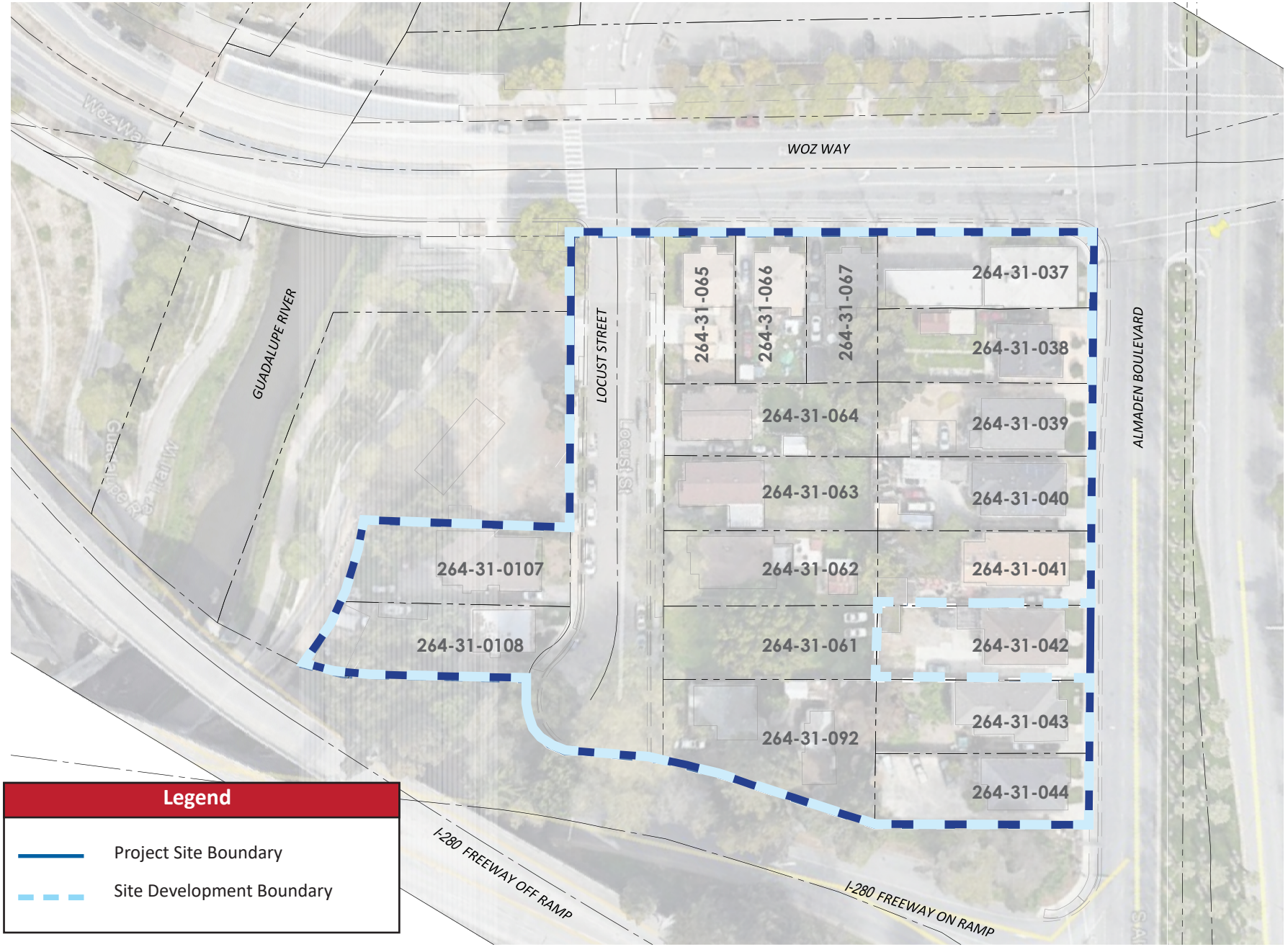

Source: C2K Architecture, 2020

Figure 3: Assessor Parcel Map

Woz Way Project

Not to scale

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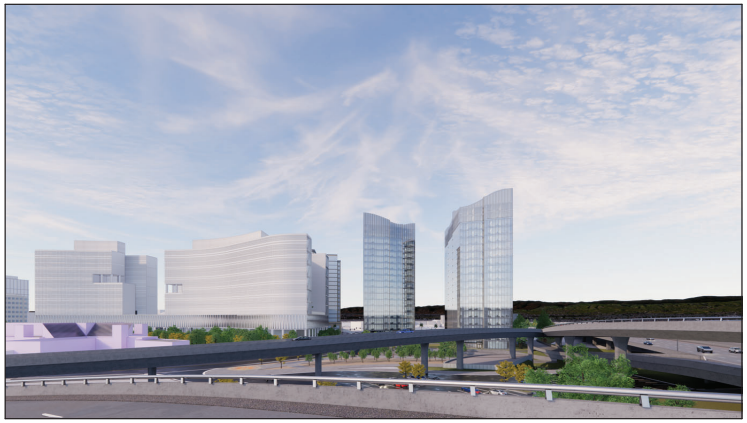
AERIAL PERSPECTIVE LOOKING EAST



FREEWAY PERSPECTIVE LOOKING EAST

STREET PERSPECTIVE LOOKING SOUTHWEST FROM ALMADEN BLVD.

STREET PERSPECTIVE LOOKING SOUTHEAST FROM WOZ WAY

FREEWAY PERSPETIVE LOOKING NORTH

STREET PERSPECTIVE LOOKING WEST FROM ALMADEN BLVD.

Source: C2K Architecture, 2021

Figure 4: Concept Rendering A

Woz Way Project

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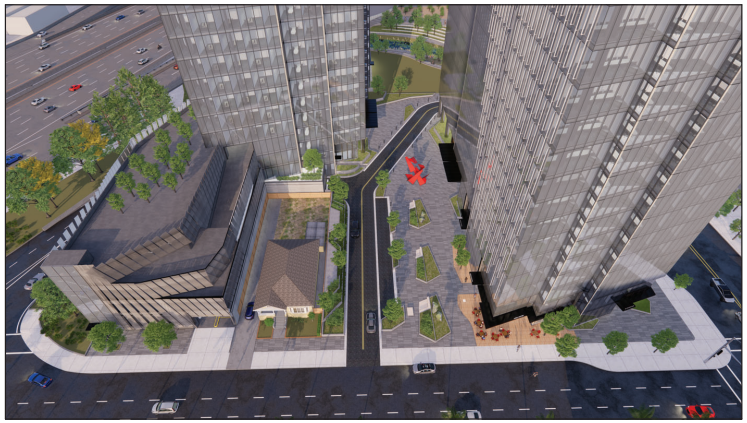

AERIAL PERSPECTIVE LOOKING DOWN INTO PLAZA FROM ABOVE ALMADEN BLVD.

AERIAL PERSPECTIVE LOOKING SOUTHEAST

STREET PERSPECTIVE LOOKING SOUTHEAST

STREET PERSPECTIVE LOOKING SOUTHWEST FROM ACROSS INTERSECTION OF WOZ WAY AND ALMADEN BLVD.

STREET PERSPECTIVE LOOKING SOUTH

STREET PERSPECTIVE LOOKING WEST FROM ALMADEN BLVD.

Source: C2K Architecture, 2021

Figure 5: Concept Rendering B

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PLAZA PERSPECTIVE LOOKING UP AT NORTH TOWER FACADE FROM PLAZA

SIDEWALK PERSPECTIVE LOOKING AT OFFICE LOBBY ENTRANCE ON WOZ WAY

PLAZA PERSPECTIVE LOOKING AT RETAIL STOREFRONT

PLAZA PERSPECTIVE LOOKING AT NORTH TOWER OFFICE LOBBY ENTRANCE

SIDEWALK PERSPECTIVE LOOKING WEST ACROSS PLAZA

PLAZA PERSPECTIVE LOOKING AT SOUTH TOWER OFFICE LOBBY ENTRANCE

Source: C2K Architecture, 2021

Figure 6: Concept Rendering C

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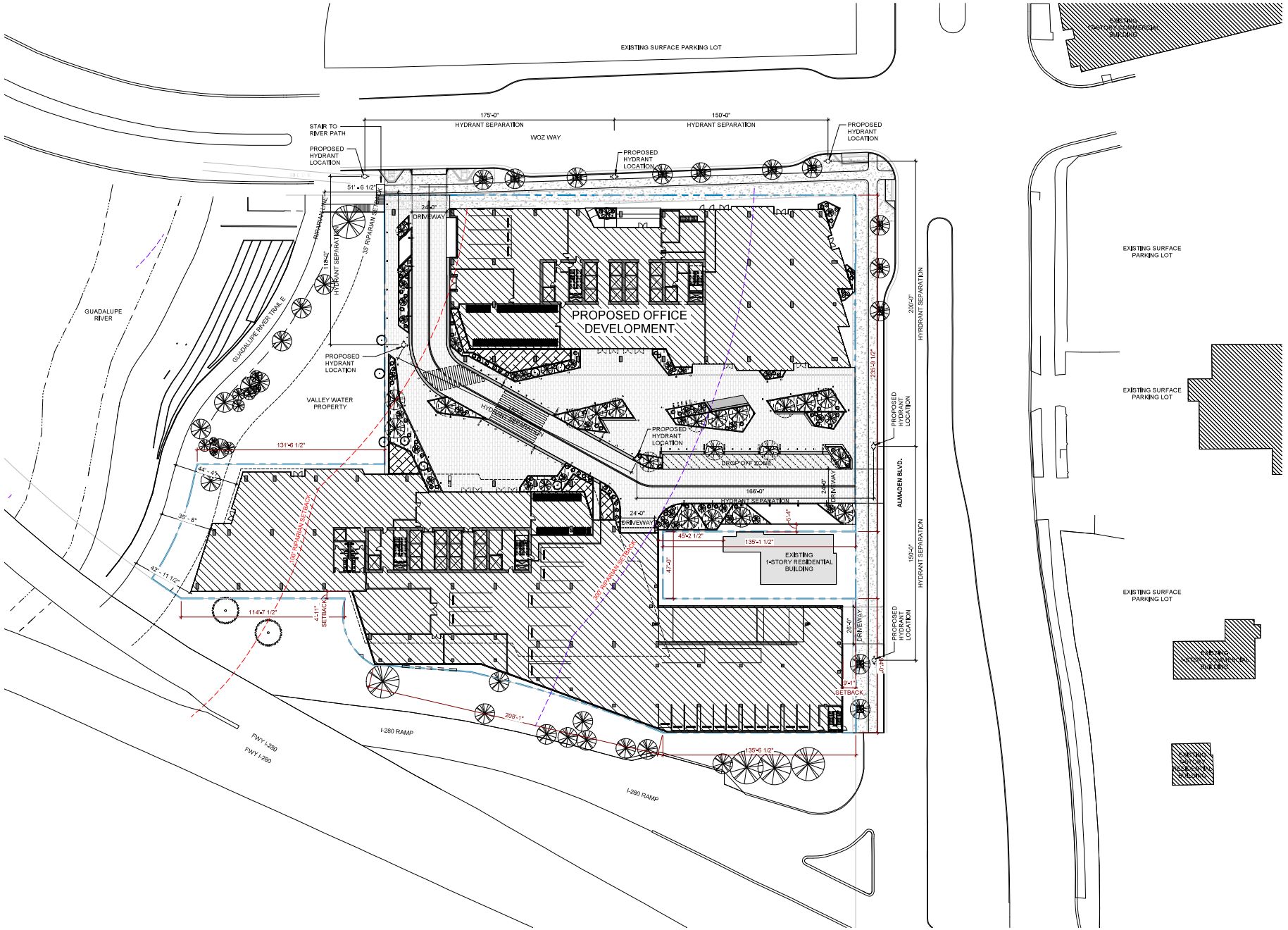

Source: C2K Architecture, 2021

Figure 7: Site Map

Woz Way Project

Not to scale

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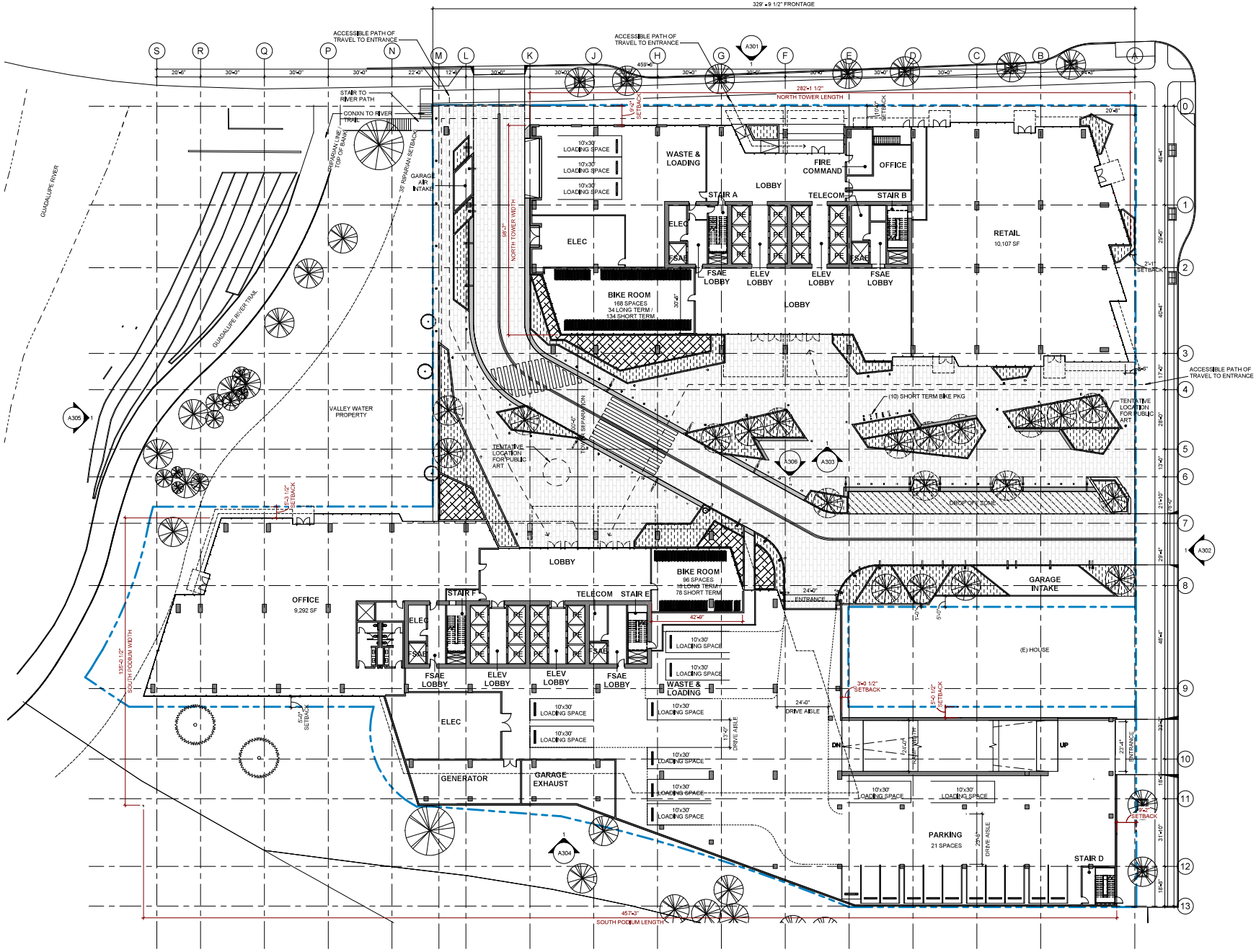

Source: C2K Architecture, 2021

Figure 8: Typical Ground Floor Plan

Woz Way Project

Not to scale

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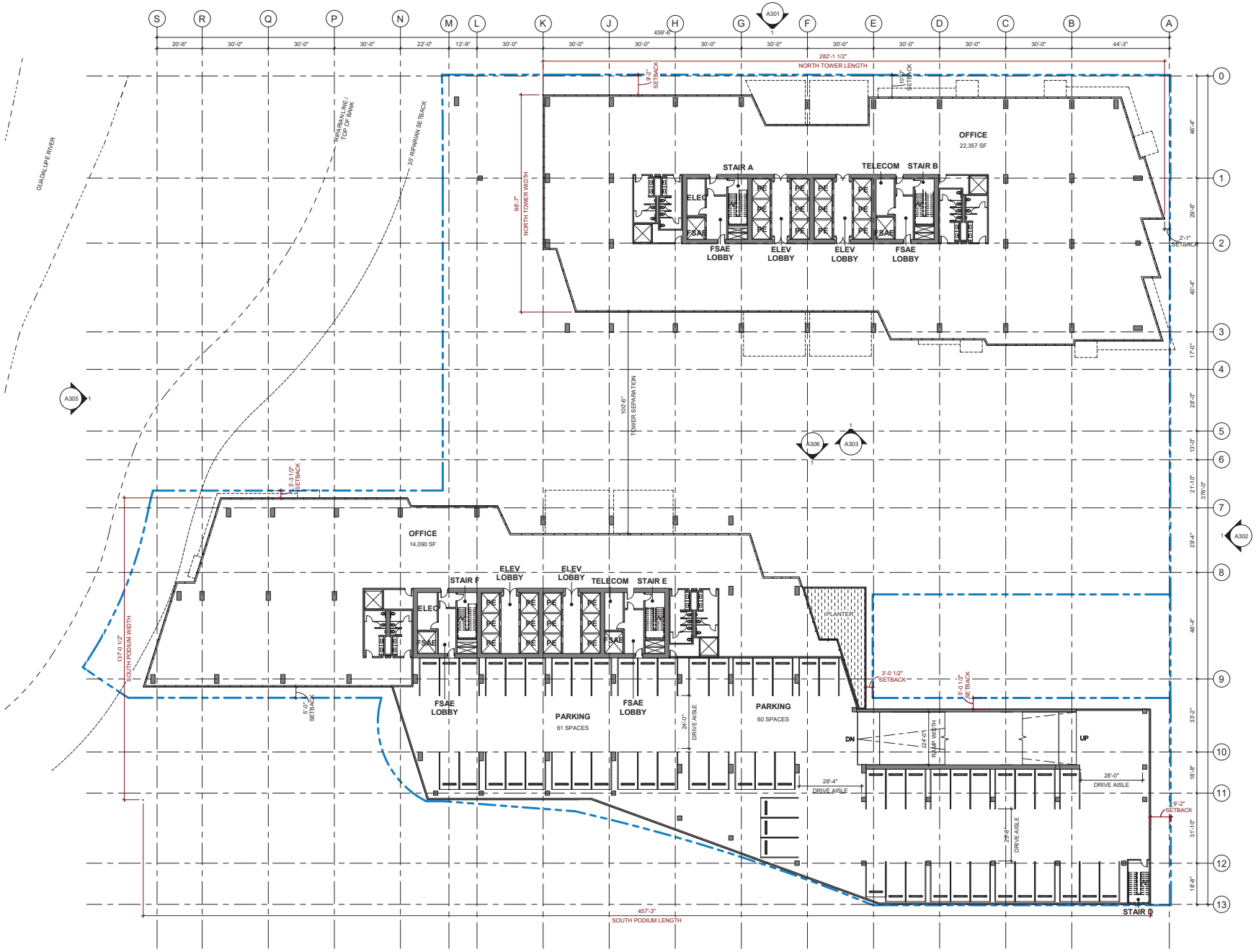

Source: C2K Architecture, 2021

Figure 9: Typical Office Floor Plan

Woz Way Project

Not to scale

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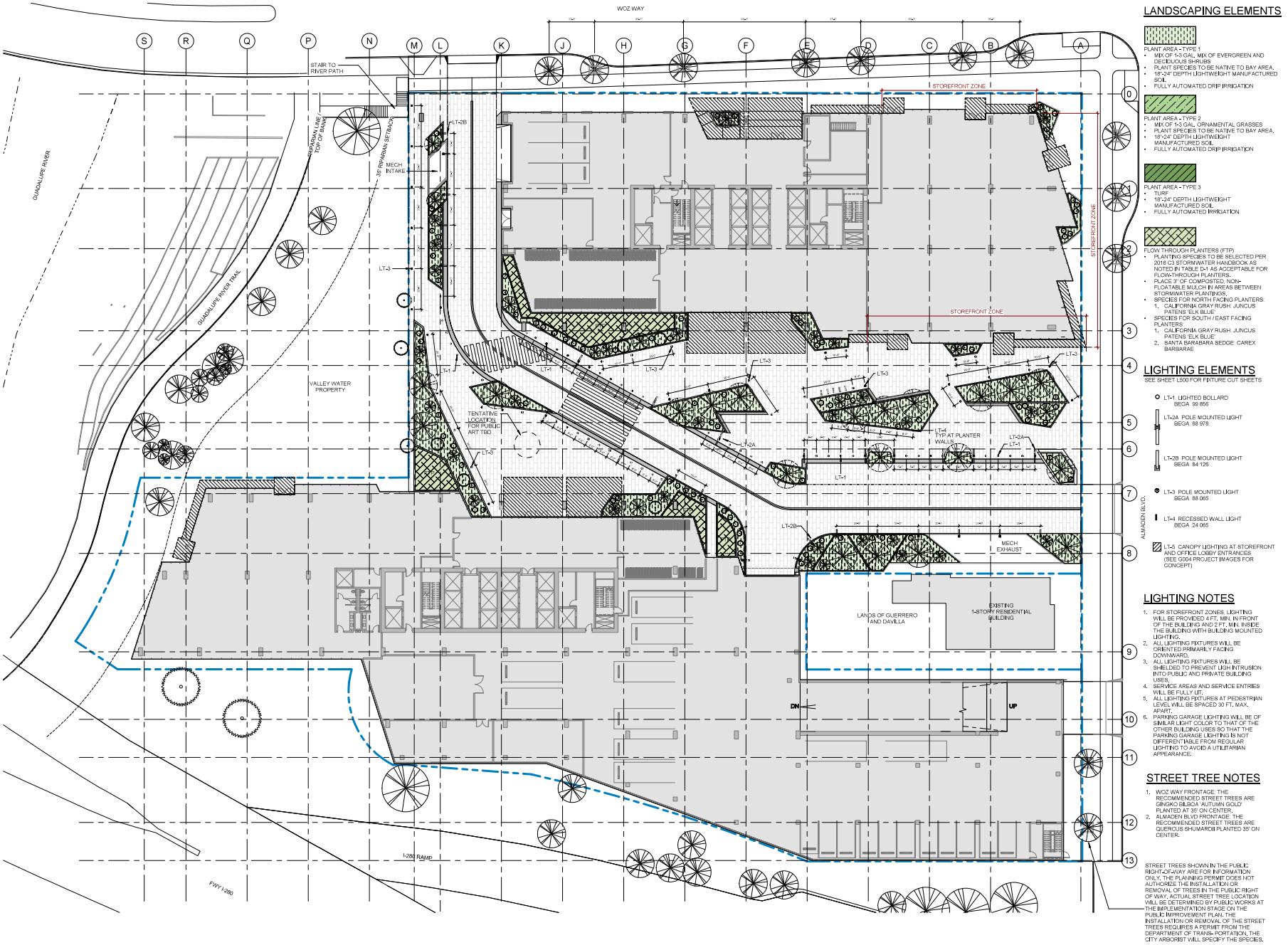

Source: C2K Architecture, 2021

Figure 10: Landscape Plan

Woz Way Project

Not to scale

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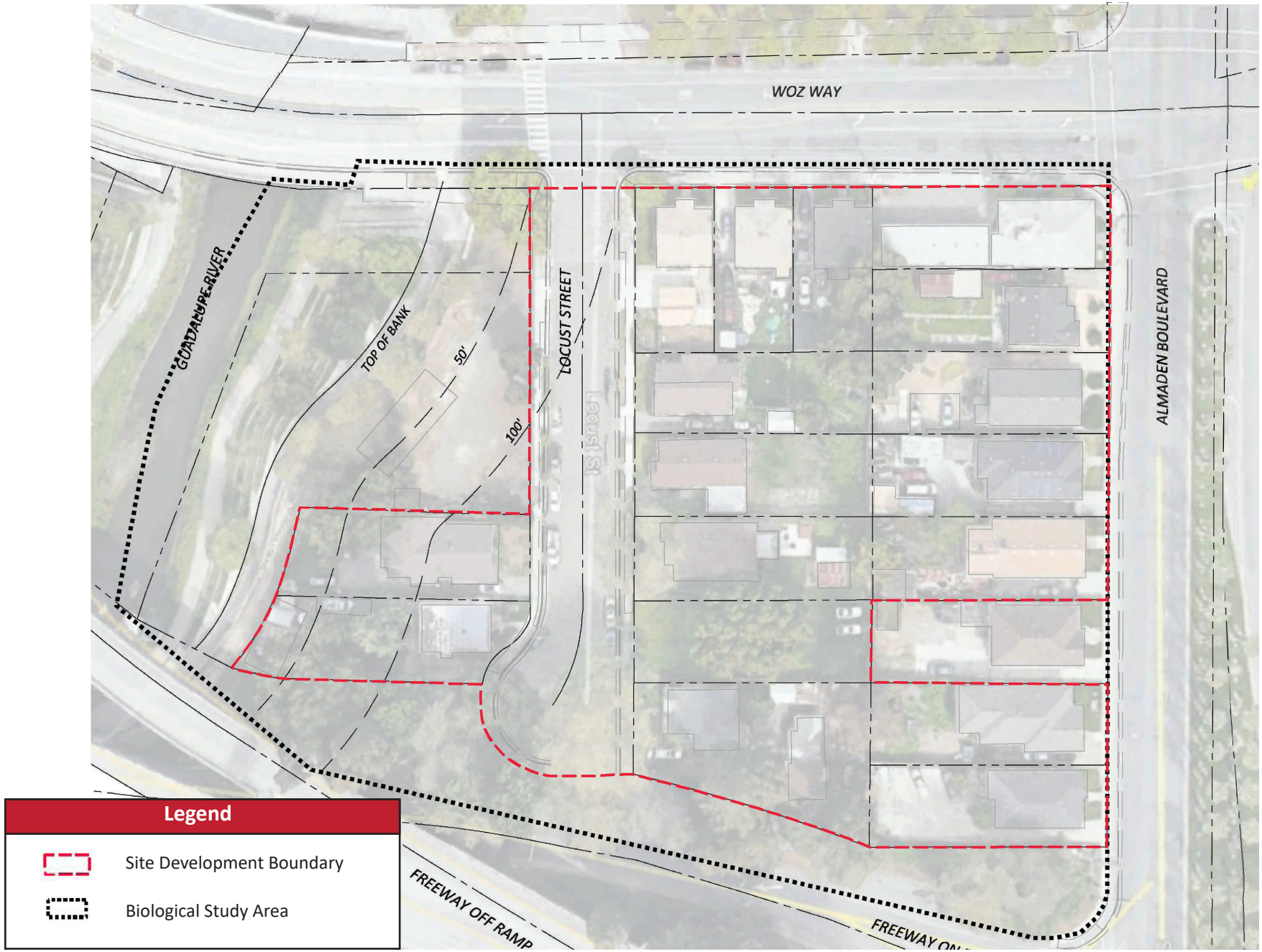

Source: Live Oak Associates Inc., 2020

Figure 11: Biological Study Area

Woz Way Project

Not to scale

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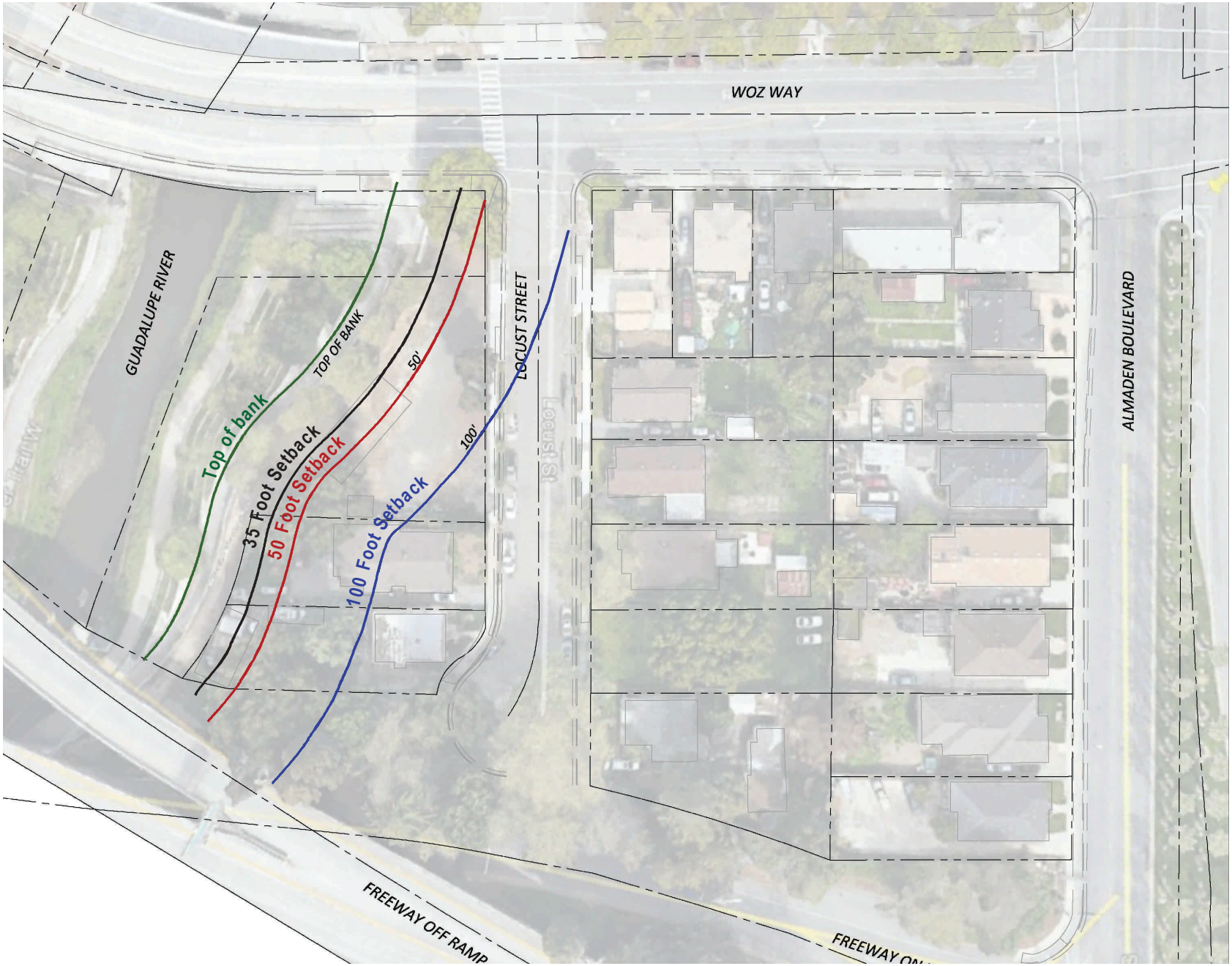

Source: Live Oak Associates Inc., 2020

Figure 12: Riparian Setback Zone

Woz Way Project

Not to scale

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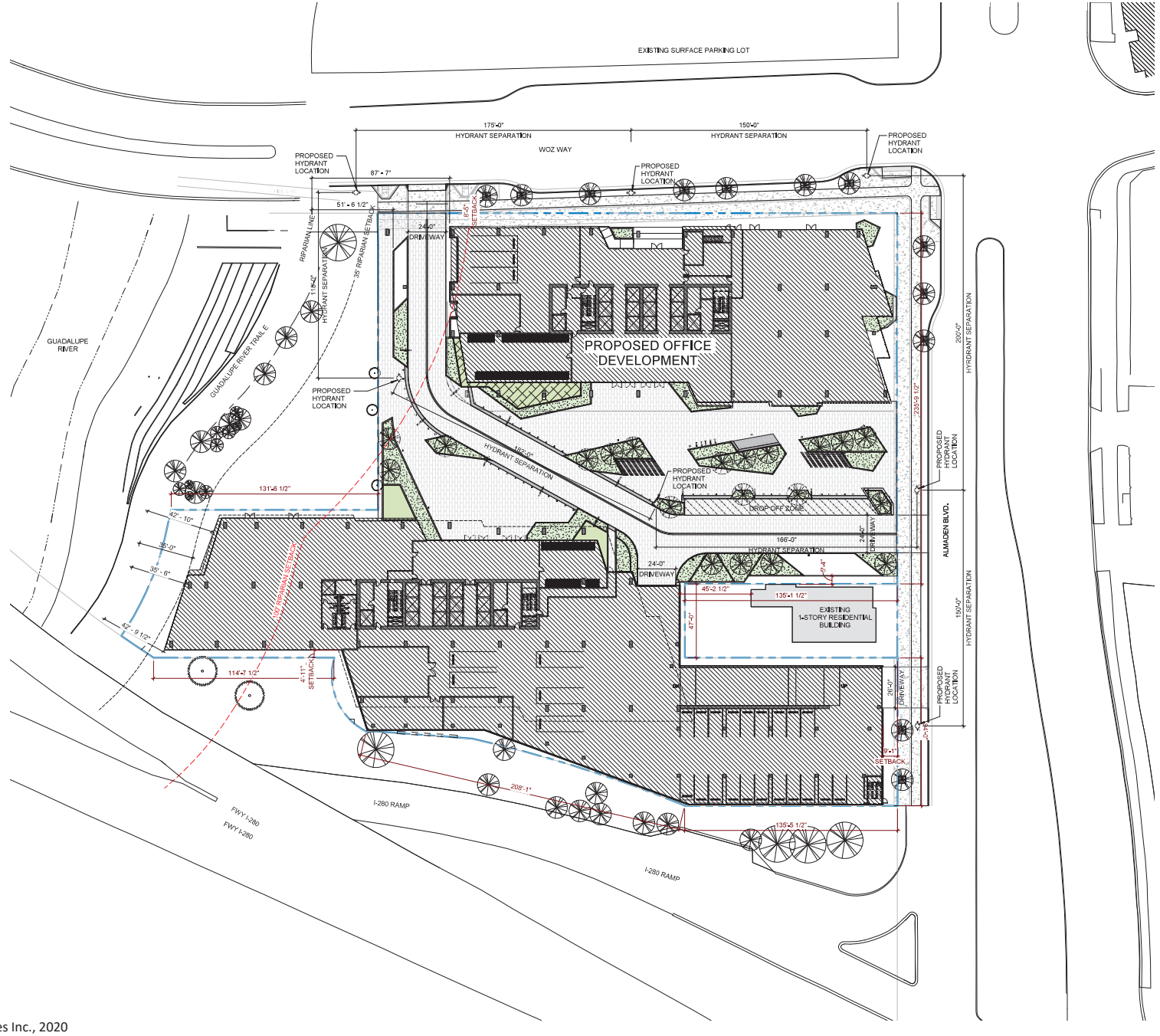

Source: Live Oak Associates Inc., 2020

Figure 13: Riparian Setback in Relation to the Project

Woz Way Project

Not to scale

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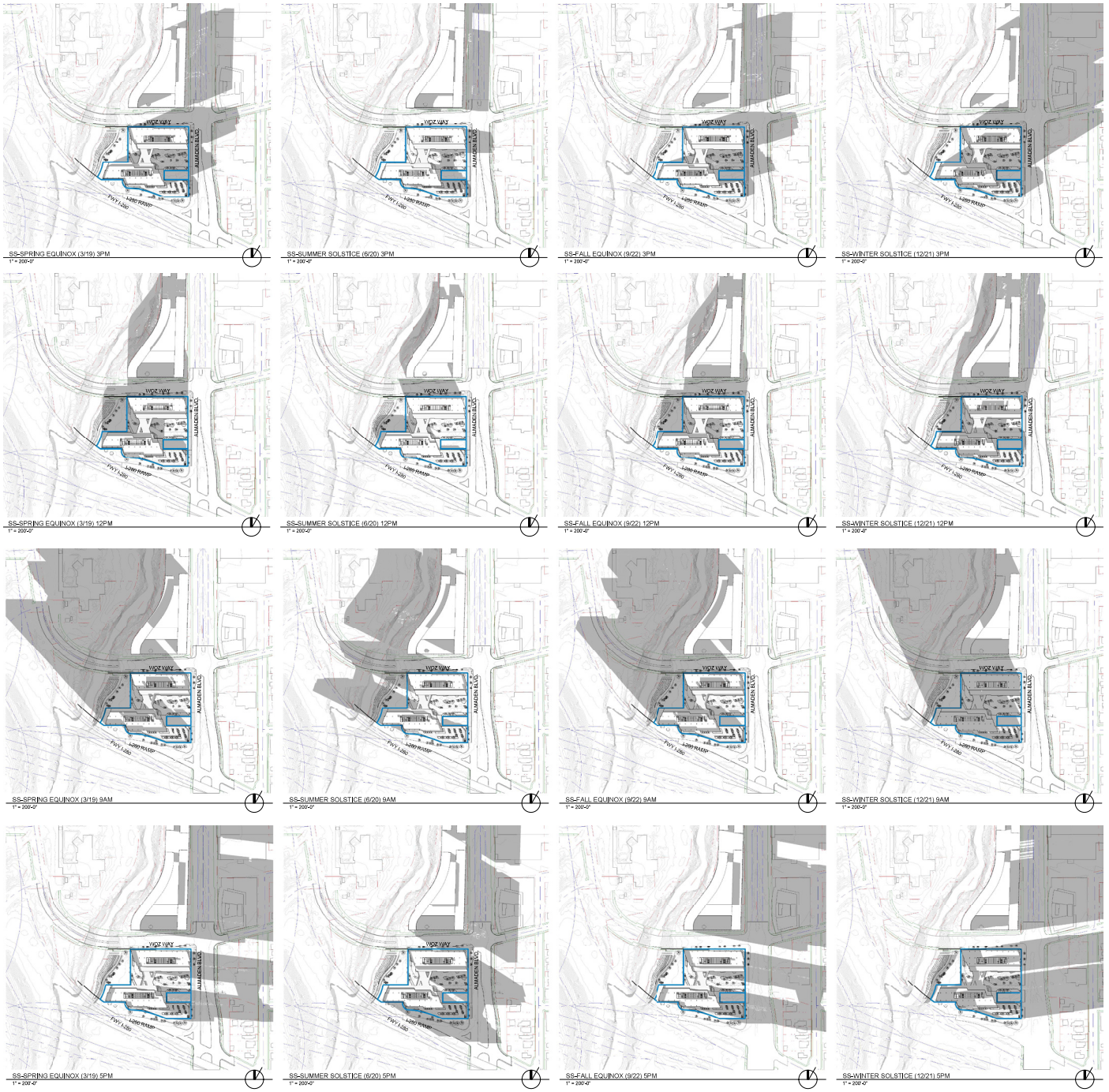

Source: C2K Architecture, 2020

Figure 14: Shade and Shadow

Woz Way Project

Not to scale

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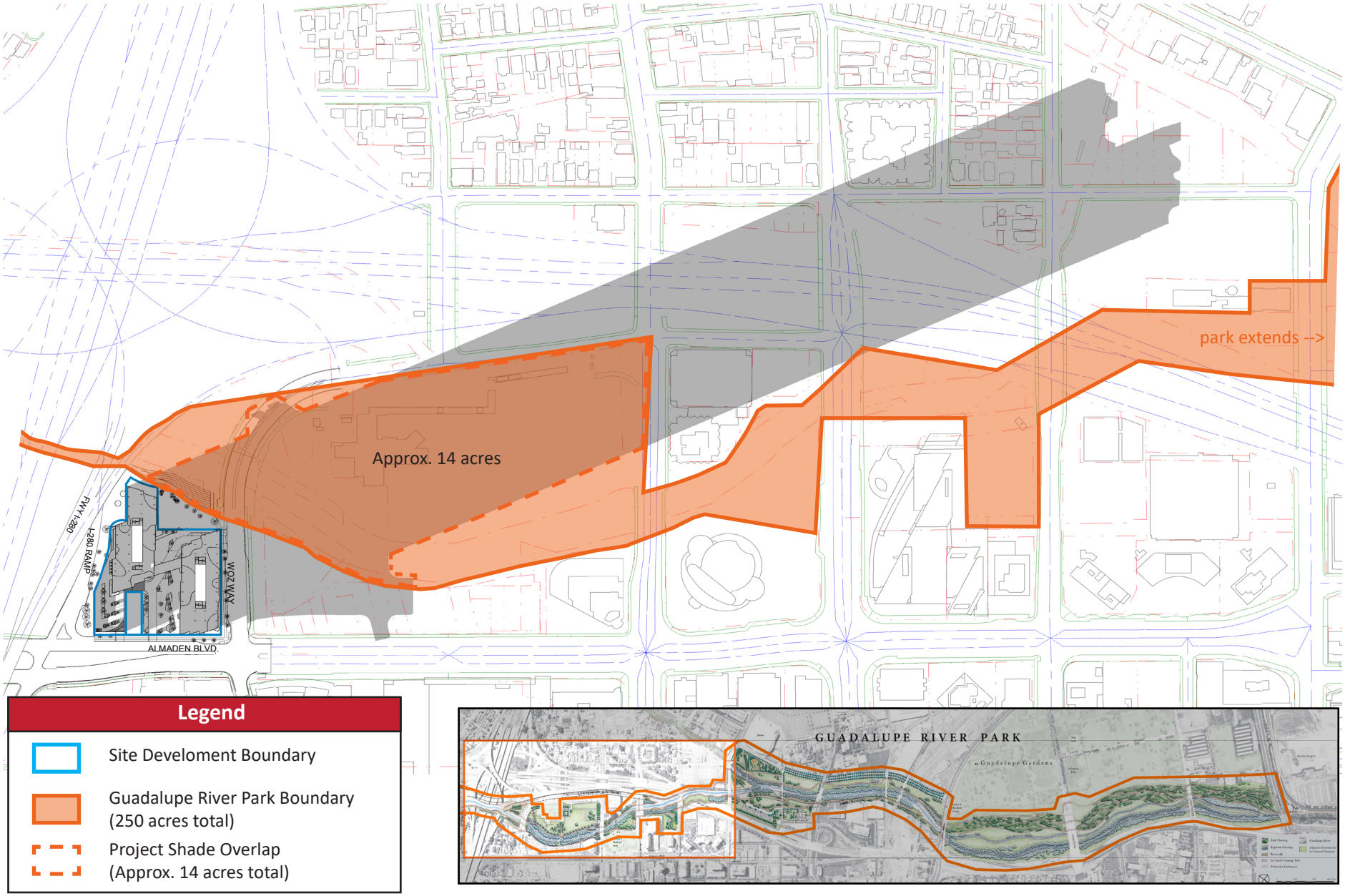

source: KH

Figure 15: Shade and Shadow at Guadalupe River Park, Winter Solstice

Woz Way Project

Not to scale

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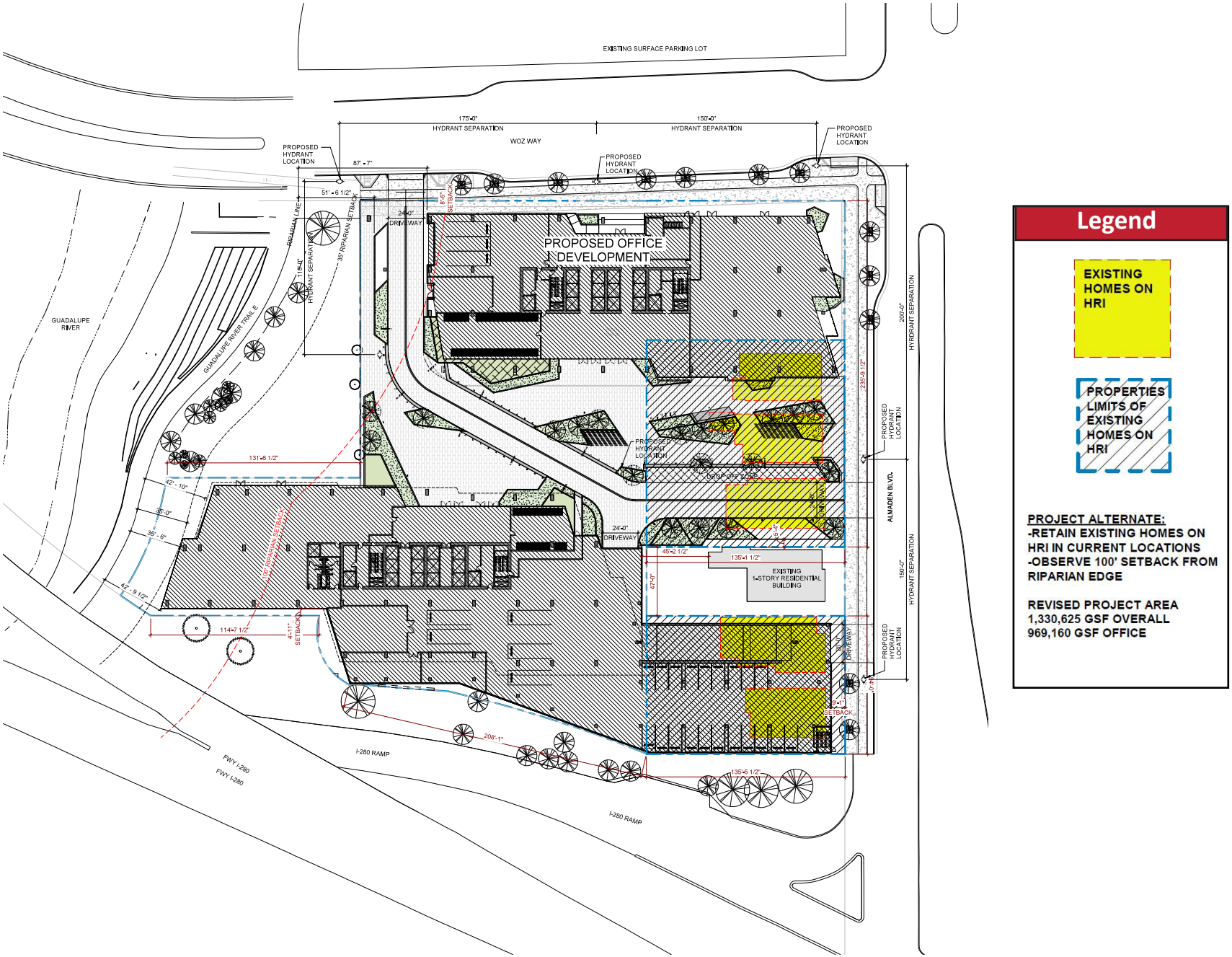

Source: C2K Architecture, 2020

Figure 16: Candidate City Landmark District in Relation to Project

Woz Way Project

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SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

As previously noted, this SEIR focuses on the potentially significant impacts to biological resources and historical resources. As described above in Section 2.0, the Project includes a GPA, which is necessary to allow for the proposed site development. The analysis contained in this SEIR evaluates the potential effects of both actions on the entire Project site. Sections 3.1 and 3.2 of this SEIR are structured as follows:

ENVIRONMENTAL SETTING

This subsection: describes the existing, physical environmental conditions at the Project site and in the surrounding area, as relevant.

REGULATORY FRAMEWORK

This subsection: provides a brief overview of relevant plans, policies, and regulations that comprise the regulatory framework for the Project.

IMPACT ANALYSIS

This subsection: 1) includes thresholds of significance for determining impacts, 2) discusses the Project's consistency with those thresholds, and 3) discusses the Project's consistency with applicable plans. 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). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact BIO-1** would denote the first impact discussed in the Biology section. Mitigation measures are numbered to correspond to the order they appear. For example, **Mitigation Measure BIO-1** would refer to the first mitigation measure introduced in the Biology section.

The Project's consistency with applicable plans (such as general plans, specific plans, and regional plans) is also discussed within this subsection pursuant to CEQA Guidelines Section 15125(d). As this Project is a Supplemental EIR to the Downtown Strategy 2040 FEIR, potential impacts are evaluated in conjunction with the previous conclusions made in that previously certified EIR. As such each impact discussion leads off with a statement that identifies whether the impact is greater than or less than what was previously identified in the Downtown Strategy 2040 FEIR. For example, a statement under impacts on archaeological resources would read: [Same Impact as Approved Project (Less Than Significant Impact)].

IMPORTANT NOTE TO THE READER

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed Project, which are also addressed in this section. This is consistent with one

of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss issues that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

Separately, it should be noted that the following analysis considers the Project's potential impacts with respect to biological resources and cultural resources. Both of these analyses focus on the direct and indirect impacts on physical resources. As described in Section 2.0, the Project proposes a GPA for a slightly larger area than the proposed Site Development Permit. The analysis contained below considers the entire Project site, including the whole of the GPA and the site development.

3.1 BIOLOGICAL RESOURCES

A Biological Technical Report has been prepared by Live Oak Associates, Inc. (November 2020) to address potential impacts to biological resources associated with implementation of the proposed Project. The following discussion is based on the Biological Technical Report, and the report is included as Appendix C of this SEIR.

ENVIRONMENTAL SETTING

The proposed Project site is located within the urbanized area of Downtown San José. The Project site is currently occupied by 17 single-family residences and is shown in Figure 3. There is existing landscaping and surface light fixtures along the frontages of the single-family residences. The Biological Technical Report studied the Project site plus the surrounding area, as shown in Appendix C and Figure 11. This biological study area, henceforth referred to as the biological study area, was conducted to reflect the maximum possible direct and indirect effects, which includes those effects located offsite, of the Project. The biological study area comprises the Project site, the adjacent Valley Water work yard and unpaved maintenance access road, a small City of San José parcel that contains public walkways and City trees, and an approximately 300-foot engineered section of the east bank of the Guadalupe River. The biological study area, as compared to the Project site, is shown in Figure 11.

TREES

Within the biological study area, there are 89 trees greater than 4 inches in diameter. Fifty-five (55) of these trees fall within the requirements specified by the City of San José tree ordinance. Of the 22 different species of trees over 4 inches in diameter identified, only five species are indigenous to California and only two species would be native to the biological study area. Table 2 below summarizes the trees within the biological study area.

The Project site is adjacent to an engineered bank of the Guadalupe River. The Project site has relatively level topography that slopes down slightly along the bank of the Guadalupe River. The site ranges in elevation from 80 to 95 feet. Current development in the Project area that is adjacent to the riparian corridor of the Guadalupe River includes one house approximately 60 feet from the top of bank, two back yards up to 20 feet from the top of bank, the Valley Water gravel storage yard including a chain-link fence and miscellaneous debris and materials approximately 20 feet from the riparian edge, a compacted gravel Valley Water maintenance road between the Valley Water storage yard and the riparian edge, hardscape of pedestrian sidewalks up to the top of bank near Woz Way, and the roadway and sidewalk of Locust Street within approximately 60 feet of the top of bank.

BIOTIC HABITATS

Two main land types occur within the Project site and vicinity. The primary land use type is developed land, primarily including residential development, roadways, sidewalks, driveways, outbuildings and mature landscaping. The second land use type, occurring to the west of the Project site, is the riparian corridor habitat of the Guadalupe River. This corridor has been highly engineered and includes paved walkways, terraced cement planting areas, and a paved Guadalupe River Trail.

In general, the developed land use type provides low habitat value for regionally occurring species. Landscaped trees of the Project site include non-native species such as the red buckeye (*Aesculus pavia*), pecan (*Carya illinoinesis*), Italian cypress (*Cupressus sempervirens*), juniper (*Juniperus sp.*), mulberry (*Morus alba*), London plane (*Platanus x acerifolia*), callery pear (*Pyrus calleryana*), and coast redwood (*Sequoia sempervirens*). A few native coast live oak (*Quercus agrifolia*) trees and one native California bay laurel (*Umbellularia californica*) are present within the Project site. One invasive tree, the tree-of-heaven

(*Ailanthus latissimus*), is also present within the Project site. The following shrubs are present on the Project site: Agapanthus sp., butterfly bush (*Buddleia davidii*), boxwood (*Buxus sp.*), blue plumbago (*Plumbago auriculata*), horticultural roses (*Rosa spp.*), hot lips sage (*Salvia microphylla*), and Arum lily (*Zantedeschia aethiopica*). Weedy species present within the developed land use type on the Project site include typical ruderal species such as spotted spurge (*Euphorbia maculata*), foxtail barley (*Hordeum murinum*), serrated lettuce (*Lactuca serriola*), and Johnson grass (*Sorghum halepense*). Other vegetation within the developed portion of the Project site consists of lawn areas.

Animal species observed on the Project site during the 2019 site visits by Live Oak Associates included the Anna's hummingbird (*Calipte anna*), rock pigeon (*Columba livia*), common crow (*Corvus brachyrhynchos*), black phoebe (*Sayornis nigricans*), feral cat (*Felis catus*) and domestic (pet) dog (*Canis lupus familiaris*). Species that are likely to occur within the Project area from time to time include the western fence lizard (*Sceloporus occidentalis*), deer mouse (*Peromyscus maniculatus*), Norway rat (*Rattus norvegicus*), black rat (*Rattus rattus*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), domestic cat, coyote (*Canis latrans*). Due to the proximity to the Guadalupe River, the Project site may also provide forage, cover, nesting, or migratory habitat for a number of avian species.

RIPARIAN HABITAT OF THE GUADALUPE RIVER

The Project site is located immediately adjacent to the Guadalupe River which flows, perennially, south to north (See Figure 13). A small amount of water was flowing slowly through the river channel during the biological assessment. LOA evaluated an approximately 300-foot section of the river that occurs closest to the Project site. The adjacent reach of riparian habitat of the Guadalupe River is highly disturbed by human inputs. The edge of the low-flow channel is armored with gabions. Weedy introduced ruderal plant species occur along the lower banks including non-native species such as Italian thistle (*Carduus pycnocephalus*), fennel (*Foeniculum vulgare*), bristly oxtongue (*Helminthotheca echioides*), serrated lettuce, spotted ladysthumb (*Persicaria maculosa*), and Harding grass (*Phalaris aquatic*). A small amount of water was flowing slowly through the river channel. Vegetation within the channel included watercress (*Nasturtium officinale*), cattails (*Typha spp.*), and a couple small willow (*Salix sp.*) saplings. The paved pedestrian trail of the Guadalupe River Trail runs adjacent to the channel passing under Woz Way to the north and under Interstate 280 to the south. The bank of the river includes terraced plantings within concrete and paver stone planter areas. Trees and shrubs that were planted within the planter areas include generally young/small native species such as the California bay laurel, Valley oak (*Quercus lobata*), coast live oak, and California grape (*Vitis californica*). Some of the weedy species that were observed within the planters includes the wild oat (*Avena sp.*), serrated lettuce, and wild radish (*Raphanus sativus*). The edge of the Guadalupe riparian area is demarcated with a flood wall. A significant amount of trash was observed within the banks and channel area of the river, and homeless encampments occur in high density within the general vicinity of this reach.

The edge of the Guadalupe River riparian area is demarcated with a flood wall, and there is significant flood control related cement infrastructure within the channel upstream and at the reach within the biological study area. This reach of riparian and riverine habitat occurs immediately adjacent to the highway interchange of Interstate 280 and Highway 87, which is one of the busiest interchanges in all of metropolitan San José, and it dominates approximately 60 acres of land immediately to the southwest. The interchange includes eight separate bridge crossings over the river just upstream from the subject reach crossings (permanently shading approximately 0.1 miles of the river). Downstream from the reach is a culvert bridge supporting an approximately 110-foot wide Woz Way and adjacent walking bridge overpass. Homeless encampments were observed in high density along the bank of the river and adjacent to and under the road infrastructure, and a significant amount of trash was observed within the banks and channel area of the river. Very little exposed soil is present within the reach or under any of the road infrastructure. No mature riparian vegetation is present, and planted riparian species are very sparse

relative to typical riparian vegetation.

While there are pockets of mature riparian vegetation upstream and downstream of the site, the Guadalupe River is a system that has been heavily impacted by its urban setting in the vicinity of the development site. Regardless, many common species are known to use this river as part of their home range and/or as a movement corridor; however, it likely that this usage is highly limited by the human inputs described above.

The Guadalupe River is known to provide habitat for several species of fish including the Sacramento sucker juveniles (*Catostomus occidentalis occidentalis*), prickly sculpin (*Cottus asper*), rifle sculpin (*Cottus gulosus*), Pacific lamprey (*Entosphenus tridentatus*), California roach (*Hesperoleucus symmetricus*), and Central California Coast steelhead (*Oncorhynchus mykiss*). Non-native fish, including the white bullhead catfish (*Ameiurus catus*), green sunfish (*Lepomus cyanellus*), and largemouth bass (*Micropterus salmoides*), also occur in the Guadalupe River. Riparian systems can serve as dispersal or movement corridors and islands of habitat for many species of wildlife that are adapted to urban creeks. Animals observed along the Guadalupe riparian corridor include a red-tailed hawk (*Buteo jamaicensis*), evidence of cliff swallow (*Petrochelidon pyrrhonota*) nesting under Woz Way, Anna's hummingbird, black phoebe, and a feral cat. Numerous additional species of birds are likely to occur within the riparian corridor, and several reptilian, amphibian, and mammalian species would also use the riparian habitats of the creek. Species expected to occur in the riparian habitat include the pacific treefrog (*Hyla regalia*), western fence lizard (*Sceloporus occidentalis*), non-native red-eared slider (Trachemys scripta elegans), western pond turtle (*Actinemys marmorata*), deer mouse, non-native rats, brush rabbit (*Sylvilagus bachmani*), non-native eastern gray squirrel (*Sciurus carolinensis*), Botta's pocket gopher (*Thomomys bottae*), California ground squirrel (*Otospermophilus beechyi*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), and coyote (*Canis latrans*).

In general, the adjacent reach of the Guadalupe River does not offer high quality foraging, breeding, or cover habitat for local species. Species are not expected to occur in high numbers within the reach adjacent to the development site, but the species discussed above would be expected to utilize the reach as an important migratory corridor.

MOVEMENT CORRIDORS

Movement corridors, or landscape linkages, are usually linear habitats that connect two or more habitat patches, providing assumed benefits to the species by reducing inbreeding depression, and increasing the potential for recolonization of habitat patches. Habitat corridors are vital to terrestrial animals for connectivity between core habitat areas (i.e., larger intact habitat areas where species make their living). Connections between two or more core habitat areas help ensure that genetic diversity is maintained, thereby diminishing the probability of inbreeding depression and geographic extinctions. This is especially true in fragmented landscapes and the surrounding urbanized areas as found in the rural/urban matrix along the edges of the City of San José. Movement corridors in California are typically associated with valleys, rivers and creeks supporting riparian vegetation, and ridgelines. With increasing encroachment of humans on wildlife habitats, it has become important to establish and maintain linkages, or movement corridors, for animals to be able to access locations containing different biotic resources that are essential to maintaining their life cycles.

The Project site itself is not a movement corridor, and it does not provide the functions and values of a habitat corridor because it is entirely developed with urban uses and is not a linkage between two habitat areas. However, the Project site is immediately adjacent to the highly degraded reach of riparian corridor of the Guadalupe River. The adjacent reach of the river itself offers low habitat value to regional wildlife in the form of forage, cover, and breeding/roosting habitat, but the Guadalupe River is an important regional habitat linkage for many species. Many fish species may use the Guadalupe River including the

steelhead and the chinook salmon (*Oncorhynchus tshawytscha*). Many bird species use the Guadalupe River for movement and foraging habitat. In general, the Guadalupe River is expected to act as a movement corridor for many common local species.

SPECIAL STATUS PLANTS

The Project site is an urban residential area that has been completely graded and developed. No natural plant communities are present within the Project site. Of the species of special status plants that occur within the Santa Clara Valley, the Biological Technical Report determined that no special status plant species would occur within the Project site.

SPECIAL STATUS ANIMALS

Thirty-two (32) special status animal species occur, or once occurred, in the biological study area (as shown in Figure 11). Of these, 28 species would be absent or unlikely to occur on the Project site due to a lack of suitable habitat for these species. These species include the crotch bumble bee, western bumble bee, Coho salmon, steelhead, longfin smelt, California black salamander, California tiger salamander, California red-legged frog, foothill yellow-legged frog, coast horned lizard, Northern California legless lizard, western pond turtle, California least tern, western snowy plover, golden eagle, western burrowing owl, Swainson's hawk, northern harrier, white-tailed kite, western yellow-billed cuckoo, tricolored blackbird, black swift, saltmarsh common yellowthroat, California yellow warbler, Alameda song sparrow, San Francisco dusky-footed woodrat, American badger, and ringtail. Of these, the steelhead and western pond turtle are known to occur adjacent to the Project site within the Guadalupe River channel, but neither would be expected to move onto the Project site due to the absence of aquatic habitat (for steelhead) and unsuitable basking habitat for the pond turtle within the Project site. The Project site itself is not considered to be habitat for any of these 28 species.

The four remaining special status animal species with a history of occurrence in the Project vicinity include the American peregrine falcon, purple martin, pallid bat, and Townsend's big-eared bat. The American peregrine falcon is known to occur within urban downtown San José, but nesting habitat is currently lacking from the Project site. At most, the site may provide limited foraging habitat and perching habitat for the falcon, and buildout of the Project site could actually increase foraging and/or nesting habitat for the falcon in the form of creating an artificial cliff (i.e., a high-rise building) that this species has been known to utilize effectively. The purple martin could nest in tree cavities of the Project site, building crevices, or cement weepholes in adjacent bridges, and it may forage over the Project site or adjacent riparian habitat. The two bat species could potentially occur more frequently as foragers, transients, or residents to the Project site. No evidence of bats was observed during reconnaissance surveys, but potentially suitable roosting habitat was observed within the residential structures of the Project site. If individual Townsend's big-eared bats and pallid bats were to be present within the buildings of the Project site, they could potentially be impacted during building demolition.

JURISDICTIONAL WATERS

No jurisdictional waters or wetlands occur on the Project site and the Project is not expected to impact the bed or bank of the Guadalupe River, which occurs immediately adjacent to the site.

REGULATORY FRAMEWORK

FEDERAL AND STATE

Threatened and Endangered Species

State and federal "endangered species" legislation has provided the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal Endangered Species Acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society are collectively referred to as "species of special status." Permits may be required from both the CDFW and USFWS if activities associated with a proposed project will result in the take of a listed species. 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" said species (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species (16 USC, Section 1532(19), 50 CFR, Section 17.3). Furthermore, the CDFW and the USFWS are responding agencies under the California Environmental Quality Act (CEQA). Both agencies review CEQA documents in order to determine the adequacy of their treatment of endangered species issues and to make project-specific recommendations for their conservation.

Migratory Bird Treaty Act

Migratory birds, including raptors (i.e., birds of prey) are protected by the Migratory Bird Treaty Act (MBTA). The MBTA prohibits killing, possessing, or trading in migratory birds, except under the terms of a valid permit issued pursuant to Federal regulations. The MBTA protects whole birds, parts of birds, bird nests, and eggs.

Wetlands and Other "Jurisdictional Waters"

Section 404 of the federal Clean Water Act (CWA) regulates the discharge of dredged or fill material into "navigable waters" (33 U.S.C. §1344), which the CWA defines as "the waters of the United States, including the territorial seas" (33 U.S.C. §1362(7)). The CWA does not provide a definition for waters of the U.S., and that has been the subject of considerable debate since the Act's passage in 1972. A variety of regulatory definitions have been promulgated by the two federal agencies responsible for implementing the CWA, the Environmental Protection Agency (EPA) and USACE. These definitions have been interpreted, and in some cases, invalidated, by federal courts.

In 2015, the EPA and USACE jointly issued the Clean Water Rule (CWR), providing a synthesized definition of waters of the U.S. based on statute, science, and federal court decisions to date. Subsequent litigation delayed implementation of the CWR. However, in August 2018, the CWR was enjoined in 22 states including California.

On September 12, 2019 the EPA and USACE repealed the 2015 CWR. However, new definitions of what constitutes a water of the U.S. have not been presented by the EPA or USACE. Furthermore, the repeal does not become effective until 60 days after the September publication of the appeal in the Federal Register. Therefore, at the time of this analysis the CWR is still in effect. However, this will soon change.

The CWR defines waters of the U.S. to include the following:

> (a)(1) Waters: All waters used in interstate or foreign commerce (also known as traditional navigable waters), including all waters subject to the ebb and flow of the tide;
>
> (a)(2) Waters: All interstate waters including interstate wetlands;

(a)(3) Waters: The territorial seas;

(a)(4) Waters: All impoundments of Waters of the U.S.;

(a)(5) Waters: All tributaries of (a)(1)-(a)(4) waters, where "tributary" refers to a water (natural or constructed) that contributes flow to another water and is characterized by the physical indicators of a bed and bank and an ordinary high water (OHW) mark;

(a)(6) Waters: Adjacent waters, defined as either (a) located in whole or in part within 100 feet of the OHW mark of (a)(1)-(a)(5) waters, or (b) located in whole or in part within the 100-year floodplain and within 1,500 feet of the OHW mark of (a)(1)-(a)(5) waters;

(a)(7) Waters: Western vernal pools, prairie potholes, Carolina bays and Delmarva bays, pocosins, and Texas coastal prairie wetlands, if determined on a case-specific basis to have a significant nexus to (a)(1)-(a)(3) waters;

(a)(8) Waters: Waters that do not meet the definition of adjacency, but are determined on a case-specific basis to have a significant nexus to (a)(1)-(a)(3) waters, and are either located in whole or in part within the 100-year floodplain of (a)(1)-(a)(3) waters, or located within 4,000 feet of the OHW mark of (a)(1)-(a)(5) waters.

The CWR also redefines exclusions from jurisdiction, which include:

(b)(1) Waters: Waste treatment systems;

(b)(2) Waters: Prior converted cropland;

(b)(3) Waters: Three types of ditches. A ditch may be a water of the U.S. only it if meets the definition of "tributary" and is not otherwise excluded under the provisions below.

(i) Ditches with ephemeral flow that are not a relocated or excavated tributary;

(ii) Ditches with intermittent flow that are not a relocated or excavated tributary or that do not drain wetlands;

(iii) Ditches that do not flow, either directly or through another water, to an (a)(1)-(a)(3) water.

(b)(4) Waters: Other aquatic features:

- Artificially irrigated areas that would revert to dry land should application of irrigation water to that area cease.
- Artificially constructed lakes or ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, log cleaning ponds, cooling ponds, or fields flooded for rice growing.
- Artificial reflecting pools or swimming pools created in dry land.
- Small ornamental waters created in dry land for primarily aesthetic reasons.
- Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand or gravel that fill with water.
- Erosional features, including gullies, rills and other ephemeral features that do not meet the definition of a tributary; non-wetland swales; and lawfully constructed grassed waterways.
- Puddles.

(b)(5) Waters: Groundwater and artificially constructed subsurface drainage systems in dry land;

(b)(6) Waters: Stormwater control features constructed to convey, treat, or store stormwater created in dry land. Does not include features that possess perennial flow, even if constructed in dry land.

All activities that involve the discharge of dredge or fill material into waters of the U.S. are subject to Section 404 permit requirements of the USACE. Such permits are typically issued on the condition that the applicant agrees to provide mitigation that result in no net loss of wetland functions or values. No permit can be issued until the RWQCB issues a Section 401 Water Quality Certification (or waiver of such certification) verifying that the proposed activity will meet state water quality standards.

Under the Porter-Cologne Water Quality Control Act of 1969, the State Water Resources Control Board has regulatory authority to protect the water quality of all surface water and groundwater in the State of California ("Waters of the State"). Nine RWQCBs oversee water quality at the local and regional level. The RWQCB for a given region regulates discharges of fill or pollutants into Waters of the State through the issuance of various permits and orders. Discharges into Waters of the State that are also Waters of the U.S. require a Section 401 Water Quality Certification from the RWQCB as a prerequisite to obtaining certain federal permits, such as a Section 404 Clean Water Act permit. Discharges into all Waters of the State, even those that are not also Waters of the U.S., require Waste Discharge Requirements (WDRs), or waivers of WDRs, from the RWQCB. The RWQCB also administers the Construction Storm Water Program and the federal National Pollution Discharge Elimination System (NPDES) program. Projects that disturb one or more acres of soil must obtain a Construction General Permit under the Construction Storm Water Program. A prerequisite for this permit is the development of a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer. Projects that discharge wastewater, storm water, or other pollutants into a Water of the U.S. may require a NPDES permit. CDFW has jurisdiction over the bed and bank of natural drainages and lakes according to provisions of Section 1601 and 1602 of the California Fish and Game Code. Activities that may substantially modify such waters through the diversion or obstruction of their natural flow, change or use of any material from their bed or bank, or the deposition of debris require a Notification of Lake or Streambed Alteration. If CDFW determines that the activity may adversely affect fish and wildlife resources, a Lake or Streambed Alteration Agreement will be prepared. Such an agreement typically stipulates that certain measures will be implemented to protect the habitat values of the lake or drainage in question.

REGIONAL

Santa Clara Valley Habitat Plan/ Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The SCVHCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Project site is located within the boundaries of the SCVHCP and is designated Urban- Suburban which comprises of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures.

CITY OF SAN JOSÉ

City of San José Tree Ordinance

The City of San José tree ordinance (Chapter 13.32 of the Municipal Code) regulates the removal of trees. A tree removal permit is required by the City prior to the removal of any trees covered under the ordinance. An "ordinance-size tree" is:

- a single trunk measuring 38 inches or more in circumference at the height of 54 inches (i.e., 4 ½ feet) above natural grade; or
- a multi-trunk with combined measurements of each trunk circumference at 54 inches (i.e. 4 ½ feet) above natural grade adding up to 38 inches or more.

On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Tree removal 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.

The City's Heritage Tree List identifies more than 100 trees with special significance to the community because of their size, history, unusual species, or unique quality. Pursuant to Chapter 13.28 of the San José Municipal Code, it is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

Riparian Corridor Protection and Bird-Safe Design (Policy 6-34)

Riparian habitats have high conservation value due to their importance for water quality, biological diversity, and/or habitat connectivity. Historically, riparian habitats throughout the west have been substantially altered and degraded. As such, cities, counties and other land planning agencies throughout the west have given high priority to preserving functioning riparian systems by establishing suitable setbacks to lessen indirect effects from construction of new roads and associated development on existing riparian habitats.

Relevant to the proposed project, the conditions of the Santa Clara Valley Habitat Plan (SCVHP) and the City of San José's Council Policy 6-34 (Council Policy 6-34), and the City's Envision 2040 General Plan (2040 Plan) address riparian setback distances between extant riparian habitat and planned development. The following content addresses the proposed setback with respect to the SCVHP, Council Policy 6-34, and the 2040 Plan.

City of San José General Plan

The City's General Plan includes the following biological resource policies applicable to the project:

Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).

Policy ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Policy ER-2.3: Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

Policy ER-2.4: When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.

Policy ER-2.5: Restore riparian habitat through native plant restoration and removal of nonnative/invasive plants along riparian corridors and adjacent areas.

Policy 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 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.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy ER-6.3: Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.

Policy ER-6.5: Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.

Policy ER-6.7: Include barriers to animal movement within new development and, when possible, within existing development, to prevent movement of animals (e.g., pets and wildlife) between developed areas and natural habitat areas where such barriers will help to protect sensitive species.

Policy ER-6.8: Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.

Policy 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.

Policy 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.

Policy MS-21.6: As a condition of new development, require, where appropriate, 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.

Policy 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.

Policy MS-21.8: For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

- Avoid conflicts with nearby power lines.
- Avoid potential conflicts between tree roots and developed areas. • Avoid use of invasive, non-native trees.
- Remove existing invasive, non-native trees.
- Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
- Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

Policy MS-21.9: Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree species native to the area and propagated from local sources (generally from within 5-10 miles and preferably from within the same watershed).

Policy IN-1.11: Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.

Policy 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.

IMPACT ANALYSIS

THRESHOLDS OF SIGNIFICANCE

For the purposes of this EIR, a biological resources impact is considered significant if the Project would:

1) 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 Game or U.S. Fish and Wildlife Service;
2) 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 California Department of Fish and Game or US Fish and Wildlife Service;
3) 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;
4) 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;

5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or

6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

BIOLOGICAL RESOURCE IMPACTS IDENTIFIED IN THE DOWNTOWN STRATEGY 2040 FEIR

According to the Downtown Strategy 2040 FEIR, development of the downtown area would result in less than significant biological impacts. The Downtown Strategy 2040 FEIR found that the only sensitive natural communities in the vicinity of the Downtown area are the riparian forest and aquatic habitats within the corridors of Los Gatos Creek and the Guadalupe River. The Downtown Strategy 2040 does not propose any direct modifications to the creek or river, with the possible exception of replacing or installing outfalls or siphons, if required to serve new development. Any work within the banks of Los Gatos Creek or the Guadalupe River would require permits from the SCVWD, USACE, RWQCB, and/or CDFW. It is assumed that temporary impacts to the waterways would be avoided by restricting all work within the banks to the dry season, staging construction equipment in upland and/or currently developed areas, and implementing water quality best management practices (BMPs) and any permit conditions.

The wildlife currently inhabiting the riparian corridors in Downtown is habituated to high levels of disturbance due to the proximity of urban development. Even though the riparian habitat is relatively degraded, these areas are important because they offer natural cover, food, water, and nest sites for a variety of birds and mammals, as well as protect, cool, and enrich aquatic habitats. The riparian habitats also support special status species and serve as important migration corridors for birds and fish. Due to the sensitivity of riparian habitat, intensification of urban development in the vicinity of the Guadalupe River and Los Gatos Creek could result in a substantial adverse effect. Additionally, homeless persons are known to live or camp in urban riparian corridors in San José, trampling sensitive habitat, disrupting wildlife, and leaving behind trash. The Downtown Strategy's effect on the homeless population within the Downtown area is uncertain. While the homeless population could increase as a function of overall population growth, construction of midrise buildings adjacent to the creeks and an increase in trail use could cause homeless people to relocate to more isolated areas. A reduction in people living in the riparian corridors could make the area more suitable for nocturnally active wildlife and reduce habitat degradation, although adverse effects of adjacent urban development could offset this biological benefit. Implementation of the 2040 General Plan policies and existing regulations will substantially reduce direct and indirect impacts to riparian habitat resulting from increased human activity and result in less than significant impacts to riparian corridors.

Hawks, owls, and other tree nesting raptors such as Cooper's Hawks could nest in the larger trees and forage in the riparian corridor and nearby open areas. The trees present in Downtown represent a small portion of the suitable nesting and foraging habitat available for these species regionally. Therefore, it is anticipated that the removal of existing trees resulting from redevelopment activities would have no measurable effect on regional populations. Raptors and migratory birds are, however, protected under the Federal MBTA and/or the California Fish and Game Code. Construction-related disturbances (such as the generation of loud noises) have the potential to "take" nests, eggs, or individuals, and otherwise lead to the abandonment of nests. Disturbance that causes nest abandonment or destruction of nests would be considered a significant impact. Additionally, although special status bats species (i.e., Western red bat, Pallid bat, and Townsend's big-eared bat) are not likely to occur in the Downtown area, impacts to trees or structures such as bridges, overpasses, building attics, or abandoned buildings with large enclosed spaces could adversely affect bats, if present. Implementation of the 2040 General Plan policies and mitigations would ensure a less than significant impact to protected birds and bats.

The following impact analysis evaluates the Project's potential to result in biological impacts.

BIO-1	***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 California Department of Fish and Game or U.S. Fish and Wildlife Service?*** ***[Same Impact as Approved Project (Less Than Significant with Mitigation)]***

SPECIAL STATUS PLANTS

Same Impact as Approved Project, Less Than Significant. The Biological Technical Report revealed no special status plant species that would occur within the Project site, due to lack of suitable habitat and from complete disturbance of the natural habitats of the Project site over the years. Thus, it is anticipated that impacts to special status plants would be less than significant.

SPECIAL STATUS ANIMALS

Same Impact as Approved Project, Less Than Significant with Mitigation. The Biological Technical Report identified 32 special status animal species that occur, or once occurred, in the Project vicinity. Of these, 28 species were determined to be absent or unlikely to occur on the Project site due to a lack of suitable habitat for these species. Of these, only the steelhead and western pond turtle are known to occur adjacent to the Project site within the Guadalupe River channel, but neither would be expected to move onto the Project site due to the absence of aquatic habitat (for steelhead) and unsuitable basking habitat for the pond turtle. As identified in the Biological Technical Report, the Project site itself is not considered to be habitat for any of these twenty-nine species.

The four remaining special status animal species with potential to occur on the Project site include the American peregrine falcon, purple martin, pallid bat, and Townsend's big-eared bat. While the American peregrine falcon, purple martin, Townsend's big-eared bat, and pallid bat could use the Project site, or areas near the Project site, as habitat, the Project site does not support unique or important habitat for any of these species. Therefore, the Project is expected to result in a less-than-significant impact to the loss of habitat for all of the special status animal species.

However, despite the lack of unique or important on-site habitat, bats could forage within the Project site, and the existing buildings on the Project site provide potentially suitable roosting habitat for the Townsend's big-eared bat and pallid bat, as well as more common bat species likewise protected by CDFW code. While there was no evidence of bats (i.e., individuals, guano and/or staining) observed during reconnaissance surveys, bats may use the existing buildings on- site for roosting habitat. The demolition of the on-site buildings could result in the mortality to individual bats. Any mortality of individual bats would constitute a significant impact of the Project. As such, to avoid any mortality of individual bats, the Project shall be required to implement Mitigation Measure BIO-1, described below, which would reduce potential impacts to special status bats to a less than significant level.

Mitigation Measure BIO-1:

Mitigation measures that protect bat species from possible direct mortality are warranted. The project applicant shall implement the following measures to ensure that mortality to special status bats from future ground disturbances is avoided:

- A detailed bat survey shall be conducted by a qualified bat biologist within 14 days of building demolition to determine if bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. These surveys shall include a visual inspection of potential roosting features and a search for presence of guano within the project site, planned construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. If daytime surveys are inconclusive, night emergence surveys shall be employed until the qualified bat biologist can conclude presence or absence of bats. Potential roosting features found during the survey shall be flagged or marked.
- If no bats are roosting or breeding in these structures within 14 days of site demolition, then a letter report shall be prepared by the biologist and submitted to the Director of Planning, Building and Code Enforcement or Director's designee. No further action would be required, and demolition can proceed.
- If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from demolition area during the appropriate time period (e.g., not when flightless young are present). The bat eviction plan shall include details for excluding bats from the roost site and monitoring to ensure that all bats have exited the roost prior to the start of activity and are unable to re-enter the roost until activity is completed. Any bat eviction shall be timed to avoid lactation and young-rearing. If bats are found roosting during the nursery season, they shall be monitored by a qualified biologist to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season.

- The project applicant shall submit evidence of completion of habitat assessment and results to the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of a grading permit. Should a bat eviction plan be necessary, a copy of the bat eviction plan shall also be submitted to the Director or Director's designee for approval and comment prior to implementation.

Full implementation of the measures identified above would mitigate impacts to protected bat species potentially occurring on the site. The measures are intended to comply with the current regulations such as the California Fish Game and Code and Endangered Species Act.

While the American peregrine falcon, Townsend's big-eared bat, purple martin, and pallid bat could potentially use the Project site or areas near the Project site, the Project site does not support unique or important habitat for any of these species. Therefore, Project buildout is expected to result in a less than significant impact to the loss of habitat for special status animal species. No mitigation would be required

for loss of habitat for special status animal species. With implementation of the General Plan policies, Mitigation Measure BIO-1 related to the presence of individual bats on the Project site, development would not result significant impacts.

RIPARIAN HABITAT SPECIAL STATUS SPECIES

Same Impact as Approved Project, Less than Significant with Mitigation. The Guadalupe River supports several sensitive species, such as steelhead, the western pond turtle, nesting migratory birds, and bat species. In addition, the river provides an important migratory/movement corridor for many regionally occurring species of animals and even plants (i.e., via seed/propagule transport). The river also provides additional habitat for numerous regional wildlife as foraging, roosting, and cover habitat, and is itself considered a sensitive habitat.

The adjacent reach of riparian habitat of the Guadalupe River is highly disturbed by human inputs. This reach of riparian and riverine habitat occurs immediately adjacent to the interchange of Interstate 280 and Highway 87; one of the busiest interchanges in metropolitan San José, it dominates approximately 60 acres of land immediately to the southwest. The interchange includes eight separate bridge crossings over the river just upstream from the subject reach. Downstream from the reach is a highly developed culvert bridge of supporting an approximately 115-foot wide Woz Way overpass. Homeless encampments were observed in high density along the bank of the river and under the road infrastructure. The bank on both sides of the river is comprised of paved pathways, stone and cement terraced planters, and a rock gabion toe. Very little exposed soil or natural plant community area is present within the reach or under any of the road infrastructure. No mature riparian vegetation is present, and planted riparian species are very sparse relative to typical riparian vegetation. However, the Guadalupe River channel is still a thread of aquatic habitat that moves past the development site and connects higher quality riparian habitat upstream and downstream. Therefore, it is important to consider the potential impacts of Project development on the specific biological resources present within the adjacent reach of the Guadalupe River riparian corridor.

Direct impacts to the Guadalupe River would be those that result from physical alteration of the water body and/or riparian corridor. As designed, the Project will maintain a 35-foot setback from the edge of the Guadalupe River riparian corridor. The Project would not result in direct impacts to Guadalupe River's bed, banks, or vegetation because no modifications to either the Guadalupe River, or within 35 feet of the top-of-bank, would occur. There would be no direct impacts to steelhead or other fish species which occur entirely in the river channel or to the western pond turtle which lives primarily in the aquatic environment. These species would otherwise be effectively restricted from accessing the site due to existing natural features that the project would not disturb. There would also be no direct impacts to species foraging, roosting, or moving through the riparian habitat adjacent to the Project site, and there would be no direct impacts to riparian vegetation because the Project would not develop within 35 feet of the riparian corridor. Further, the Mitigation Measure BIO-2 would require plantings within the 35-foot setback area to ensure an appropriate biological buffer between the Project and the adjacent, off-site riparian habitat. It is also important to note that the north tower of the project would be located more than 100-feet from the moderate quality riparian habitat downstream from the project, across from Woz Way. Therefore, there would be no direct impacts to steelhead and western pond turtle, which are physically restricted from accessing the Project site. The following Mitigation Measure BIO-2 would reduce the potential impacts to the adjacent riparian habitat of the Guadalupe River to a less-than-significant level.

Mitigation Measure BIO-2:

- To ensure non-native invasive plants do not move into the riparian corridor as a result of the proposed Project, all landscaping within 100 feet of the riparian edge should be comprised of locally native or non-invasive species that are not featured on the California Invasive Plant Council's Invasive Plant Inventory (www.cal-ipc.org/ip/nventory).
- To ensure any irrigation associated with the Project does not adversely impact the riparian corridor, the project applicant shall ensure that all irrigation systems installed within 100 feet of the riparian corridor habitat shall be designed so that there is no impact to riparian habitat. Specifically, irrigation systems within 100 feet of the riparian corridor, as defined in this SEIR, shall be designed to result in no erosion or over-spray into the riparian habitat. These irrigation systems shall be detailed in a site-specific habitat mitigation and monitoring plan (HMMP), which must be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits.
- To reduce the potential indirect impact of the buildings' presence on wildlife and to provide cover habitat and limited screening of the riparian corridor from the proposed office towers, the Project shall install native tree and large shrub plantings in the available space between the buildings and the riparian edge. This is deemed suitable for riparian birds, since planting of large shrubs and trees is regarded as the most effective method to enhance bird species richness and diversity. Areas located immediately west of the two towers, between the planned development and the riparian habitats, with a combined area of 4,470 square feet (2,560 sq. ft. and 1,910 sq. ft., respectively) shall be planted with suitable native trees and shrubs. To ensure that a suitable native habitat enhancement planting is achieved, the applicant shall develop a site-specific habitat mitigation and monitoring plan (HMMP) prepared by a qualified biologist and submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits. The HMMP, is used to guide the on-site habitat restoration process, and shall include, at a minimum, the following elements:
    - A planting plan that lists the native trees and large shrubs that shall be included in the habitat restoration effort and which describes the site preparation requirements and irrigation requirements for the restoration area. The planting palate shall include primarily trees large shrubs. Trees shall include species such as, but not limited to, big-leaf maple (*Acer macrophyllum*), box elder (*A. negundo*), California buckeye (*Aesculus californica*), coast live oak, and valley oak. Shrubs in the plant list shall be comprised of species such as, but not limited to, blueblossom ceanothus (*Ceanothus thyrsiflorus*), coffeeberry (*Frangula californica*), and toyon (*Heteromeles arbutifolia*). Species to be used shall be consistent with the City's Riparian Corridor Policy Study and the SCVWD's Guidelines and Standards for Land Use Near Streams. For instance, plants to be used shall be comprised of seeds and propagules collected from within the Guadalupe River watershed.
    - Trees shall be large format trees (e.g., 36-inch box trees or larger) at the time of installation. These large trees are preferred in this instance to jump start the visual buffer between the buildings and the riparian habitat following completion of project development.
    - The plan shall identify species within the buffer area that shall not be allowed to persist, such as species listed as having a high ecological impact on the California Invasive Plant Council's Invasive Plant Inventory. Specifically, any tree-of-heaven propagules shall be eradicated as part of the mitigation effort.

- A map defining the habitat restoration area which shall include planned locations for the plantings.
- Monitoring shall occur once annually starting after the first growing season following installation of the plantings for a total of 5 monitoring years. Monitoring shall be conducted by a qualified biologist and shall focus on the health and development of the individual plantings. Target success goals shall include survivorship of trees and shrubs at 80% after 5 years with generally good to excellent health (as determined by the monitoring biologist).
- Measures shall be included to account for failure to meet the success criteria, including replanting with additional years of monitoring, and adaptive management measures to minimize potential barriers to success.
- An irrigation plan and seasonal guidelines for watering.
- The HMMP shall also include a detailed plan for implementation of maintenance, including irrigation monitoring, plant health monitoring, vandalism prevention, and weed management. The maintenance plan shall specify restrictions on uses of pesticides and fertilizers that are considered unsafe near natural aquatic habitats.
- The HMMP shall be implemented immediately following completion of construction during the suitable installation period (typically November to April).

The proposed Project could, however, result in potential indirect effects to the Guadalupe River riparian corridor and the special status species that utilize it, as a result of: construction disturbances, bird collisions with the new buildings, night lighting, shading effects, a lack of vegetative buffer between the river and Project causing altered movement of wildlife, or any invasive on-site landscaping moving into the riparian corridor. Even though the Project site is currently developed with urban uses within the 35-foot setback area, the proposed Project could nevertheless result in the following indirect effects.

Initial construction disturbances, such as loud noises from vegetation removal, excavation, and grading, implemented during the nesting bird season (i.e., February – August, inclusive) could result in nest abandonment within the adjacent reach of the riparian corridor. Potential impacts to onsite nesting migratory birds are addressed in Impact BIO-4, below, and would be reduced to a less-than-significant level with standard permit conditions.

Construction disturbances could result in a minor reduction of use of the riparian corridor by species for foraging, breeding, and roosting habitat. This could include migratory birds, bats, and other species. Given the low quality of the adjacent reach of the Guadalupe River (refer to Section 2.1.2), the fact that higher quality riparian habitat occurs upstream and downstream for these species, and that this effect would be temporary (i.e., only during construction), such an impact would be considered less-than-significant. Mitigation Measure BIO -1 would reduce potential impacts to individual nesting birds and bats to a less-than-significant level.

Development of the Project could include increased bird mortality from colliding with the building after being drawn toward the buildings from the riparian corridor due to reflectivity of the windows or night lighting. Potential impacts to birds from increased building collisions are minimized to a less than significant level by project design features described in Section 2.0 under Green Building Measures.

The new structures could potentially cast higher levels of lighting into the adjacent riparian habitat, as compared to existing conditions, discouraging foraging of nocturnal animals, nesting of migratory birds, and creating unsafe conditions for animals. However, impacts from night lighting, would be minimized by project design features which will ensure night lighting is specifically pointed down and away from the

riparian system; therefore, any effects of night lighting would be less-than-significant.

Consistent with the Downtown Strategy 2040 FEIR, environmental analysis of projects within 100 feet of the riparian corridor of Los Gatos Creek or the Guadalupe River shall assess the effects of the proposed structures (shading and thermal radiation) on riparian vegetation and creek temperatures. Projects that result in a 20 percent or more increase in shade or any increase in average daily temperature within the river corridor shall be required to: 1) alter their design to reducing shading; or 2) implement other measures to reduce instream water temperatures. Such measures could include increasing the setback or planting of additional shaded riverine aquatic habitat. If increased shade affects the growth of shaded riverine aquatic habitat, such that its ability to moderate water temperatures is impaired, that would be considered a significant impact. [8]

The Project would not have a direct or indirect adverse effect on riparian vegetation and creek temperatures. The Project is located on developed parcels in an urban area of downtown San José, which are not considered a riparian vegetated area. Accordingly, indirect effects to riparian vegetation and creek temperatures could primarily result from shading and thermal radiation. Shading could impact riparian vegetation by limiting photosynthesis or decreasing creek temperatures. Conversely, changes in thermal radiation could occur from glare and may dry out riparian vegetation or increase creek temperatures.

Direct sunlight would be available for photosynthesis for approximately nine (9) hours per days as the Project would shade vegetation for four (4) hours in the morning. Shading by the Project's two towers would not result in a high degree of darkness due to dispersion of sunlight in the atmosphere. Further, The Project would result in a less than 10 percent increase of shade on the Guadalupe River Park as shown in Figure 15. Shading may create slightly better habitat conditions for fish in the aquatic channel due to an increase visibility of prey and would only fractionally cool water temperatures due to the large water surface area of the Guadalupe River. The Biological Technical Report in Appendix C concluded that plant losses are not anticipated due to shading and vegetation processes would persist. Additionally, changes in the Guadalupe River temperature from thermal radiation would be minimized through compliance with the City of San José Downtown Design Guidelines and Standards. Application of the Design Guidelines and Standards would reduce glare from the Project, thereby limiting additional radiation that could increase temperatures. Therefore, design features of the Project and the application of the City of San José Downtown Design Guidelines and Standards would ensure the project does not have an adverse effect on riparian vegetation and creek temperatures.

BIO-2 ***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 California Department of Fish and Game or US Fish and Wildlife Service?***

[Same Impact as Approved Project (Less Than Significant with Mitigation)]

Same Impact as Approved Project, Less Than Significant with Mitigation.

The Guadalupe River supports habitat for many species including several special status species, such as steelhead, the western pond turtle, nesting migratory birds, and bat species. In addition, while the

[8] The primary period of concern in terms of water temperatures is March through October because juvenile fish may be present in waterways during this time and the warmer weather conditions could cause waterways to reach lethal temperatures (greater than 75 degrees). Source: City of San José. *San José Downtown Strategy 2000 EIR*. 2005.

adjacent reach is considered to be poor quality riparian habitat given the high levels of degradation, high levels of human inputs, and limited riparian, the river provides an important migratory/movement corridor for many regionally occurring species of animals and plants (i.e., in the form of seed/propagule transport). The greater Guadalupe River riparian corridor, including a portion of the river immediately downstream from Woz Way to the north of the Project site, provides habitat for regional wildlife as foraging, roosting, and cover habitat and supports sensitive plant communities that thrive due to the perennial moisture availability. The aquatic channel also serves in nutrient transport and as migratory habitat, cover, and forage habitat for aquatic species. This portion of the riparian habitat adjacent to the Project site and elsewhere in downtown San José is heavily confined due to the dense urban infrastructure through which it flows. For example, roadways and large developments in the vicinity of the downtown reaches of the Guadalupe River are designed so that they do not contribute to natural river functions such as plant propagule uptake or dispersal, contributions to riverine structural diversity such as with root, log, branch, gravel, or sediment contributions, or even through contribution of sheet flow down the bank during storms, as would be the case in a natural system. Nor are these developed landscapes influenced by the presence of the river in a way that supports local ecosystem functions and values as there is little natural habitat adjacent to the immediately available riparian habitat. The net result is an urban river that is narrow in its influence.

Development of the Project would convert a mostly developed residential neighborhood comprised of single-family homes, landscaped yards, roadways, and municipal storage yards into a multi-story building adjacent to a reach of the Guadalupe River. The City of San José and the Santa Clara Valley Habitat Plan provide for a 100- foot development-free setback along this reach of the Guadalupe River as it is considered a suitable standard for protecting riparian habitats. This reach of the Guadalupe River is generally degraded due to a flood-control project and other human-mediated impacts. Nonetheless, the Guadalupe River is a major riparian corridor in the Santa Clara Valley within the downtown region. In general, the 100-foot setback provides a reasonable, biologically valid buffer, that protects the sensitive habitats of the riparian corridor from most impacts associated with future development. However, the 100-foot buffer is a general, default setback for Category 1 streams, and the SCVHP provides a framework for allowable exceptions to these setbacks. The Project proposes to observe a 35-foot setback, which with implementation of Mitigation Measure BIO -2, would ensure no adverse effects to the riparian corridor or the species that utilize it. For this reason, and as discussed further in Impact BIO-6, the Habitat Agency recommended approval of the 35-foot setback for the Project on April 7, 2020 (Appendix C-2).

Site development could cast higher levels of lighting into the creek habitat than current conditions, discouraging foraging of nocturnal animals, nesting of migratory birds, and creating unsafe conditions for animals. Also, landscaping near the riparian corridors that could include invasive species (e.g. English ivy (*Hedera helix*) or tree-of-heaven) could result in such plants moving into the riparian corridors and causing adverse impacts to the plant communities up or downstream of the site. Landscaping could also include irrigation and chemical inputs (e.g. pesticides and fertilizers) that could negatively impact the riparian environment. Implementation of Mitigation Measures BIO 1-2, described above, would reduce these potential indirect impacts on the riparian habitat to a less-than-significant level.

Short-term impacts include the potential for site construction to cause sedimentation into the creek systems; however, such impacts would be avoided through implementation of water quality best management practices required by City policies and which are assumed to be included in the project, including controlling all trash debris created during the construction process.

BIO-3 ***Would the Project 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?***

[Same Impact as Approved Project (Less Than Significant)]

Same Impact as Approved Project, Less Than Significant. The Project site is located within existing urban environment, developed with residential uses, and contains no wetlands, Waters of the U.S., or Waters of the State. However, the Project site is immediately adjacent to the Guadalupe River. The adjacent reaches of the Guadalupe River are considered Waters of the U.S. and are therefore under the jurisdiction of the USACE. The channel and/or riparian habitat of the Guadalupe River is also jurisdictional to the CDFW and RWQCB. There would not be any disturbance to the Guadalupe River's bed, bank, or direct impact to riparian habitat because no development is proposed within 35-feet of the riparian corridor. Therefore, the Project will not result in disturbances to state or federally protected wetlands.

Eventual site development and construction will require grading that leaves the soil of construction zones barren of vegetation and, therefore, vulnerable to sheet, rill, or gully erosion. Eroded soil is generally carried as sediment in surface runoff to be deposited in natural creek beds, canals, and adjacent wetlands. Furthermore, urban runoff is often polluted with grease, oil, pesticide and herbicide residues, heavy metals, etc. These pollutants may eventually be carried to sensitive wetland habitats used by a diversity of native wildlife species. The deposition of pollutants and sediments in sensitive riparian and wetland habitats would be considered a potentially significant adverse environmental impact. The Project would comply with the City's grading requirements and City policies 6-29 and 8-14, which would ensure pollutants do not runoff site, and as such would reduce potential impacts to water quality. Potential short-term impacts that could result from project related soil disturbances in the form of sedimentation into the Guadalupe River would be avoided through implementation of water quality best management practices included in the Project. As such, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

BIO-4 ***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?***

[New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant)]

New Less Than Significant Impact with Mitigation Incorporated, Less Than Significant. While no detailed study of animal movements has been conducted for the Project area, knowledge of the Project site and the Project area, its land uses, and the ecology of the species occurring on-site permits sufficient predictions about these types of movements occurring the region and whether or not proposed construction activities within the Project site and subsequent Project buildout may result in a disruption of local wildlife movement. The surrounding area consists of a residential neighborhood and landscaped yards with generally sparse wildlife species. Movement of native wildlife is more likely to take place

adjacent to the Project site within the Guadalupe River corridor, which provides a contiguous habitat for corridor species. Other than species that are highly adapted to an urban setting, species that may move from the riparian corridor into the landscaped areas of the Project site during migratory, territorial, and/or dispersing movements would do so to a lesser degree, as the Project site offers low habitat values for them and does not represent a pathway to high quality habitat beyond the Project site. Species that currently travel through the Guadalupe River corridor would be expected to continue utilizing the Guadalupe River corridor and would not be adversely affected by the Project. Therefore, the loss or reduction of the ability to move into the Project site due to the Project build out would not be considered an impact to native wildlife. Project development, therefore, would have a less than significant impact on the movements of native wildlife.

Because the Project site is within the proximity of a known movement corridor, the Guadalupe River, the flyway of many migratory birds means that birds could collide with the building under certain circumstances to a higher degree than what would be expected from bird window strikes within the residential neighborhood. Thus, to avoid the potential of bird collision into the proposed development, the building would be designed pursuant to the City Riparian Corridor Protection and Bird-Safe Design (City Council Policy 6-34). While Policy 6-34 applies bird-safe design criteria to projects north of Highway 237, the design of the Project incorporates the bird-safe design guidance intended by the policy. Further, the Project would be reviewed for consistency with the San José Downtown Design Guidelines and Standards as part of the Site Development Permit entitlement request. The San José Downtown Design Guidelines and Standards contain provisions for bird-safe design in Section 4.4.2.b.

As discussed in Section 2.3 above, the Project is designed such that at least 90% of the exposed building façade materials, from the ground level to 40 feet high, and 60% of the exposed building façade materials above 40 feet high is not composed of transparent or reflective glass. Additionally, the planting of large shrubs and trees within the riparian setback area, required by Mitigation Measure BIO-2, would further minimize the potential for bird collision because they would provide a visual and physical barrier between the movement corridor of the Guadalupe River and the Project buildings.

A lack of vegetative buffer between the Guadalupe River and the Project could result in altered movement of wildlife of the off-site riparian area. It is important to note, however, that wildlife currently utilizing the Project site and adjacent riparian corridor are already moving through the exceedingly degraded and urban environment through which the Guadalupe River passes under existing conditions. These conditions include human access trails, dense homeless encampments, freeway overpasses, and generally low value habitat. Regardless, the added office towers add a new element to the experience by migrating or dispersing wildlife in the adjacent riparian corridor. Implementation of mitigation measures described in this SEIR, which require planting of large trees and shrubs between the towers and the adjacent reach of riparian habitat, would reduce this potential indirect impact on wildlife from the added visual impact of the proposed buildings in an already impacted setting to a less-than-significant level.

As concluded in the Biological Technical Report, trees and structures onsite and in the riparian habitats adjacent to the Project site may support nesting birds and raptors. Buildout of the Project during the nesting period for migratory birds (i.e., typically between February 1 to August 31), including building demolition, initial site grading, soil excavation, and/or tree and vegetation pruning, or removal poses a risk to any nesting birds within or near the Project site in the form of nest abandonment and death of any eggs or young that may be present within the nest. To ensure that any active nest would not be disturbed, and individual birds would not be harmed during construction activities, the Project would be required to and implement the following measures:

Mitigation Measure BIO-3:

- **Avoidance:** The project applicant shall schedule demolition and construction activities 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), as amended.
- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the µiit,i~fi6n of 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 breeding season (May 1st through August 15th inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
- **Buffer Zones**: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be
- **Reporting**: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the 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 the Director's designee, prior to issuance of any grading or building permits.

Completion of these measures will reduce the potential impacts to nesting migratory birds, including raptors, to a less than significant level.

BIO-5 ***Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

[Same Impact as Approved Project (Less Than Significant)]

Same Impact as Approved Project, Less Than Significant. The proposed Project, consistent with the Downtown Strategy 2040 FEIR, would be subject to the City's Tree Ordinance. In addition, since the proposed Project is adjacent to the Guadalupe River and a community park, the Project would be subject to the guidelines of the Riparian Corridor Policy Study.

While the Project site is urbanized and within a larger urbanized area, there are trees on and adjacent to the Project site that are part of the urban forest. Within the City of San José, the urban forest as a whole is considered an important biological resource because most trees provide some nesting, cover, and foraging habitat for birds and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the best commonly or locally available habitat within urban areas.

Table 2 below details the trees on the Project site and which would be removed by the Project.

Table 2: Trees in the Biological Study Area

Tree ID	Common Name	Species	Diameter (in.)	Native/Non-Native	Ordinance Tree	Removed by Project?
1	Atlas cedar	*Cedrus atlantica*	35	Non-Native	Yes	Yes
2	Coast live oak	*Quercus agrifolia*	46	Native	Yes	Yes
3	Coast redwood	*Sequoia sempervirens*	53.2	Non-Native	Yes	Yes
4	Common fig	*Ficus carica*	7.1	Non-Native	No	Yes
5	Incense cedar	*Calocedrus decurrens*	26.1	Non-Native	Yes	Yes
6	Evergreen huckleberry	*Vacciunum ovatum*	5.7	Non-Native	No	Yes
7	Coast redwood	*Sequoia sempervirens*	46.2	Non-Native	Yes	Yes
8	Orange	*Citrus × sinensis*	8	Non-Native	No	Yes
9	Yucca	*Yucca sp.*	10, 3.6	Non-Native	No	Yes
10	London plane	*Plantanus × acerifolia*	30.4	Non-Native	Yes	Yes
11	London plane	*Plantanus × acerifolia*	22	Non-Native	Yes	Yes
12	White mulberry	*Morus alba*	24.5	Non-Native	Yes	Yes
13	White mulberry	*Morus alba*	21.4	Non-Native	Yes	Yes
14	California bay laurel	*Umbellularia californica*	52	Native	Yes	Yes
15	Avocado	*Persia americana*	28.1	Non-Native	Yes	Yes
16	Unknown	--	6.2, 8.7	Non-Native	Yes	Yes
17	Plum	*Prunus cerasifera*	12.5	Non-Native	Yes	Yes
18	Willow	*Salix sp.*	10.6	Non-Native	No	Yes
19	Pecan	*Carya illinoinensis*	13.7	Non-Native	Yes	Yes
20	Pecan	*Carya illinoinensis*	8.9, 7.9	Non-Native	Yes	Yes
21	Yucca	*Yucca sp.*	14.9	Non-Native	Yes	Yes
22	Tree-of-heaven	*Ailanthus altissimus*	27.7	Non-Native	Yes	Yes
23	Tree-of-heaven	*Ailanthus altissimus*	24.9	Non-Native	Yes	Yes
24	Privet	*Ligustrum sp.*	8.5, 7.6, 6.4	Non-Native	Yes	Yes
25	Mexican fan palm	*Washingtonia robusta*	19	Non-Native	Yes	Yes

Tree ID	Common Name	Species	Diameter (in.)	Native/Non-Native	Ordinance Tree	Removed by Project?
26	Pepper tree	*Schinus molle*	43.7	Non-Native	Yes	Yes
27	Japanese maple	*Acer palmatum*	18.3	Non-Native	Yes	Yes
28	Juniper	*Juniperus sp.*	6.1	Non-Native	No	Yes
29	Juniper	*Juniperus sp.*	5.5	Non-Native	No	Yes
30	Juniper	*Juniperus sp.*	5, 2, 6, 2	Non-Native	No	Yes
31	Acacia	*Acacia sp.*	26	Non-Native	Yes	Yes
32	Red buckeye	*Aesculus pavia*	7.5	Non-Native	No	Yes
33	Red buckeye	*Aesculus pavia*	12.3	Non-Native	Yes	Yes
34	Avocado	*Persia americana*	9.3	Non-Native	No	Yes
35	Callery pear	*Pyrus calleryana*	4.5	Non-Native	No	Yes
36	Grapefruit	*Citrus paradisi*	15.4, 4, 9	Non-Native	Yes	Yes
37	Orange	*Citrus × sinensis*	10.8, 4.9	Non-Native	Yes	Yes
38	London plane	*Plantanus × acerifolia*	30.4	Non-Native	Yes	No
39	London plane	*Plantanus × acerifolia*	10.4	Non-Native	No	No
40	London plane	*Plantanus × acerifolia*	24.4	Non-Native	Yes	No
41	London plane	*Plantanus × acerifolia*	21.9	Non-Native	Yes	No
42	London plane	*Plantanus × acerifolia*	14.3	Non-Native	Yes	No
43	London plane	*Plantanus × acerifolia*	13.1	Non-Native	Yes	No
44	London plane	*Plantanus × acerifolia*	16.3	Non-Native	Yes	No
45	Coast redwood	*Sequoia sempervirens*	17.2	Non-Native	Yes	No
46	Coast redwood	*Sequoia sempervirens*	27.5	Non-Native	Yes	No
47	Coast redwood	*Sequoia sempervirens*	14.4, 17.5	Non-Native	Yes	No
48	London plane	*Plantanus × acerifolia*	16.6	Non-Native	Yes	No
49	Coast live oak	*Quercus agrifolia*	33	Native	Yes	No
50	Coast live oak	*Quercus agrifolia*	27	Native	Yes	No
51	Coast live oak	*Quercus agrifolia*	22.9	Native	Yes	No
52	London plane	*Plantanus × acerifolia*	12.9	Non-Native	Yes	No
53	London plane	*Plantanus × acerifolia*	13	Non-Native	No	No
54	London plane	*Plantanus × acerifolia*	18.8	Non-Native	Yes	No
55	London plane	*Plantanus × acerifolia*	19.8	Non-Native	Yes	No

Tree ID	Common Name	Species	Diameter (in.)	Native/Non-Native	Ordinance Tree	Removed by Project?
56	London plane	*Plantanus × acerifolia*	17.3	Non-Native	Yes	No
57	London plane	*Plantanus × acerifolia*	12.5, 10.3	Non-Native	Yes	No
58	Tree-of-heaven	*Ailanthus altissimus*	7, 9.7	Non-Native	Yes	No
59	Tree-of-heaven	*Ailanthus altissimus*	10.6	Non-Native	No	No
60	Tree-of-heaven	*Ailanthus altissimus*	4.8	Non-Native	No	No
61	Tree-of-heaven	*Ailanthus altissimus*	5	Non-Native	No	No
62	Tree-of-heaven	*Ailanthus altissimus*	9.8	Non-Native	No	No
63	Tree-of-heaven	*Ailanthus altissimus*	6.3	Non-Native	No	No
64	Tree-of-heaven	*Ailanthus altissimus*	10.4	Non-Native	No	No
65	Tree-of-heaven	*Ailanthus altissimus*	8	Non-Native	No	No
66	Tree-of-heaven	*Ailanthus altissimus*	4.2	Non-Native	No	No
67	Tree-of-heaven	*Ailanthus altissimus*	11	Non-Native	No	No
68	Tree-of-heaven	*Ailanthus altissimus*	10	Non-Native	No	No
69	Tree-of-heaven	*Ailanthus altissimus*	8.2	Non-Native	No	No
70	Coast redwood	*Sequoia sempervirens*	24	Non-Native	Yes	No
71	Coast redwood	*Sequoia sempervirens*	24	Non-Native	Yes	No
72	Callery pear	*Pyrus calleryana*	12	Non-Native	Yes	No
73	Callery pear	*Pyrus calleryana*	15.8	Non-Native	Yes	No
74	Pecan	*Carya illinoinensis*	15.5	Non-Native	Yes	No
75	Pecan	*Carya illinoinensis*	16.4	Non-Native	Yes	Yes
76	Italian cypress	*Cupressus sempervirens*	6.9	Non-Native	No	Yes
77	Italian cypress	*Cupressus sempervirens*	10.1	Non-Native	No	Yes
78	Italian cypress	*Cupressus sempervirens*	6.9	Non-Native	No	Yes
79	Italian cypress	*Cupressus sempervirens*	8	Non-Native	No	Yes
80	Italian cypress	*Cupressus sempervirens*	9.5	Non-Native	No	Yes
81	Italian cypress	*Cupressus sempervirens*	6.4	Non-Native	No	Yes
82	Italian cypress	*Cupressus sempervirens*	6.9	Non-Native	No	Yes
83	Italian cypress	*Cupressus sempervirens*	10.6	Non-Native	No	Yes
84	Italian cypress	*Cupressus sempervirens*	8.5	Non-Native	No	Yes
85	Coast live oak	*Quercus agrifolia*	36.3	Native	Yes	Yes

Tree ID	Common Name	Species	Diameter (in.)	Native/Non-Native	Ordinance Tree	Removed by Project?
86	Coast live oak	*Quercus agrifolia*	36.3	Native	Yes	Yes
87	Coast live oak	*Quercus agrifolia*	14.7	Native	Yes	Yes
88	Avocado	*Persia americana*	10.2, 9, 5, 13.9	Non-Native	Yes	Yes
89	Privet	*Ligustrum sp.*	6.5	Non-Native	No	Yes

Notes : Condition: Good = 80-100% healthy foliage and no significant defects; Fair = 50-79% healthy foliage and/or minor defects: Poor = 5-49% healthy foliage and/or other significant defects; Dead = less than 5% healthy foliage.
Ordinance-Sized Trees are 38 inches or more in circumference (12" in Diameter) at 4.5 feet above ground.

There are 89 trees/shrubs greater than 4 inches in diameter identified within the biological study area. Of these, 55 are ordinance-sized trees. No Heritage Trees were identified in the biological study area.

On-site trees of the Project site could be directly impacted in the form of removal, while off-site trees could be severely impacted in the form of root damage during grading efforts. With implementation of the City Tree Removal Ordinance and Standard Permit Conditions, impacts would be reduced to a less than significant level.

Standard Permit Conditions

Tree Removal: All tree removal should be identified and replaced as appropriate.

Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3: City of San José Replacement Guidelines for Trees to be Removed below.

Table 3: City of San José Replacement Guidelines for Trees to be Removed

Diameter of Tree to be removed	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 up 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 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 tree = two 15-gallon trees

Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

- Since 52 trees would be removed, 52 trees would be replaced at a minimum 1:1 ratio. Specifically, two (2) native trees greater than 38 inches in diameter would be replaced at a 5:1 ratio, and two

(2) native trees with a diameter between 19 and 38 inches would be replaced at a 3:1 ratio. Three (3) non-native trees with a diameter greater than 38 inches would be replaced at a 4:1 ratio. Eleven (11) non-native trees with a diameter between 19 and 38 inches would be replaced at a 2:1 ratio. The remaining 34 trees would be replaced at a 1:1 ratio. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- 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. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- With implementation of the Standard Permit Conditions listed above, General Plan policies, and existing regulations such as the Municipal Code, development under the proposed Project would not result in a less than significant impact community trees.

BIO-6	***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?*** ***[Same Impact as Approved Project (Less Than Significant)]***

Same Impact as Approved Project, Less Than Significant. The Project site is located within the Santa Clara Valley Habitat Plan (SCVHP) study area and would be subject to all applicable Habitat Plan fees. The Project site is entirely an urban area and would therefore not be subject to Fee Zone fees. Other fees may apply to impacts to sensitive resources; including, but not limited to riparian and stream habitats. While direct impacts to such resources are not planned, any permanent project elements within 50-feet of these habitats may result in requisite payment of fees for sensitive habitats that occur within 50- feet.

Condition 11 of the SCVHP provides requirements for stream and riparian setbacks. As the Project site is within the City's Urban Service Area (USA) and the site does not possess a 30% or greater slope, required stream setbacks measured from the top of the stream bank are required to be 35 to 100 feet depending on the category of the stream. Setbacks for Category 1 streams are at least 100 feet. The Guadalupe River is a Category 1 stream; therefore, development is required to maintain a 100-foot setback. As discussed above, the project proposes a 35-foot setback from the Guadalupe River. While setbacks that are less than 100 feet do not meet the requirement of the SCVHP, the SCVHP provides a framework for allowable exceptions to these setbacks. As summarized above, for a project to be considered for a reduced setback, the following factors must be satisfied:

1. The existence of legal uses within the setback.
2. The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.

3. The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
4. The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.

For the Project to be allowed to develop within 100-feet of the riparian edge, the Habitat Agency requires an exception request that addresses each of these four factors be submitted to the Habitat Agency for approval of a reduced setback. A preliminary review request for a Condition 11 exception was submitted to the Habitat Agency and on April 7, 2020 the Habitat Agency recommended that the Project be granted an exception to allow a 35-foot setback (Appendix C-2). The Habitat Agency's findings of the stream setback exception request are summarized below.

- The existence of legal uses within the setback.

The Project would require review, approval, and adoption by the City, including conformance and consistency of uses with the City Municipal Code, zoning ordinance, and major design guidelines. As such, they Project would be consistent with legal uses within the setbacks.

- The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.

The developable area outside the 100-foot setback (at the narrowest portion) would be approximately 280 feet wide which would not provide adequate commercial space. Observing a 100-foot setback would be economically infeasible given the site orientation and trends in commercial space for attracting tenants. Due to these reasons, adherence to the 100-foot setback would make the Project, as proposed, infeasible. The Habitat Agency considers the 35-foot setback the maximum allowed under the SCVHP and affords reasonable redevelopment of the Project site.

- The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.

The Project is designed to provide vehicle and emergency access, parking supply, loading areas, pursuant to City standards outlined in the applicable zoning and building codes. The Project requires a GPA, and once approved would be consistent with all established standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards

- The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies

The SCVHP Conservation Strategy Biological Goals provides natural community level requirements to minimize potential impacts to sensitive biological resources. Any development adjacent to Category 1 streams would require a 100-foot setback. In addition, the SCVHP provides that, regardless of project location, stream setback exceptions may not reduce a Category 1 stream setback to a distance less than 35-feet for existing or previously developed sites. The Project, which is located on a previously disturbed site, would observe a 35-foot setback that the SCVHP has recommended for approval. With the incorporation of bird-safe design in the Project features, and setback restoration required by Mitigation

Measure BIO-2, the proposed Project would ensure the goals and objectives of the SCVHP are not precluded. Additionally, the Project would support General Plan Policies ER-2.2, ER-2.3, and ER-2.5, which aim to protect and restore the City's riparian resources via appropriate setbacks, lighting protections, and plant restoration.

The Project will also be subject to the requirements of Council Policy 6-34, which requires that development adhere to a 100-foot riparian setback unless the project qualifies for a reduced setback exception. The Project proposes a 35-foot riparian setback. In compliance with the policy, the Project site is subject to at least three circumstances outlined in the Council Policy, including:

- Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.
- The existence of legal uses within the minimum setback.
- The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).

To receive an exception to the 100-foot setback in Council Policy 6-34, the Project is required to submit a report by a qualified biologist, stream hydrologist, or other appropriate professional that certifies that five conditions listed in in Council Policy 6-34 are met. Each condition is therefore discussed below and in Appendix C-1:

- There is no reasonable alternative for the proposed project that avoids or reduces the encroachment into the setback area.

This biological report is not considering project alternatives. It is our understanding that the project has considered the proposed project with a setback of less than 35 feet, but that those options were viable.

- The reduced setback will not significantly reduce or adversely impact the riparian corridor.

The proposed Project will not reduce or directly impact riparian habitat. Building design measures and mitigations included in this biological analysis will, if successfully implemented, ensure that the project with the setback of 35 feet does not significantly impact the riparian corridor. The riparian corridor that occurs adjacent to the Project is extremely limited in its habitat value and influence; therefore, a 100-foot setback in this densely urban setting is not necessarily biologically relevant. The banks of the river channel are predominantly hardscaped, and the channel flows under busy roadways including highways and a complex freeway interchanges immediately adjacent to the channel. Surrounding land uses are highly developed, and there currently exists development within 100-feet of the bank of the river within the development site and, to a significant degree, throughout the downtown portion of San José. Therefore, the development site does not benefit, in terms of habitat values, from the proximity to the adjacent reach of the Guadalupe River in ways that a natural reach of the Guadalupe River might affect adjacent lands.

For instance, soils of the site, which consist of an urbanized soil type indicative of soils that have been disturbed by human activities, are unlikely to provide nutrient, moisture, and micro-biotic values to the development site. Vegetation of the development site is managed as patches of residential landscapes, and thus the Guadalupe River's proximity does not support the maintenance or development of natural plant communities. Animals that currently arrive at and utilize the development site, mostly including birds, are expected to be predominantly common species that are used to residential landscapes. In addition, the site, which is an urban residential neighborhood, does not contribute in a significant way to the habitat values of the highly impacted and degraded reach of the Guadalupe River. Therefore, development of the Project up to 35 feet from the riparian edge of the Guadalupe River, while

implementing the mitigations described in this analysis, would not be appreciably different from maintaining an arbitrary 100-foot setback.

- The proposed used are not fundamentally incompatible with riparian habitats.

The adjacent riparian habitat is defined as a riparian habitat due to its proximity to a natural aquatic channel—the Guadalupe River. As discussed in this document, the riparian habitat is very low-quality habitat, mostly hardscaped, for native species due to high levels of human inputs and a lack of natural community characteristics. While a development project of this magnitude would certainly be incompatible adjacent to more natural reaches of the Guadalupe River the downtown portion of the Guadalupe River is more of an urban channel in many reaches, the adjacent reach included.

In addition, the proposed use is not inconsistent with the riparian habitat in the sense that the Project includes potentially deleterious qualities, similar to what might be the case with a chemical manufacturing plant, animal feed lot, or power generation facility. There is expected to be no potential direct harm to the Guadalupe River from this Project.

There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the setback area.

The adjacent reach of the Guadalupe River is highly engineered, in part for flood protection, such that stream banks are hardscaped and soil erosion is highly unlikely. In addition, the Project will be engineered to ensure drainage patters from the development do not adversely impact the river.

- The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

The Project as designed and with successful implementation of the mitigation measures detailed in this analysis will not adversely impact the Guadalupe River, therefore, there would be no impacts downstream of the adjacent reach. The buildings would cast morning shade in the reach adjacent to the site and in a reach of riparian habitat downstream from the site, across from Woz Way. Shade in the downstream reach would be lesser than shade in the adjacent reach, and it would not be appreciably different than if the Project maintained a 100-foot setback. Also, the potential effects of shading by the Project has been analyzed in Section 3.3.11 and found to be less-than-significant.

For the reasons outlined above, it is expected that the Project will comply with the conditions for an exception of Council Policy 6-34. Therefore, there is no identified conflict with or constraint to development from Council Policy 6-34.

NITROGEN DEPOSITION IMPACTS ON SERPENTINE HABITAT

According to the Downtown Strategy 2040 FEIR, the USFWS has indicated concerns regarding nitrogen deposition from air pollution that can affect plant composition in serpentine grasslands and the bay checkerspot butterfly in south Santa Clara County area. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the Project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of several federally – listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the Habitat Plan for new vehicle trips

can be used to purchase conservation land for the Bay checkerspot butterfly.

As mentioned above, the project is consistent with the Habitat Plan, which is based on the conclusion that no impacts to any of the Habitat Plan's covered species would occur under the Project. With the implementation of the Habitat Plan, the cumulative impacts of development City-wide and within the areas of Santa Clara County covered by the Habitat Plan would be offset through conservation and management of land for the Bay checkerspot butterfly. The Project would implement the following Standard Permit Conditions.

Standard Permit Conditions

The project is subject to applicable Santa Clara Valley Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.

Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

3.2 CULTURAL RESOURCES

The cultural resources evaluation is based on the following, which are included as Appendix G of this SEIR:

- Historical Resource Technical Report prepared by MacRostie Historic Advisors (January 2020)
- City of San José Memorandum from Historic Preservation Officer (December 2019; March 2020)
- City of San José Memorandum to Historic Landmarks Commission August 5, 2020, which included staff comments dated December 5, 2019, December 12, 2019, March 5, 2020 and May 8, 2020.

The Historical Resource Technical Report prepared by MacRostie Historic Advisors includes archival and records searches from:

- Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University
- The *California Inventory of Historic Resources* (California Department of Parks and Recreation 1976);
- California Historical Landmarks (California OHP 1996);
- *California Points of Historical Interest* listing May 1992 (California Department of Parks and Recreation 1992); and
- The National Register of Historic Places (*Directory of Determinations of Eligibility*, Volumes I and II, 1990; California OHP 1990 and 2019 computer listing updates for the Historic Properties Directory for Santa Clara County.
- San José Public Library

ENVIRONMENTAL SETTING

HISTORIC RESOURCES

The Project site is currently developed with 17 residential dwellings, all of which are older than 45 years of age. None of the 17 properties described above are listed in the National Register of Historic Places, the California Register of Historical Resources or are designated City Landmarks or contributing properties to a City Landmark Historic District. Seven of the 17 properties are listed on the Historic Resource Inventory as Identified Structures (six properties) or as a Structure of Merit (one property). Structures of Merit are considered resources of lesser historical significance in the City of San José and are not considered historical resources under CEQA. A brief architectural description of all the properties located in the project site is provided below and is included in Appendix G of the SEIR.

501 Vine Street

501 Vine Street is a one-story wood frame Craftsman building with an irregular hipped with ridge roof constructed circa 1920. It occupies a corner lot with its primary (east) elevation facing Almaden Boulevard, formerly Vine Street. The southeast corner of the roof features a flat portion before continuing to the hipped portion. The building has a rectangular plan and features two entries – a main entry on the primary elevation and a second, slightly recessed entry at its corner. The roof has a slight open eave overhang. The exterior has wood plank siding and the roof is asphalt shingle. Its primary elevation is symmetrical with two identical large window openings flanking its central, front entry.


501 Vine Street

507 Vine Street

507 Vine Street, historically known as the Mastroleo House, is a Minimal Traditional one-story wood frame residence with a side gable roof constructed circa 1940. It appears to have been constructed later than surrounding houses. The building has an exterior stucco finish and asphalt shingle roof with a red brick chimney at is north elevation. It has a small, square footprint. The primary (east) elevation faces Almaden Boulevard (formerly Vine Street) and features a small projecting front gable bay at the southeast corner of the building.


507 Vine Street

The main entry is located north of the projecting bay portion. The entry is topped with a shed roof that extends from the rest of the building and the projecting bay and is supported by a simple wood beam, creating a porch entry. The front door is wood with a divided light transom portion has a full glazed screen door. Both doors appear to be modern replacements.

515 Vine Street

515 Vine Street, historically known as the A. Olson house, is a one-story wood frame Craftsman residence with a front gable roof and attic, constructed circa 1912. The building has a wood clapboard exterior with stucco and half timbering details at the attic and an asphalt shingle roof. It has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is slightly north of the center of the house and is


515 Vine Street

recessed, creating a nestled gable entry. There is a square wood column on the east side of the main entry, at the top of the exterior stair. The primary elevation has a bay window on the south side comprised of three windows, each featuring a single pane portion with a transom above. The central window is fixed while the flanking windows are casement. The south and central window appear to retain their original leaded glass transoms. Other portions of the window appear to be later replacements. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.

527 Vine Street


527 Vine Street

527 Vine Street, historically known as the Hostert House, is a one-story plus attic wood frame Neoclassical Cottage residence with a hipped roof with a front gable portion, constructed circa 1908. The building has a wood clapboard exterior an asphalt shingle roof with solar panels on its north and south elevations. It has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is slightly north of the center of the house and is recessed in the half-width porch. The porch is lined with three wood columns on the primary elevation and a fourth column is located on the north elevation. The primary elevation has a bay window on the south side comprised of three windows. The windows flanking the bay are one over one replacements, while the center is a fixed pane with a transom window above. There is a window to the north of the main entry door, which also appears to be a one-over one replacement. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.

533 Vine Street


533 Vine Street

533 Vine Street, historically known as the Alcraz House, is a one-story plus attic wood frame Neoclassical Cottage residence with a front gable roof with a partial-width porch constructed circa 1909. The building has a wood clapboard exterior with stucco and half timbering at the attic level and an asphalt shingle roof has an overhang and decorative braces beneath the gables as well as a simple fascia with a notch detail at the gable ends. The house has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is slightly north of the center of the house and is recessed in the half-width porch. The porch is lined with paired wood columns on the north and south sides of the primary elevation. The primary elevation has a bay window on the south side comprised of three windows. The windows flanking the bay are casements with three-over-three transoms while the center is a fixed pane with and eight-over-eight transom window. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.

541 Vine Street


541 Vine Street

541 Vine Street, historically known as the Ebert House, is a one-story plus attic wood frame Neoclassical Cottage residence constructed circa 1908 with simple dentil course detail. The wood clapboard building has a hipped, overhanging roof sheathed with asphalt shingle and a partial-width front gable porch. The house has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is slightly south of the center of the house and is recessed in the half-width porch. The porch is lined with three wood columns on the north and south sides of the primary elevation. The primary elevation has a bay window on the north side comprised of three windows. The windows flanking the bay are casements with leaded glass transoms, while the center is a fixed pane window with a plain transom above. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.

547 Vine Street

547 Vine Street, historically known as the Rev. McLaren House, is a one-story plus attic wood frame Craftsman residence constructed circa 1915/1916. The house has a hipped roof with a partial-width front gable porch that continues to the south elevation. It has a clapboard exterior and an overhanging roof clad with asphalt shingle roof and detailed with brackets. The house has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is on the south elevation. The porch has short wood columns above the porch floor level. There are two columns on the primary elevation and four columns on the south elevation. The primary elevation has a box bay window on the north side with a tripartite window and a diamond panel transom above. The tripartite windows appear to be replacements. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.


547 Vine Street

553 Vine Street


533 Vine Street

553 Vine Street, historically known as the Concannon House, is a one-story plus attic wood frame Craftsman residence constructed circa 1910. The wood clapboard house has a hipped roof clad with asphalt shingle and a nestled gable entry and the overhanging roof has dentil details and a simple fascia. The house has a rectangular footprint and its primary (east) elevation faces Almaden Boulevard (formerly Vine Street). The main entry is slightly north of the center of the house. The area north of the main entry features a bay window. The central portion of the bay contains a fixed window with a transom above. The windows flanking the bay are one-over-one, as is the paired window south of the entry. This property is listed in the City of San José's Historic Resources Inventory as an Identified Structure.

276 Woz Way


276 Woz Way

276 Woz Way is a one-story wood frame Craftsman residence with an irregular shaped roof with a side gable at the primary (north) elevation that continues to a gambrel roof at the building's rear. It is one of three extant houses (276, 286 and 296 Woz Way) that share several details and appear to have been constructed at the same time. Constructed circa 1923, it features a rectangular plan and is characterized by its neo-classical full-height entry with columns and centered gable/pediment. The exterior has wood plank siding and the roof is asphalt shingle and features a red brick chimney on its east elevation. It is symmetrical in plan, with two identical large windows flanking its central, front entry. Windows are large with a fixed central portion with transom and each is flaked with two, narrow one-over-one windows. Windows appear to be historic and have received exterior screens, including exterior molding that appears to be the result of the screen installation.

286 Balbach Street

286 Balbach Street is a one-story wood frame Craftsman residence with a hipped pyramid roof. constructed circa 1923. The house is one of three extant houses (276, 286 and 296 Woz Way) that share several details and appear to have been constructed at the same time. The house features a rectangular plan and has a distinctive centered gable entry porch with square wood columns. The roof is clad with asphalt shingle and has a slight open eave overhang. The exterior of the house is clad with wood plank siding and the building features a red brick chimney on its east elevation. The house is symmetrical in plan, with two identical windows flanking its central front entry. The large windows have a fixed central portion with a transom above and each window is flaked with two, narrow one-over-one windows. The windows appear to be original and are covered with exterior screens, including exterior molding that appears to be the result of the screen installation.

296 Woz Way

296 Woz Way is a one-story wood frame Craftsman residence with a side gable roof constructed circa 1923. It is one of three extant houses (276, 286 and 296 Woz Way) that share several details and appear to have been constructed at the same time., The rectangular plan house has a distinctive centered gable entry porch with decorative corbel brackets. The roof has a slight open eave overhang. The exterior is clad with wood plank siding and the roof is clad with asphalt shingle. The house is symmetrical in plan and features a red brick chimney on its east elevation. The front entry contains two identical windows that flank its central front door. The large windows have a fixed central portion and each window is flaked with two, narrow one-over-one windows. The windows appear to be original and are covered with exterior screens, including exterior molding that appears to be the result of the screen installation.

520 Locust Street

520 Locust Street, historically known as the Jelencich House, is a one-story wood frame Craftsman residence constructed circa 1920. The house has a front gable roof and a partial width porch. The exterior is clad with wood plank siding and the roof is clad with asphalt shingle roof and has a simple fascia. The house has a rectangular footprint and its primary (west) elevation faces Locust Street. The north side of the primary elevation has a single eight-over-one window flanked by shutters. This window appears to be a replacement window. The main entry is located under the projecting gable portion of the roof and is centered between two eight-over-one replacement windows. The concrete porch has a wood railing and is accessible via a short concrete stair on the south side. The area beneath each gable on the primary elevation features a small rectangular opening with wood lattice details. The roof has a slight overhang with exposed brackets on the building's main portion.

524 Locust Street

524 Locust Street, historically known as the C. Baumer House, is a one-story wood frame Craftsman residence constructed circa 1914. The house has a front gable roof and a partial width porch. The exterior of the building is clad with woo clapboard and the roof with simple fascia is clad with asphalt shingle. The house has a rectangular footprint and its primary (west) elevation faces Locust Street. The porch is located beneath a projecting gable and features a wood railing. The primary elevation has a fixed window with a cottage windowpane detail with wood plank shutters on the north side of the porch. The window appears to be a replacement window. There is a one-over-one window located on the south side of the front façade at its porch. The main entry is located on the north side of the porch.

526 Locust Street

526 Locust Street is a one-story wood frame Neoclassical Cottage residence with a hipped roof and a partial width porch constructed circa 1910. The house has a wood clapboard exterior and an asphalt shingle roof with simple fascia above the first-floor level. The building has a rectangular footprint and its primary (west) elevation faces Locust Street. The porch features two wood columns on each side of the entry stair. The primary elevation of the house has a bay window on the south side of the porch that contains a central fixed window with a transom above flanked by two narrow one-over-one windows. The windows appear to be original and the transom window retains its leaded glass. Operable windows have exterior screens. There is heavy decorative wood bracket detail at the southwest corner of the house.

529 Locust Street

529 Locust Street, historically known as the H. Jaeger House, is a one-story wood frame Craftsman residence constructed circa 1925. The house has a front gable roof and a half width porch. The exterior of the house is clad with stucco and the roof is clad with asphalt shingle. The house has a rectangular footprint and its primary (east) elevation faces Locust Street. The porch features two piers with a railing across its east side. The primary elevation features two window openings – one on the north side of the porch and one on the south side of the entry door. The north window is a tripartite window with a central horizontal sliding window flanked on each side by two narrow fixed windows. These windows appear to be replacement windows. The window at the porch, next to the main entry, repeats the same configuration.

530 Locust Street


530 Locust Street

530 Locust Street, historically known as the S. Rosenthal House, is a one-story wood frame Minimal Traditional residence constructed circa 1939. The house has a side gable roof and a half width porch. The exterior of the building is clad with stucco the roof is clad with asphalt shingle. The house has a rectangular footprint and its primary (west) elevation faces Locust Street. The porch features two posts and is open on all sides. The primary elevation features two window openings – one on the projecting front gable portion and one on the south side of the entry door. The north window is a six-over-six replacement window with wood shutters, a decorative wood trim above, and an exterior screen. The south window is a fixed three-by-five window. The south side of porch features a decorative trim detail. The area below the gable on the projecting bay also has wood plank details.

533 Locust Street


533 Locust Street

533 Locust Street, historically known as the Hancock House, is a one-story wood frame residence constructed circa 1925. The house has a flat roof and stucco clad exterior. It is unique among other houses on the block for its Spanish Colonial Revival elements, including its red tile roof coping. The house has a rectangular footprint and its primary (east) elevation faces Locust Street. The house is symmetrical, and its primary elevation has three bays. The central bay contains the main entry which features a heavy stucco Roman arch with a plaster medallion detail above the entry door. The arch is flanked on each side with tripartite wood frame windows with slightly raised segmental arch details with a central plaster medallion. There is a central fixed window with a transom flanked on each side by a one-over-one windows. This property is listed in the City of San José's Historic Resources Inventory as a Structure of Merit.

Properties Listed in the Historic Resources Inventory

As previously stated, seven (7) properties within the Project site are listed in the City of San José's Historic Resources Inventory. The Historic Resources Inventory was initiated in 1975 and contains a compilation of more than 3,000 properties, some of which have which have been designated as City Landmarks or listed in the National Register of Historic Places, whereas others require further evaluation or have been determined to be historic resources of lesser significance that still contribute to the built environment . Of the seven (7) properties listed on the Historic Resources Inventory, six (6) are listed as "Identified Structures", meaning they require further evaluation to determine if they meet the designation criteria set forth in the Historic Preservation Ordinance or as a "Structure of Merit". One property listed in the

Historic Resources Inventory as a "Structure of Merit", which is defined as an important historic property or feature of lesser significance. Structures of Merit do not qualify as a City Landmark or for listing in the California or National Registers and are not considered historical resources for the purposes of CEQA. However, the 2040 General Plan goals and policies support the preservation of Structures of Merit, to the extent feasible. Table 4 summarizes which properties within the Project site that are listed on the Historic Resources Inventory.

Table 4: City of San José Historic Resources Inventory Summary for Project Site

Property Address	APN	HRI Status
515 Vine Street	264-31-039	Identified Structure
527 Vine Street	264-31-040	Identified Structure
533 Vine Street	264-31-041	Identified Structure
541 Vine Street	264-31-042	Identified Structure
547 Vine Street	264-31-043	Identified Structure
553 Vine Street	264-31-044	Identified Structure
533 Locust Street	264-31-108	Structure of Merit

Neighborhood Context

Within 200-feet of the Project site, there are two properties that are listed in the City of San José's Historic Resources Inventory as Structures of Merit:

1. 565 S. Almaden Boulevard, Barre Rental, which was built circa 1888; and
2. 598 S Almaden Boulevard , the B. Lenz Residence, which was built pre-1882.

Structures of Merit do not qualify as a City Landmark or for listing in the California or National Registers and are not considered historical resources under CEQA.

A reconnaisance survey was performed by a qualified architectural historian for an area within 200-foot radius around the Project site to identify any new potentially eligible historic resources in the Project vicinity. No additional historical resources were identified, as there are no structures within the 200 foot radius older than 45 years old that could be considered historic.

The neighborhood immediately surrounding the Project site is characterized by a mix of residential, commercial, and recreational land uses. East of the Project site, across Almaden Boulevard, there is a small portion of an older residential neighborhood located on S. Almaden Avenue between Balbach Street and W. Reed Street. This area contains early twentieth century single-family residences and a mid-century multi-family residential building; however, the primary elevations of these residential buildings face S. Almaden Avenue, are buffered from S. Almaden Boulevard, and are not within 200 feet of the Project site.

Northeast of the Project site, across Almaden Boulevard and immediately south of Balbach Street, there is a one-story commercial building fronted by a surface parking lot. A second surface parking lot is situated on the north side of the commercial building on the corner of Almaden Boulevard and Balbach Street. This commercial building is located approximately 240 feet away from the Project site.

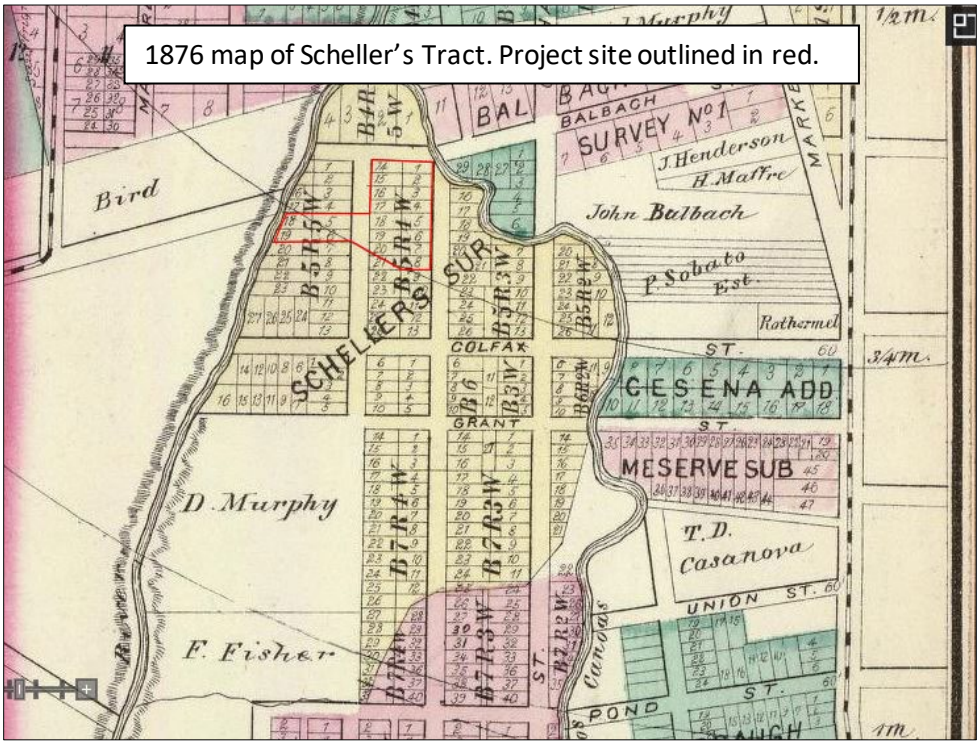
The area immediately south of the Project site is characterized by the Interstate (I-)280 interchange. A portion of Reed Street travels westward to allow access to the freeway on-ramp south west of 553 Vine Street (APN 264-31-044). The freeway overpass separates the Project site from another residential neighborhood to the south, and the nearest structures south of the I-280 are approximately 650 feet from the project site.

West of the Project site is a portion of the Guadalupe River, which contributes to the larger Guadalupe River Park. Construction of the Guadalupe River Park began in 1991. It was during this time that houses along Locust Street to the north of the Project site were demolished to establish the park. Across Woz Way is a surface parking lot that extends for nearly the full length of the block. To the northeast on Almaden Boulevard, approximately 200 feet away, is a 17-story commercial building with a surface parking lot constructed in 2002, and is not considered to be a historical resource.

Based on the above analysis, the reconnaisance survey concluded that no potentially eligible resources are located within 200 feet of the Project site.

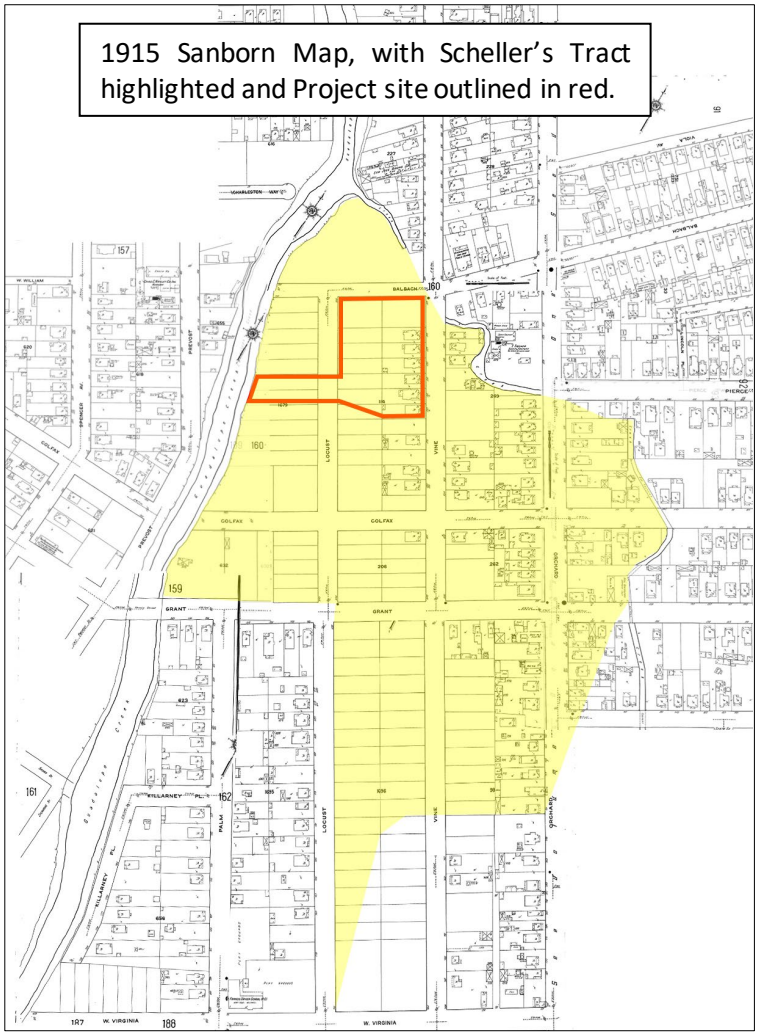
Historic Context of the Surrounding Area

The Project site is located in Mary A. Scheller Tract, also known Scheller Island Park. The Tract area is east of the Guadalupe River, south of Woz Way and west of Almaden Boulevard. This area was historically part of an area known as Gulnac's Island. Gulnac's Island, originally comprised of about 50 acres was bounded by Guadalupe River on the west, the Canoas Creek on the east, and a canal connecting the Guadalupe River to Canoas Creek to the south.



1876 map of Scheller's Tract. Project site outlined in red.

About fifteen acres of Gulnac's Island, including the area north of Grant Street, including the Project site, were retained by Christian Freyschlag until the mid-1860s when it was sold to Louis Scheller. Scheller was born in Germany and became a United States Citizen in 1857. He had the northern portion of Gulnac's Island surveyed for a subdivision as early as 1876, when the city of San Jose was continuing to develop and downtown was extending eastward, and the area became known as Scheller's Addition or Scheller's Island.



Locust, Vine (present-day Almaden Boulevard), and Orchard Streets (present-day Almaden Avenue) were the major north-south streets through the island. By 1884, Sanborn maps show that houses had developed along Orchard Street (now Almaden Avenue) from Balbach Avenue down to Grant Street, but most of the rest of Scheller's Tract remained undeveloped. In 1899, Scheller's widow had the area resurveyed and it became known as Scheller Island Park and the Mary A. Scheller Tract.

Sanborn Maps indicate that the Scheller's Tract remained relatively undeveloped by 1891. While San Jose continued to grow though the era of *Horticultural Expansion*, residential growth had slowed in part due to the Wall Street Panic of 1893. During this period late-nineteenth century residential subdivisions, like Scheller's Tract were envisioned and surveyed, but remained largely undeveloped.

In the early years of the twentieth century, the city's development increased, and an influx of Italian immigrants provided a work force for the horticultural industries. As the horticultural industries continued to grow, formerly undeveloped and partially built out subdivisions began to mature.

Residential development began to increase in Scheller's Tract, but was first concentrated on Orchard Avenue (present-day Almaden Avenue), and continued southward toward Grant Avenue. According to the 1915 Sanborn Map, there was sparse development west of Orchard Avenue and appears to be limited to a few houses on the west side of Vine Street (present-day Almaden Boulevard).

1956 aerial of Scheller's Tract, Project site outlined in red.

Residential development at this portion of the city was slow and it is not until the *Inter-War Period* that residential development was consistent. After World War I, San Jose entered a period of great prosperity, with population growth through the twenties as the city expanded outward. During this period the Scheller's Tract subdivision matured. The 1950 Sanborn Map confirms that Scheller's Tract developed, reflecting the city's continued growth, annexation efforts, and suburban expansion. By this period, residential development extended to the edge of the Tract, to the east of Orchard Street (present-day Almaden Avenue) to the edges of the Guadalupe River as well as south to West Virginia Street, including the construction of a neighborhood middle school occupying the block from Grant Street to West Virginia Street between Locust and Vine Streets.

The area changed considerably with the continued suburbanization of the Santa Clara Valley beginning in the 1940s and continuing through the 1950s-60s with the construction of Interstate 280 and the continued regional development. Scheller's Tract changed dramatically in about 1970 when the southern portion of the tract was interrupted by the construction of Interstate 280 and its associated onramp, thereby demolishing portions of the residential neighborhood and disconnecting residential neighborhoods that were once contiguous.

The area around the Project site and the Mary A. Scheller Tract continued to change in the following years. In 1991 a number of houses to the north of the Project site were demolished in association with the development of the Guadalupe River Park. By 1993, former residential neighborhoods were replaced by office and commercial space as downtown San Jose's commercial development expanded westward.

Nearby Designated Historic Districts and Conservation Areas

The Project site is not within a previously designated City Landmark Historic District or Conservation Area. The Project site is located within 0.5-mile of three designated Conservation Areas including the Market-Almaden Conservation Area located approximately 400 feet east of the Project site; the Guadalupe/Washington Conservation Area located approximately 600 feet south of the Project site; and the Martha Gardens Conservation Area located approximately 1,600 feet east of the Project site. Residential uses are the dominate uses within these conservation areas.

ARCHAEOLOGICAL RESOURCES

According to the Downtown Strategy 2040 FEIR, the City of San José area was most likely settled between 12,000 and 6,000 year ago by the Penutian-speaking people and Native Americans occupied Santa Clara Valley and the greater Bay Area 1,500 years ago. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. In the San José area, many of the Ohlone villages were located along the Guadalupe River, Coyote Creek, and other waterways. Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River.

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. The native people in the Bay Area were used for labor and exposed to diseases to which they have no immunity. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe. The City of San José was California's first capital in 1849.

REGULATORY FRAMEWORK

FEDERAL REGULATIONS

National Register of Historic Places

The National Register of Historic Places (NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, State and National level. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts. Historic properties are nominated to the NRHP by the State Historic Preservation Officer (SHPO) of the state in which the property is located. Any person or agency can propose a nomination, but a nomination must be processed through SHPO.

The NRHP identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. These criteria are:

Criterion A: Property is associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B: Property is associated with the lives of persons significant in our past.

Criterion C: Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

Criterion D: Property has yielded, or is likely to yield, information important to prehistory or history.

Secretary of the Interior's Standards for the Treatment of Historic Properties

The 1995 Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) outlines specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of historic properties. Each set of standards provides specific recommendations for the proper treatment of specific building materials, as well as parts of building construction. CEQA references these standards relative to consideration of the significance of project impacts, or lack thereof, on historic resources. The Standards are also referenced in the Envision San José 2040 General Plan and the General Plan EIR.

STATE OF CALIFORNIA

California Register of Historical Resources

The California Register of Historical Resources (CRHR) serves as a guide to identify the State's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change (Pub. Res. Code [PRC] § 5024.1(a)), and it is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. A

historical resource is any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or which is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural history of California (14 California Code of Regulations [CCR]). The criteria in which to establish significant of a property for listing on the CRHR is like the NRHP but with a greater emphasis on local and state significance.

The context types or criteria to be used when establishing the significance of a property for listing on the CRHR are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

CITY OF SAN JOSÉ

City of San José Historic Resources

The City of San José Historic Resources Inventory classifies a property's status as one or more of the following categories defined in the Historic Resources Inventory itself, the City of San José Historic Preservation Ordinance, and the 2040 General Plan, and the inventory classifications of the local Historic Resources Inventory.

- **City Landmark Site/Structure** (CLS, defined in the City of San José Historic Preservation Ordinance): An individual historic site or structure locally designated by the City Council as a City Landmark under Municipal Code Section 13.48.
- **Candidate City Landmark** (CCL, defined in the City of San José Historic Preservation Ordinance): An individual site or structure found to be eligible for City Landmark status by meeting the criteria under Municipal Code Section 13.48 based on an evaluation or survey work.
- **City Landmark District** (CLD, defined in the City of San José Historic Preservation Ordinance): A historic district locally designated by the City Council as a City Landmark District under Municipal Code Section 13.48.
- **Candidate City Landmark District** A grouping of structures found to be eligible for City Landmark District status by meeting the criteria under Municipal Code Section 13.48 based on an evaluation or survey work.
- **National Register Site/Structure** (NRS, defined in the City of San José Historic Preservation Ordinance): A structure that has been listed on the NRHP by the State HPO.
- **National Register Historic District** (NRD, defined in the City of San José Historic Preservation Ordinance): A grouping of structures that has been listed on the NRHP by the State HPO.

- **Eligible for National Register (Individually)** (ENR, defined in the City of San José Historic Preservation Ordinance): A structure that has been found to be eligible for listing on the NRHP, but has not yet been listed on the NRHP by the State HPO.
- **Eligible for National Register Historic District** (ENRD, defined in the City of San José Historic Preservation Ordinance): A grouping of structures that has been found to be eligible for listing on the NRHP, but has not yet been listed on the NRHP by the State HPO.
- **State Landmark** (SL, defined in the City of San José Historic Preservation Ordinance): Buildings, structures, sites, or places that have been determined to have statewide historical significance by the State Historical Resources Commission and the Director of California State Parks.
- **California Register Site/Structure** (CR, defined in the City of San José Historic Preservation Ordinance): A structure or site that has been listed on the CRHR.
- **Eligible for California Register (Individually)** (ECR, defined in the City of San José Historic Preservation Ordinance): A structure or site that is eligible for listing the CRHR, but has not yet been listed on the CRHR.
- **Eligible for California Register District** (ECRD, defined in the City of San José Historic Preservation Ordinance): A grouping of structures or sites that is eligible for listing on the CRHR, but has not yet been listed on the CRHR.
- **City Conservation Area** (CNS, defined in the City of San José Historic Preservation Ordinance): A historic area designated by the City Council as a Conservation Area under Municipal Code Section 13.48.
- **Contributing Site/Structure** (CS, a Classification of the Historic Resources Inventory): A site or structure that contributes to a theme, a geographical area, a property type, or to the historic fabric of the community and in some cases to a certain neighborhood.
- **Non-Contributing Site/Structure** (NCS, a Classification of the Historic Resources Inventory): A site or structure within a designated or eligible historic area that does not qualify as a Contributing Site/Structure.
- **Structure of Merit** (SM, defined in the San José 2040 General Plan): An important historic property or feature of lesser significance, and that does not qualify as a City Landmark or for the California or National Registers but attempts should be made for preservation to the extent feasible under the 2040 General Plan goals and policies.
- **Identified Site/Structure** (IS, a Classification on the Historic Resources Inventory): A potential historic property that could qualify under one or more of the classifications above pending further evaluation and survey work.

A historic resource defined as a City Landmark Site/Structure, Candidate City Landmark Site/Structure, City Landmark Historic District , and/or Candidate City Landmark Historic District, including Contributing Site/Structure within a City Landmark District or Candidate City Landmark District or City Landmark Site/Structure is considered a historical resource under CEQA. A Candidate City Landmark or Candidate City Landmark District is considered a historical resource under CEQA because it meets the criteria for local designation under the Historic Preservation Ordinance. An Identified Site/Structure may also be a

historical resource under CEQA if a historic resource evaluation presents a preponderance of evidence that the identified property meets federal, state and/or local designation criteria. Conservation Areas and Structures of Merit are not considered historical resources under CEQA.

Chapter 13.48 of the San José Municipal Code is designed to promote the public peace, health, safety and welfare through the preservation of landmarks and districts and thereby stabilize neighborhoods and areas of the city; enhance, preserve and increase property values; carry out the goals and policies of the city's general plan, increase cultural, economic and aesthetic benefits to the city and its residents; preserve, continue and encourage the development of the city to reflect its historical, architectural, cultural, and aesthetic value or tradition; protect and enhance the city's cultural and aesthetic heritage; and promote and encourage continued private ownership and utilization of such structures.

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark (including City Landmark District) if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof (Section 13.48.020 C).

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature' as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
    f. That the construction materials or engineering methods used in the proposed landmarkare unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it mayhave such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The City of San José's Municipal Code Section 13.48.110 (H) sets forth factors that may be considered to determine whether a property qualifies as a local landmark (including a historic district), as outlined below:

Prior to nominating a potentially historic property for designation as a city landmark and/or recommending approval or modified approval of a proposed designation as a city landmark, the Historic Landmarks Commission shall find that said proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that its designation as a landmark conforms with the goals and policies of the general plan. In making such findings, the Commission may consider the following factors, among other relevant factors, with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
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; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation, of which is unique.

The ordinance also provides a designation of a City Landmark District: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to the project.

Vibration

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. For reference, a jackhammer has a PPV of 0.09 in/sec at a distance of 25 feet. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Landmarks and Districts

Policy LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.

Policy LU-13.2: Preserve candidate or designated landmark buildings, structures and historicobjects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third torehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a newsite in an appropriate setting.

Policy LU-13.3: For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, andmake more attractive employment, shopping, and residential areas.

Policy LU-13.4: Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy LU-13.6: Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

Policy LU-13.7: Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.

Policy LU-13.15: Implement City, State, and Federal historic preservation laws, regulations, andcodes to ensure the adequate protection of historic resources.

Historic Structures of Lesser Significance

Policy LU-14.1: Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.

Policy LU-14.3: Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.

Policy LU-14.6: Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process.

Archaeology and Paleontology

Policy 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 archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy 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 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

Policy 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.

City Council Policy on Preservation of City Landmarks

San José City Council adopted a policy on the preservation of historic landmarks on December 8, 1998 (amended May 23, 2006). The intent of the policy is that candidate or designated landmark structures, sites, or districts be preserved wherever possible. Proposals to alter such resources must include a thorough and comprehensive evaluation of the historic and architectural significant and the economic and structural feasibility of preservation and/or adaptive reuse. Every effort to incorporate candidate or designated landmark structures into future plans for the project should be made.

The policy is applicable to this Project, and the "Early Public Notification of Proposals to Alter or Demolish a Candidate or Designated Landmark Structure, or to Impact the Integrity of a Historic District" has been met with the discussion of this Project at the San José Historic Landmarks Commission. Other requirements such as public input and City Council review, preparation of complete information regarding opportunities for preservation, and making findings justifying alteration or demolition of a landmark structure must be met to be consistent with the policy purpose and intent.

IMPACT ANALYSIS

THRESHOLDS OF SIGNIFICANCE

For the purposes of this SEIR, a cultural resources impact is considered significant if the Project would:

1. Cause a substantial adverse change in the significance of a historical resource, pursuant to in §15064.5;
2. Cause a substantial adverse change in the significance of an archaeological resource, pursuant to § 15064.5;
3. Disturb any human remains, including those interred outside of formal cemeteries; or

The definition of "historical resources" is provided by CEQA Guidelines § 15064.5(a). The following is an abbreviated and excerpted summary of this definition:

1. A resource listed in, or determined eligible by the State Historical Resources Commission, for listing in, the CRHR.

2. A resource included in a local register of historical resources or identified as significant in an historical resource survey shall be presumed historically significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
3. Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the CRHR.

Under CEQA, a structure need not be listed on a national, state, or local register to qualify as a significant resource. A structure is considered a resource under CEQA if it is found to be *eligible* for inclusion on a national, state, or local register.

CULTURAL RESOURCE IMPACTS IDENTIFIED IN THE DOWNTOWN STRATEGY 2040 FEIR

According to the Downtown Strategy 2040 FEIR, the downtown area has potentially significant impacts related to cultural resources. The Downtown Strategy 2040 FEIR recommended policy-level and programmatic mitigation measures to reduce potential cultural resource impacts to less than significant levels.

Future development allowed under the Downtown Strategy 2040 FEIR could impact, either directly or indirectly, historic resources that are currently listed, and those that have yet to be identified and evaluated. Specifically, properties greater than 45 years of age will require supplemental review effort shall include preparation of a site-specific historic resources report. Implementation of the General Plan policies and existing regulations, including application of the California Historic Building Code, the City's environmental and design review processes, will serve to reduce historic architectural resources impacts to a less than significant level.

The following impact analysis evaluates the Project's potential to result in cultural resource impacts.

CUL-1 ***Would the proposed Project, cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?***

[New Impact from Approved Project (Significant and Unavoidable)]

PROJECT SITE

MacRostie Historic Advisors prepared a historic assessment for the Project site and surrounding area in January 2020. This report is included as Appendix G of this SEIR. The historic assessment evaluated 17 residential buildings for listing in the NRHP, CRHR, and City of San José Historic Resources Inventory.

The City of San José reviewed the historic assessment prepared by MacRostie Historic Advisors and found that 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street and 553 Vine

Street, which are listed on the Historic Resources Inventory as Identified Structures, are eligible as a grouping as a Candidate City Landmark District and are historical resources under CEQA. The City of San José also found that 526 Locust Street is eligible as a Structure of Merit and 533 Locust Street, which is listed in the Historic Resources Inventory as a Structure of Merit, remains significant as a Structure of Merit. Those properties identified as Structures of Merit are not considered historical resources under CEQA.[9]

This analysis assumes that 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street and 553 Vine Street are all contributors to a Candidate City Landmark District as determined by the City of San José. As such, they are collectively considered a historical resource for the purposes of CEQA. None of the buildings on the Project site are considered eligible for City Landmark designation.

Table 5 Summary of Historic Assessments of Properties On-Site Property Address

	APN	HRI Status	City of San José Significance Evaluation
501 Vine Street	264-31-037	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
507 Vine Street	264-31-038	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
515 Vine Street	264-31-039	Identified Structure	Eligible City Landmark Historic District (Contributor)
527 Vine Street	264-31-040	Identified Structure	Eligible City Landmark Historic District (Contributor)
533 Vine Street	264-31-041	Identified Structure	Eligible City Landmark Historic District (Contributor)
541 Vine Street	264-31-042	Identified Structure	Eligible City Landmark Historic District (Contributor)
547 Vine Street	264-31-043	Identified Structure	Eligible City Landmark Historic District (Contributor)
553 Vine Street	264-31-044	Identified Structure	Eligible City Landmark Historic District (Contributor)
276 Woz Way	264-31-067	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory

[9] The historic assessment concluded that none of the buildings on the Project site are eligible for listing in the NRHP, CRHR, and City Landmark designation Criteria. MacRostie Historic Advisors and the City of San José maintain a difference in expert opinion on the eligibility of 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street and 553 Vine Street. Consistent with Section 15064(g) of the CEQA Guidelines, if there is disagreement among expert opinion supported by the facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR. Preparation of this SEIR is intended to meet this requirement under these circumstances. Further, and pursuant to Section 15151 of the CEQA Guidelines (Standards of Adequacy of an EIR), when there is disagreement among experts, the EIR must summarize the main points of disagreement with a good faith effort at full disclosure.

	APN	HRI Status	City of San José Significance Evaluation
286 Balbach Street	264-31-066	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
296 Woz Way	264-31-065	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
520 Locust Street	264-31-064	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
524 Locust Street	264-31-063	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
526 Locust Street	264-31-062	None	Eligible Structure of Merit
529 Locust Street	264-31-107	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
530 Locust Street	264-31-092	None	Ineligible for listing in the NRHP, CRHR and San José Historic Resources Inventory
533 Locust Street	264-31-108	Structure of Merit	Structure of Merit

Table 6: Summary of Historical Findings for Candidate City Landmark District

515, 527, 533, 541, 547, and 553 Vine Street as a Candidate City Landmark Historic District
The City of San José defines a historic district as "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures, or objects unified by past events or aesthetically by plan of physical development." To achieve listing of a local historic district its special historical, architectural, cultural, aesthetic or engineering interest or value of a historical nature should be included.
Its character, interest or value as part of the local, regional, state or national history, heritage or culture.
515, 527, 533, 541, 547, and 553 Vine Street provide a harmonious, familiar streetscape appearance which provides a historical connection to downtown San José's past as a residential subdivision. Scheller's Tract is one of the first residential subdivisions in the original San José city, and the area's settlement dates to 1833. The grouping of houses visually relates the early residential development in San José with the history of architectural styles. The properties exhibit commonalities and variations which illustrate the evolution of historic architecture in this period of rapid residential and suburban growth in San José and the early formation of areas into neighborhoods. Based on Sanborn maps they are the first homes in this subdivision and appear to be the historical equivalent of today's "model homes."
Its location as a site of a significant historic event.
No specific historic events have been documented at the subject properties.
Its identification with a person who significantly contributed to the local, regional, state or national culture and history.
No person who significantly contributed to the local, regional, state or national culture and history have been documented in relation to the subject properties.

Its exemplification of the cultural, economic, social, or historic heritage of the City of San José.
515, 527, 533, 541, 547, and 553 Vine Street are not a significant exemplification of San José's cultural, economic, or social history.
Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.
The subject properties are examples of both Craftsman and Neoclassical Cottage/Bungalow architecture, but do not characterize the environment of a group of people in an era of history.
Its embodiment of distinguishing characteristics of an architectural type or specimen.
515, 527, 533, 541, 547, and 553 Vine Street remain unified in architectural styles and characteristic of the early twentieth century residential development period in San José. The houses vary and have distinct features and forms in both the Neoclassical Cottage architectural style, popular in San José in the 1905 to 1910 period and the Craftsman style popular in San José in the 1908 to 1929 period (refer to style guides in YOUR OLD HOUSE, and local context statements). The houses exhibit a high quality of design and attention to detail. Information about the original designers and builders is unknown at this time, but the careful attention to detail and craftmanship along with their uniformity along the streetscape, indicates the builders and/or designers put care into the construction. The grouping of houses exhibits interesting variations on a theme, with consistency in key forms and features that makes each building eligible as a contributor to a City Landmark Historic District.
Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José.
515, 527, 533, 541, 547, and 553 Vine Street were not designed or built by a master architect or builder.
Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.
515, 527, 533, 541, 547, and 553 Vine Street do not embody elements of innovative architectural or engineering design, detail, materials, or craftsmanship.
Historic Integrity

The properties retain integrity of Feeling and Association as a grouping which conveys the rhythm of design, style, form, and placement along the streetscape. Although the freeway has physically separated the houses from the residential properties to the south and east, the six properties together maintain sufficient integrity.
 	
The character-defining features are:
• Form and Setting
• Uniform setbacks and are rectangular in plan.
• Cohesive, harmonious pattern of houses, including:
• Porches:
  • Elevated porches with steps that define the front entries from the sidewalk
  • Half-width porches
  • Wrap-around porches.
  • Porch supports with rounded classical columns, or squared, tapered piers/posts.
• Roofs:
  • Alternating roof styles, hipped and gable, each with a medium pitch.
  • Front facing gables giving the row of homes a uniformed appearance from the public right-of-way.
  • Decorative attic vents facing the street.
• Siding:
  • Horizontal, clapboard exterior siding, some with a belt-course

The Project would require the demolition of 16 structures on the Project site. While 17 properties were evaluated, one of the existing houses is not part of the site development because it is not owned by the applicant.[10] As outlined in the City Landmark District findings above, the six properties located at 515, 527, 533, 541, 547, and 553 Vine Street have been determined by the City of San José to be historical resources under CEQA as contributors to a Candidate City Landmark District.[11] As a result, the Project would result in substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Five (5) of those properties are proposed for demolition as part of the Project.

To reduce the impact, the Project would be required to implement Mitigation Measure CUL-1, described below. Despite implementation of Mitigation Measure CUL-1, the proposed Project would result in significant unavoidable impact to historic resources because the Candidate City Landmark District would not be preserved on-site, within the appropriate setting.

ADJACENT PROPERTIES

As previously discussed above in Environmental Setting, the City of San José Historic Resource Inventory identifies 565 S. Almaden Boulevard (Barre Rental) and 598 S. Almaden Boulevard (B. Lenz Residence) as Structures of Merit within 200 feet of the Project site. Structures of Merit are not considered historical resources under CEQA; therefore the Project would not have any potential to indirectly affect historical resources.

The Project site is located within 0.5 mile of three locally designated Conservation Areas (Market-Almaden Conservation Area, Guadalupe/Washington Conservation Area, and Martha Gardens Conservation Area). The closest is the Market-Almaden Conservation Area, located approximately 400 feet east of the Project site, across Almaden Boulevard. Conservation Areas are not a historical resources under CEQA; therefore the Project would not have any potential to indirectly affect historical resources.

Mitigation Measure CUL-1: Historic Resources –Demolition

Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the Project site, the Project applicant shall prepare and submit, to the satisfaction of the Director of Planning or Director's designee evidence demonstrating that the following actions have been satisfied.

Documentation: The six structures comprising the Candidate City Landmark District shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components:

- Drawings – Prepare sketch floor plans.

[10] 541 Vine Street (APN 264-31-042) is not included in the site development boundary but is within the Project site boundary.

[11] This analysis assumes that 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street, and 553 Vine Street are all contributors to aCandidate City Landmark District as determined by the City of San José. As such, they are collectively considered a historical resource for the purposes of CEQA. None of the buildings on the Project site are considered eligible for City Landmark designation individually, and therefore are not considered historical resources, individually, for the purposes of CEQA.

- Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
- Written Data – HABS written documentation in short form.

An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The Department of Parks and Recreation 523 forms prepared for the Project (included in Appendix G of the SEIR) can be used to fulfill the requirements for the written data report. The required documentation shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee. Additional copies shall be made available to other local research institutions, as requested, including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District, along with associated features, spaces, and landscaping.

Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the Project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The Project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or Director's Designee that this condition has been met prior to the issuance of demolition permits.

If the Project applicant or third party agrees to relocate the structure(s), the following measures must be followed:

1. The Director of Planning or Director's designee must determine that the receiver site is suitable for the building(s).

2. Prior to relocation, the Project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building(s) prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's Designee prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building(s) during relocation, the Project applicant or third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building(s) needs to be reinforced/stabilized before the move.

4. Once moved, the building(s) shall be repaired and restored, as needed, by the Project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner

that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The Project applicant shall submit a memo report to the Director of Planning, Building and Code Enforcement or Director's Designee documenting the relocation.

Salvage: If the project applicant and/or no third party agrees to relocate the structure, the structure shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or Director's designee. The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or Director's designee that this condition has been met prior to the issuance of demolition permits.

Commemoration: The historic structures and associated features on the project site within Candidate City Landmark District, shall be commemorated and curated to include:

- Physical remnants from the site
- Oral histories
- Research
- Historic photographs
- Historic maps
- Historic displays
- Historic Marker consistent with the City's Marker Program for history

The project applicant shall submit an Action Plan to the Director of Planning or Director's designee proposing how the historical resource will be commemorated. The proposal will be reviewed and approved by the Director of Planning or Director's designee. Following completion of the action, the project applicant shall submit a memo report documenting the commemoration.

CUL-2 ***Would the proposed Project, cause a substantial adverse change in the significance of an archaeological resource pursuant to in §15064.5?***

[Same Impact as Approved Project (Less Than Significant Impact)]

Known prehistoric and historic archeological resources are located within areas planned for redevelopment, as well as in other areas of potential development throughout the City. In addition, previously unknown unrecorded archeological resources could be discovered during the ground disturbing construction operations. As discussed above, the records search revealed no previously recorded archeological resources in the Project site. However, a review of literature and maps did indicate a high potential of historic-period activity within the Project area for unrecorded historic-period archeological resources in the proposed Project area.

The General Plan concluded that future development and redevelopment allowed under the Downtown Strategy 2040 plan, especially construction activities, could result in direct or indirect impacts to both prehistoric and historic archeological resources. The Downtown Strategy 2040 Final EIR, consistent with the General Plan, includes policies and existing regulations and policies that require provisions of studies to identify possible archeological resources on specific development sites and the incorporations of measures to avoid or limit possible disturbance of resources id they are accidentally encountered during construction. Implementation of the Downtown Strategy 2040 Final EIR policies and existing regulations and programs and Standard Permit Conditions would reduce impacts to less than significant to archeological resources.

With implementation of the Standard Permit Conditions and General Plan regulation and policies, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 Final EIR would occur and no new or additional mitigation is required.

Standard Permit Conditions

The Project applicant shall implement the following measures during construction:

Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist 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 PBCE 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.

Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement or the Director's designee 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, Building and Code Enforcement or the Director's designee.

CUL-3 ***Would the proposed Project, disturb any human remains, including those interred outside of formal cemeteries?***

[Same Impact as Approved Project (Less Than Significant Impact)]

Based on the Downtown Strategy 2040 FEIR, there are no known prehistoric or historic-era marked or unmarked human interments are present within or in the immediate vicinity of the Project site. However, there is the potential for unmarked, previously unknown Native American or other graves to be present and uncovered during construction activities. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and grave-associated items from vandalism and inadvertent destruction and any substantial change to or destruction if these resources would be a significant impact. Therefore the City, would require the Project to comply will all applicable regulatory programs pertaining to subsurface cultural resources including the following Standard Permit Conditions for avoiding and reducing impacts if human remains are encountered.

Standard Permit Conditions

The Project applicant shall implement the following measures during construction:

Human Remains. 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. If human remains are discovered 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 and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will 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 their 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 mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the Standard Permit Conditions, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 Final EIR would occur and no new or additional mitigation is required.

3.3 NOISE AND VIBRATION

The noise and vibration evaluation is based upon a Noise and Vibration Assessment prepared by Kimley-Horn in November 2019. A copy of this report is attached in Appendix I of this SEIR.

ACOUSTIC FUNDAMENTALS

SOUND AND ENVIRONMENTAL NOISE

Acoustics is the science of sound. Sound can be described as the mechanical energy of a vibrating object transmitted by pressure waves through a medium (e.g. air) to human (or animal) ear. If the pressure variations occur frequently enough (at least 20 times per second), they can be heard and are called sound. The number of pressure variations per second is called the frequency of sound and is expressed as cycles per second, or hertz (Hz).

Noise is defined as loud, unexpected, or annoying sound. The fundamental acoustics model consists of a noise source, receptor, and the propagation path between the two. The loudness of the noise source, obstructions, or atmospheric factors affecting the propagation path, determine the perceived sound level and noise characteristics at the receptor. Acoustics deal primarily with the propagation and control of sound. A typical noise environment consists of ambient noise that is the sum of many distant and indistinguishable noise sources. Superimposed on this ambient noise is the sound from individual local sources. These sources can vary from an occasional aircraft or train passing by to continuous noise from traffic on a major highway. Perceptions of sound and noise are highly subjective from person to person.

Measuring sound directly in terms of pressure would require a large range of numbers. To avoid this, the decibel (dB) scale was devised. The dB scale uses the hearing threshold of 20 micropascals (µPa) as a point of reference, defined as 0 dB. Other sound pressures are then compared to this reference pressure, and the logarithm is taken to keep the numbers in a practical range. The dB scale allows a million-fold increase in pressure to be expressed as 120 dB, and changes in levels correspond closely to human perception of relative loudness. Table 7: Typical Noise Levels provides typical noise levels.

Table 7: Typical Noise Levels

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
	– 110 –	Rock Band
Jet fly-over at 1,000 feet		
	– 100 –	
Gas lawnmower at 3 feet		
	– 90 –	
Diesel truck at 50 feet at 50 miles per hour		Food blender at 3 feet
	– 80 –	Garbage disposal at 3 feet
Noisy urban area, daytime		
Gas lawnmower, 100 feet	**– 70 –**	Vacuum cleaner at 10 feet
Commercial area		Normal Speech at 3 feet
Heavy traffic at 300 feet	**– 60 –**	
		Large business office
Quiet urban daytime	**– 50 –**	Dishwasher in next room
Quiet urban nighttime	**– 40 –**	Theater, large conference room (background)
Quiet suburban nighttime		
	– 30 –	Library
Quiet rural nighttime		Bedroom at night, concert hall (background)
	– 20 –	
		Broadcast/recording studio
	– 10 –	
Lowest threshold of human hearing	**– 0 –**	Lowest threshold of human hearing

Source: California Department of Transportation, *Technical Noise Supplement to the Traffic Noise Analysis Protocol*, September 2013.

Noise Descriptors

The dB scale alone does not adequately characterize how humans perceive noise. The dominant frequencies of a sound have a substantial effect on the human response to that sound. Several rating scales have been developed to analyze the adverse effect of community noise on people. Because environmental noise fluctuates over time, these scales consider that the effect of noise on people is largely dependent on the total acoustical energy content of the noise, as well as the time of day when the noise occurs. The equivalent noise level (L_{eq}) is the average noise level averaged over the measurement period, while the day-night noise level (DNL) and Community Equivalent Noise Level (CNEL) are measures of energy average during a 24-hour period, with dB weighted sound levels from 7:00 p.m. to 7:00 a.m. Most commonly, environmental sounds are described in terms of L_{eq} that has the same acoustical energy as the summation of all the time-varying events. Each is applicable to this analysis and defined Table 8: Definitions of Acoustical Terms.

Table 8: Definitions of Acoustical Terms

Term	Definitions
Decibel (dB)	A unit describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure. The reference pressure for air is 20.
Sound Pressure Level	Sound pressure is the sound force per unit area, usually expressed in µPa (or 20 micronewtons per square meter), where 1 pascals is the pressure resulting from a force of 1 newton exerted over an area of 1 square meter. The sound pressure level is expressed in dB as 20 times the logarithm to the base 10 of the ratio between the pressures exerted by the sound to a reference sound pressure (e.g. 20 µPa). Sound pressure level is the quantity that is directly measured by a sound level meter.

Table 8: Definitions of Acoustical Terms	
Term	**Definitions**
Frequency (Hz)	The number of complete pressure fluctuations per second above and below atmospheric pressure. Normal human hearing is between 20 Hz and 20,000 Hz. Infrasonic sound are below 20 Hz and ultrasonic sounds are above 20,000 Hz.
A-Weighted Sound Level (dBA)	The sound pressure level in dB as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to noise.
Equivalent Noise Level (L_{eq})	The average acoustic energy content of noise for a stated period of time. Thus, the L_{eq} of a time-varying noise and that of a steady noise are the same if they deliver the same acoustic energy to the ear during exposure. For evaluating community impacts, this rating scale does not vary, regardless of whether the noise occurs during the day or the night.
Maximum Noise Level (L_{max}) Minimum Noise Level (L_{min})	The maximum and minimum dBA during the measurement period.
Exceeded Noise Levels (L_{01}, L_{10}, L_{50}, L_{90})	The dBA values that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period.
Day-Night Noise Level (DNL)	A 24-hour average L_{eq} with a 10 dBA weighting added to noise during the hours of 10:00 p.m. to 7:00 a.m. to account for noise sensitivity at nighttime. The logarithmic effect of these additions is that a 60 dBA 24-hour L_{eq} would result in a measurement of 66.4 dBA DNL.
Community Noise Equivalent Level (CNEL)	A 24-hour average L_{eq} with a 5 dBA weighting during the hours of 7:00 a.m. to 10:00 a.m. and a 10 dBA weighting added to noise during the hours of 10:00 p.m. to 7:00 a.m. to account for noise sensitivity in the evening and nighttime, respectively. The logarithmic effect of these additions is that a 60 dBA 24-hour L_{eq} would result in a measurement of 66.7 dBA CNEL.
Ambient Noise Level	The composite of noise from all sources near and far. The normal or existing level of environmental noise at a given location.
Intrusive	That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends on its amplitude, duration, frequency, and time of occurrence and tonal or informational content as well as the prevailing ambient noise level.

The A-weighted decibel (dBA) sound level scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be used. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events.

The scientific instrument used to measure noise is the sound level meter. Sound level meters can accurately measure environmental noise levels to within about plus or minus 1 dBA. Various computer models are used to predict environmental noise levels from sources, such as roadways and airports. The accuracy of the predicted models depends on the distance between the receptor and the noise source.

A-Weighted Decibels

The perceived loudness of sounds is dependent on many factors, including sound pressure level and frequency content. However, within the usual range of environmental noise levels, perception of loudness is relatively predictable and can be approximated by dBA values. There is a strong correlation between

dBA and the way the human ear perceives sound. For this reason, the dBA has become the standard tool of environmental noise assessment. All noise levels reported in this document are in terms of dBA, but are expressed as dB, unless otherwise noted.

Addition of Decibels

The dB scale is logarithmic, not linear, and therefore sound levels cannot be added or subtracted through ordinary arithmetic. Two sound levels 10 dB apart differ in acoustic energy by a factor of 10. When the standard logarithmic dB is A-weighted, an increase of 10 dBA is generally perceived as a doubling in loudness. For example, a 70-dBA sound is half as loud as an 80-dBA sound and twice as loud as a 60-dBA sound. When two identical sources are each producing sound of the same loudness, the resulting sound level at a given distance would be 3 dBA higher than one source under the same conditions. Under the dB scale, three sources of equal loudness together would produce an increase of 5 dBA.

Sound Propagation and Attenuation

Sound spreads (propagates uniformly outward in a spherical pattern, and the sound level decreases (attenuates) at a rate of approximately 6 dB for each doubling of distance from a stationary or point source. Sound from a line source, such as a highway, propagates outward in a cylindrical pattern. Sound levels attenuate at a rate of approximately 3 dB for each doubling of distance from a line source, such as a roadway, depending on ground surface characteristics. No excess attenuation is assumed for hard surfaces like a parking lot or a body of water. Soft surfaces, such as soft dirt or grass, can absorb sound, so an excess ground-attenuation value of 1.5 dB per doubling of distance is normally assumed. For line sources, an overall attenuation rate of 3 dB per doubling of distance is assumed.

Noise levels may also be reduced by intervening structures; generally, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm reduces noise levels by 5 to 10 dBA. The way older homes in California were constructed generally provides a reduction of exterior-to-interior noise levels of about 20 to 25 dBA with closed windows. The exterior-to-interior reduction of newer residential units is generally 30 dBA or more.

Human Response to Noise

The human response to environmental noise is subjective and varies considerably from individual to individual. Noise in the community has often been cited as a health problem, not in terms of actual physiological damage, such as hearing impairment, but in terms of inhibiting general well-being and contributing to undue stress and annoyance. The health effects of noise in the community arise from interference with human activities, including sleep, speech, recreation, and tasks that demand concentration or coordination. Hearing loss can occur at the highest noise intensity levels.

Noise environments and consequences of human activities are usually well represented by median noise levels during the day or night or over a 24-hour period. Environmental noise levels are generally considered low when the CNEL is below 60 dBA, moderate in the 60 to 70 dBA range, and high above 70 dBA. Examples of low daytime levels are isolated, natural settings with noise levels as low as 20 dBA and quiet, suburban, residential streets with noise levels around 40 dBA. Noise levels above 45 dBA at night can disrupt sleep. Examples of moderate-level noise environments are urban residential or semi-commercial areas (typically 55 to 60 dBA) and commercial locations (typically 60 dBA). People may consider louder environments adverse, but most will accept the higher levels associated with noisier urban residential or residential-commercial areas (60 to 75 dBA) or dense urban or industrial areas (65 to 80 dBA). Regarding increases in dBA, the following relationships should be noted:

- Except in carefully controlled laboratory experiments, a 1-dBA change cannot be perceived by humans.
- Outside of the laboratory, a 3-dBA change is considered a just-perceivable difference.
- A minimum 5-dBA change is required before any noticeable change in community response would be expected. A 5-dBA increase is typically considered substantial.
- A 10-dBA change is subjectively heard as an approximate doubling in loudness and would almost certainly cause an adverse change in community response.

Effects of Noise on People

Hearing Loss. While physical damage to the ear from an intense noise impulse is rare, a degradation of auditory acuity can occur even within a community noise environment. Hearing loss occurs mainly due to chronic exposure to excessive noise but may be due to a single event such as an explosion. Natural hearing loss associated with aging may also be accelerated from chronic exposure to loud noise. The Occupational Safety and Health Administration has a noise exposure standard that is set at the noise threshold where hearing loss may occur from long-term exposures. The maximum allowable level is 90 dBA averaged over 8 hours. If the noise is above 90 dBA, the allowable exposure time is correspondingly shorter.

Annoyance. Attitude surveys are used for measuring the annoyance felt in a community for noises intruding into homes or affecting outdoor activity areas. In these surveys, it was determined that causes for annoyance include interference with speech, radio and television, house vibrations, and interference with sleep and rest. The DNL as a measure of noise has been found to provide a valid correlation of noise level and the percentage of people annoyed. People have been asked to judge the annoyance caused by aircraft noise and ground transportation noise. There continues to be disagreement about the relative annoyance of these different sources. A noise level of about 55 dBA DNL is the threshold at which a substantial percentage of people begin to report annoyance[12].

GROUNDBORNE VIBRATION

Sources of groundborne vibrations include natural phenomena (earthquakes, volcanic eruptions, sea waves, landslides, etc.) or man-made causes (explosions, machinery, traffic, trains, construction equipment, etc.). Vibration sources may be continuous (e.g. factory machinery) or transient (e.g. explosions). Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the peak particle velocity (PPV); another is the root mean square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration.

Table 9: Human Reaction and Damage to Buildings from Vibration, displays the reactions of people and the effects on buildings produced by continuous vibration levels. The annoyance levels shown in the table should be interpreted with care since vibration may be found to be annoying at much lower levels than those listed, depending on the level of activity or the sensitivity of the individual. To sensitive individuals, vibrations approaching the threshold of perception can be annoying. Low-level vibrations frequently

[12] Federal Interagency Committee on Noise, *Federal Agency Review of Selected Airport Noise Analysis Issues*, August 1992.

cause irritating secondary vibration, such as a slight rattling of windows, doors, or stacked dishes. The rattling sound can give rise to exaggerated vibration complaints, even though there is very little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Ground vibration can be a concern in instances where buildings shake, and substantial rumblings occur. However, it is unusual for vibration from typical urban sources such as buses and heavy trucks to be perceptible. Common sources for groundborne vibration are planes, trains, and construction activities such as earth-moving which requires the use of heavy-duty earth moving equipment. For the purposes of this analysis, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction-generated vibration for building damage and human complaints.

Table 9: Human Reaction and Damage to Buildings from Vibration

Peak Particle Velocity (in/sec)	Approximate Vibration Velocity Level (VdB)	Human Reaction	Effect on Buildings
0.006-0.019	64-74	Range of threshold of perception	Vibrations unlikely to cause damage of any type
0.08	87	Vibrations readily perceptible	Recommended upper level to which ruins and ancient monuments should be subjected
0.1	92	Level at which continuous vibrations may begin to annoy people, particularly those involved in vibration sensitive activities	Virtually no risk of architectural damage to normal buildings
0.2	94	Vibrations may begin to annoy people in buildings	Threshold at which there is a risk of architectural damage to normal dwellings
0.4-0.6	98-104	Vibrations considered unpleasant by people subjected to continuous vibrations and unacceptable to some people walking on bridges	Architectural damage and possibly minor structural damage

Source: California Department of Transportation, Transportation and Construction Vibration Guidance Manual, 2013.

REGULATORY FRAMEWORK

To limit population exposure to physically or psychologically damaging as well as intrusive noise levels, the Federal government, the State of California, various county governments, and most municipalities in the state have established standards and ordinances to control noise.

STATE OF CALIFORNIA

California Government Code

California Government Code Section 65302(f) mandates that the legislative body of each county and city adopt a noise element as part of its comprehensive general plan. The local noise element must recognize the land use compatibility guidelines established by the State Department of Health Services. The guidelines rank noise land use compatibility in terms of "normally acceptable", "conditionally acceptable", "normally unacceptable", and "clearly unacceptable" noise levels for various land use types. Single-family homes are "normally acceptable" in exterior noise environments up to 60 CNEL and "conditionally acceptable" up to 70 CNEL. Multiple-family residential uses are "normally acceptable" up to 65 CNEL and "conditionally acceptable" up to 70 CNEL. Schools, libraries, and churches are "normally acceptable" up to 70 CNEL, as are office buildings and business, commercial, and professional uses.

Title 24 – Building Code

The State's noise insulation standards are codified in the California Code of Regulations, Title 24: Part 1, Building Standards Administrative Code, and Part 2, California Building Code. These noise standards are applied to new construction in California for interior noise compatibility from exterior noise sources. The regulations specify that acoustical studies must be prepared when noise-sensitive structures, such as residential buildings, schools, or hospitals, are located near major transportation noise sources, and where such noise sources create an exterior noise level of 65 dBA CNEL or higher. Acoustical studies that accompany building plans must demonstrate that the structure has been designed to limit interior noise in habitable rooms to acceptable noise levels. For new multi-family residential buildings, the acceptable interior noise limit for new construction is 45 dBA CNEL.

LOCAL

City of San José General Plan

The San José General Plan identifies goals, policies, and implementations in the Noise Element. The Noise Element provides a basis for comprehensive local programs to regulate environmental noise and protect citizens from excessive exposure. Table 10: Land-Use Compatibility Guidelines for Community Noise in San José, highlights five land-use categories and the outdoor noise compatibility guidelines.

Table 10: Land-Use Compatibility Guidelines for Community Noise in San José

Land-Use Category	Exterior Noise Exposure (DNL), in dBA		
	Normally Acceptable[1]	Conditionally Acceptable[2]	Normally Unacceptable[3]
Residential, Hotels and Motels, Hospitals, and Residential Care	Up to 60	>60 to 75	>75
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds	Up to 65	>65 to 80	>80
Schools, Libraries, Museums, Meeting Halls, Churches	Up to 60	>60 to 75	>75
Office Buildings, Business Commercial, and Professional Offices	Up to 70	>70 to 80	>75
Sports Area, Outdoor Spectator Sports	Up to 70	>70 to 80	>65
Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters	N/A	>55 to 70	>70

Source: City of San José General Plan, 2014.

Table Notes:

Sound levels above are as measured at the exterior of the proposed location of the new development (e.g., residential unit, commercial building, etc.) rather than at the property boundary of the source or the property to be developed. Refer to Table LU-1 (Land-Use Element) for detailed descriptions of land-use categories and land-uses for which these guidelines apply. These guidelines are derived from the California Department of Health Services, Guidelines for the Preparation and Content of the Noise Element of the General Plan, 2003. The State Guidelines have been modified to reflect standards for the City of Saratoga.

[1] Normally Acceptable – Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction. There are no special noise insulation requirements.

[2] Conditionally Acceptable – New construction should be undertaken only after a detailed analysis of the noise reduction requirement is conducted and needed noise insulation features included in the design.

[3] Normally Unacceptable – New construction should be discouraged and may be denied as inconsistent with the General Plan and City Code. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.

[4] Outdoor open space noise standards do not apply to private balconies/patios.

The following lists applicable noise goals and targets that apply to the project obtained from the Envision San José 2040 General Plan:

Goal EC-1: Community Noise Levels and Land Use Compatibility. Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

Policy 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 Day/Night Average Sound Level (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 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 San José 2040 General Plan traffic volumes to ensure land use compatibility and consistency over the life of this plan.

Exterior Noise Levels

The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1 in the General Plan, Table 10 below). The acceptable exterior noise level objective is established for the City, except in the environs of the Mineta 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 standards for noise from sources other than aircraft and elevated roadway segments.

Policy 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.

Policy 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.

Policy 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.

Policy EC-1.1:1 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.

Policy EC-1.14: Require acoustical analyses for proposed sensitive land uses in areas with exterior noise levels exceeding the City's noise and land use compatibility standards to base noise attenuation techniques on expected Envision San José 2040 General Plan traffic volumes to ensure land use compatibility and General Plan consistency.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a 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 vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

City of San José Standard Permit Conditions

Construction-related noise minimization measures include, but are not limited to the following:

Noise

I. **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:
   i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
   ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
   iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
   iv. Prohibit unnecessary idling of internal combustion engines.
   v. 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.
   vi. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
   vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
   viii. 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.
   ix. 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.
   x. Designate a "disturbance coordinator" who shall be responsible for responding 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. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
   xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. 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.

City of San José Municipal Code

Section 20.100.450, Hours of Construction Within 500 Feet of a Residential Unit, of the San José Municipal Code (Municipal Code), specifies the following standard exceptions to the provisions of Section 20.100.450. Unless otherwise expressly allowed in a Development Permit or other planning approval, no applicant or agent of an applicant shall suffer or allow any construction activity on a site located within

500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

Table 11: City of San José Zoning Ordinance Noise Standards shows the land use types and maximum noise levels allowed at the property line.

Table 11: City of San José Zoning Ordinance Noise Standards

Land Use Types	Maximum Noise Level in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used or zoned for commercial purposes or other nonresidential uses	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

Source: Downtown Strategy 2040 FEIR, 2018.

ENVIRONMENTAL SETTING

EXISTING NOISE SOURCES

The City of San José is impacted by various noise sources. Mobile sources of noise, especially cars and trucks, are the most common and significant sources of noise in most communities. Other sources of noise are the various land uses (i.e., residential, commercial, institutional, and recreational and parks activities) throughout the City that generate stationary-source noise.

NOISE MEASUREMENTS

To determine ambient noise levels in the project area, four 10-minute noise measurements were taken using a 3M SoundPro DL-1 Type I integrating sound level meter between 10:11 a.m. and 11:05 a.m. on October 9, 2019; refer to Appendix I for existing noise measurement data and Figure 17: Noise Measurement Locations. Ambient noise measurements were made during the day, which is representative of when the most activity would occur on-site. Noise measurements 1 and 2 were taken to represent the ambient noise level in the existing land uses located to the north and west of the Project site, which include the Almaden/Woz Way parking lot and the Guadalupe River trail west of the Project site. Noise Measurement 3 was taken to represent the ambient noise level in the existing I-280 on-ramp, which is located directly south of the Project site. Noise measurement 4 was taken to represent the ambient noise level on the existing street frontage on Almaden Boulevard, east of the Project site. The primary noise sources during all four measurements were traffic from I-280, SR-87, and Almaden Boulevard, airplane traffic, and ambulance sirens. Table 12: Noise Measurements, provides the ambient noise levels measured at these locations.

Table 12: Noise Measurements

Site No.	Location	L_{eq} (dBA)	L_{min} (dBA)	L_{max} (dBA)	Time
1	Almaden/Woz Way Parking	64.6	56.6	80.4	10:11 a.m.
2	Guadalupe Train	68.2	60.9	80.2	10:30 a.m.
3	I-280 Entrance	72.3	65.1	89.3	10:46 a.m.
4	527 Almaden Boulevard	68.2	59.2	78.3	11:05 a.m.

dBA = A-weighted decibels
Source: Noise Measurements taken by Kimley-Horn on October 9, 2019.

Existing Mobile Noise

Existing roadway noise levels were calculated for the roadway segments in the Project vicinity. This task was accomplished using the Federal Highway Administration (FHWA) Highway Traffic Noise Prediction Model (FHWA-RD-77-108) and existing traffic volumes from the project Local Transportation Analysis (LTA) (Kimley-Horn 2020). FHWA RD-77-108 is an industry standard traffic noise model that provides for the uniform evaluation of roadways. The noise prediction model (FHWA-RD-77-108) calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions. The average vehicle noise rates (also referred to as energy rates) used in the FHWA model have been modified to reflect average vehicle noise rates identified for California by Caltrans. The Caltrans data indicates that California automobile noise is 0.8 to 1.0 dBA higher than national levels and that medium and heavy truck noise is 0.3 to 3.0 dBA lower than national levels. The average daily noise levels along roadway segments in proximity to the Project site are included in Table 13: Existing Traffic Noise.

Table 13: Existing Traffic Noise

Roadway Segment	ADT	dBA DNL[1]
Almaden Boulevard		
San Carlos Ave to Woz Way	17,050	62.1
Woz Way to I-280 NB On-Ramp	20,170	63.2
Woz Way		
SR-87 NB Off-Ramp to Almaden Blvd.	7,000	56.5

ADT = average daily trips; dBA = A-weighted decibels; DNL = day-night noise level
[1] Traffic noise levels are at 100 feet from the roadway centerline.
Source: Based on traffic data provided by Kimley-Horn, 2020. Refer to Appendix A for traffic noise modeling assumptions and results.

The I-280, trending in an east-west direction to the south of the project site, has annual average daily traffic (AADT) volumes of 232,000.[13] According to the *Environmental Impact Report for the Downtown Strategy* (City of San José, December 2018), the project site is located within the 70-75 dB DNL noise contour for I-280 and SR-87. Additionally, the Project site is located within the 65-70 dB DNL noise contour for Almaden Boulevard and Woz Way.

Existing Stationary Noise

The primary sources of stationary noise in the project vicinity are those associated with the operations of nearby residential uses to the east of the site. The noise associated with these sources may represent a single-event noise occurrence, short-term noise, or long-term/continuous noise.

Sensitive Receptors

Noise exposure standards and guidelines for various types of land uses reflect the varying noise sensitivities associated with each of these uses. Residences, hospitals, schools, guest lodging, libraries, and churches are treated as the most sensitive to noise intrusion and therefore have more stringent noise exposure targets than do other uses, such as manufacturing or agricultural uses that are not subject to impacts such as sleep disturbance. As shown in Table 14, sensitive receptors near the Project site include

[13] California Department of Transportation, *2017 Traffic Volumes: Route 280-405*, https://dot.ca.gov/programs/traffic-operations/census/traffic-volumes/2017/route-280-405, accessed November 4, 2019.

adjoining single-family residences. Single-family residential communities are located surrounding the Project site. These distances are from the Project site to the sensitive receptor property line.

Table 14: Sensitive Receptors

	Receptor Description	Distance and Direction from the Project Site
1	Single-family residential community	Adjoining
2	Single-family residential community	150 feet west
3	Guadalupe River and Park	500 feet north
4	Children's Discovery Museum	500 feet north
5	San José Convention Center	750 feet northwest
6	Hilton San José	1,000 feet north
7	San José Performing Arts Center	1,200 feet north
8	Rocketship Mateo Sheedy Elementary School	1,300 feet south
9	Parque De Los Pobladores	1,400 northeast
10	Notre Dame High School	1,800 feet east
11	Plaza De Cesar Chavez	0.3 miles north
12	The Tech Museum of Innovation	0.35 miles northeast
13	Come Community Outreach	0.40 miles east
14	First Immanuel Lutheran Church and School	0.45 miles east

Source: Nearmap, 2019

Figure 17: Noise Receptor Locations

Woz Way Project

Not to scale

Kimley»Horn
Expect More. Experience Better.

IMPACT ANALYSIS

THRESHOLDS OF SIGNIFICANCE

For the purposes of this SEIR, a cultural resources impact is considered significant if the Project would:

1. Generate 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;
2. Generate excessive groundborne vibration or groundborne noise levels; and
3. 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, expose people residing or working in the project area to excessive noise levels.

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed according to General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would be less than significant, consistent with the Downtown Strategy 2040 FEIR, as described below.

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 office uses exceed 70 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 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project-generated noise level increases of 3.0 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 5.0 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 5.0 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 3.0 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or 5.0 dBA DNL or more where noise levels would remain normally acceptable.

Construction Vibration

The City of San José relies on guidance developed by Caltrans[14] 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 5.0 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 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

The following impact analysis evaluates the Project's potential to result in noise and vibration impacts.

NOI-1	***Would the project result in generation of 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?*** ***[Less Impact from Approved Project (Less Than Significant)]***

CONSTRUCTION

Construction noise typically occurs intermittently and varies depending on the nature or phase of construction (e.g. land clearing, grading, excavation, paving). Noise generated by construction equipment, including earth movers, material handlers, and portable generators, can reach high levels. During construction, exterior noise levels could affect the residential neighborhoods surrounding the construction site. Project construction would occur adjacent to an existing single-family residence. However, construction activities would occur throughout the Project site and would not be concentrated at a single point near sensitive receptors. Noise levels typically attenuate (or drop off) at a rate of 6 dB per doubling of distance from point sources, such as industrial machinery. During construction, exterior noise levels could affect the residential neighborhoods and the single-family residence adjoining the construction site adjoining the construction site.

Construction activities associated with future development would include demolition, site preparation, grading, construction, paving, and architectural coating. Such activities would require graders, scrapers, and tractors during site preparation; graders, dozers, and tractors during grading; cranes, forklifts, generators, tractors, and welders during building construction; pavers, rollers, mixers, tractors, and paving equipment during paving; and air compressors during architectural coating. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full power operation followed by 3 to 4 minutes at lower power settings. Other primary sources of acoustical disturbance would be random

[14] California Department of Transportation. Transportation and Construction Vibration Guidance Manual. September 2013. Accessed February 6, 2020. http://website.dot.ca.gov/env/noise/docs/tcvgm-sep2013.pdf

incidents, which would last less than one minute (such as dropping large pieces of equipment or the hydraulic movement of machinery lifts). Grading and excavation phases of project construction tend to be the shortest in duration and create the highest construction noise levels due to the operation of heavy equipment required to complete these activities. It should be noted that only a limited amount of equipment can operate near a given location at a particular time. Noise generated by construction equipment, including earth movers, material handlers, and portable generators, can reach high levels. According to the applicant, no pile-driving would be required during construction.

Typical noise levels associated with individual construction equipment are listed in *Table 9: Typical Construction Noise Levels.* These maximum noise levels would occur when equipment is operating under full power conditions (i.e., the equipment engine at maximum speed). However, equipment used on construction sites typically operates under less than full power conditions, or part power. To more accurately characterize construction-period noise levels, the average (hourly L_{eq}) noise level associated with each construction stage is calculated based on the quantity, type, and usage factors for each type of equipment that would be used during each construction stage.[15] These noise levels are typically associated with multiple pieces of equipment operating on part power, simultaneously.

Table 15: Construction Equipment Noise Levels

Equipment	Typical Noise Level (dBA) at 50 feet from Source[1]	Typical Noise Level (dBA) at 30 feet from Source[1]	Typical Noise Level (dBA) at 150 feet from Source[1]
Air Compressor	80	84	70
Backhoe	80	84	70
Compactor	82	86	72
Concrete Mixer	85	89	75
Concrete Pump	82	86	72
Concrete Vibrator	76	80	66
Crane, Mobile	83	87	73
Dozer	85	89	75
Excavator	81	85	71
Forklift	85	89	75
Generator	82	86	72
Grader	85	89	75
Impact Wrench	85	89	75
Jack Hammer	88	92	78
Loader	80	84	70
Paver	85	89	75
Pneumatic Tool	85	89	75
Pump	77	81	67
Roller	85	89	75
Saw	83	80	66
Scraper	85	89	75
Shovel	82	86	72
Truck	84	88	74
Welder	74	78	65

[1] Calculated using the inverse square law formula for sound attenuation: $dBA_2 = dBA_1+20Log(d_1/d_2)$
Where: dBA_2 = estimated noise level at receptor; dBA_1 = reference noise level; d_1 = reference distance; d_2 = receptor location distance
Source: Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, September 2018, except for the welder reference noise level (Federal Highway Administration, Roadway Construction Noise Model User's Guide, 2006).

[15] The FHWA Roadway Construction Noise Model User's Guide (2006) defines the usage factor as the percentage of time during a construction noise operation that a piece of construction equipment is operating at full power.

Sensitive receptors near the Project area include: a resident adjoining the Project site and approximately 150 feet east of the Project site. Noise impacts for mobile construction equipment are typically assessed as emanating from the center of the equipment activity or construction site.[16] For the proposed Project, this center point would be approximately 30 feet from the nearest sensitive receptor property line. These sensitive uses may be exposed to elevated noise levels during project construction. These assumptions represent the worst-case noise scenario because construction activities would typically be spread out throughout the Project site, and thus some equipment would be farther away from the affected receptors. In addition, construction noise levels are not constant, and construction activities and associated noise levels would fluctuate and generally be brief and sporadic, depending on the type, intensity, and location of construction activities.

General Policy EC-1.7 requires construction operations within San Jose to use best available noise suppression devices and techniques and limit construction hours near residential uses. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential 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.

The Downtown Strategy 2040 FEIR it was stated that for temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land use for a period of more than 12 months. Noise levels at the nearest sensitive receptor property line are at 92 dBA at 30 feet. The highest anticipated construction noise level for the adjoining residential uses are jack hammers during demolition phase and cranes during the building construction phase. Majority of the construction does not occur near the sensitive receptor and instead would occur at least 50 feet away where noise levels would attenuate to 88 dBA. As noted above, the loudest construction phases are also typically the shortest and construction activities would also be spread out throughout the Project site. The entire construction of the Project is anticipated to last approximately 31 months. The phases with substantial noise generating activities (demolition, site preparation, excavation, grading, and paving) would last slightly longer than 11 months and would not last more than 12 months. The remaining two phases, building construction sub phase and architectural coating, typically use lighter equipment and hand tools and do not use the heavy equipment listed in *Table 9*. However, the construction noise levels would potentially exceed 5 dBA above ambient noise levels and exceed 60 dBA for more than 12 months. Therefore, consistent with General Plan Policy EC-1.7 and the Downtown Strategy EIR noise control measures the Project is required to prepare a Construction Noise Logistics Plan; refer to Mitigation Measure NOI-1.

The Project construction would comply with San José Municipal Code Section 20.100.450, stating construction activities may only occur between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, unless permission is granted with a development permit or other planning approvals. Construction activities are prohibited on weekends at sites within 500 feet of a residence. As the proposed Project is within 500 feet of residences, no construction is permitted on weekends. These permitted hours of construction are included in the code in recognition that construction activities undertaken during daytime hours are a typical part of living in an urban environment and do not cause a significant

[16] Federal Transit Administration (FTA), Transit Noise and Vibration Impact Assessment Manual, September 2018. Available at: https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf

disruption. Construction would occur throughout the Project site and would not be concentrated or confined in the area directly adjacent to sensory receptors. Therefore, construction noise would be acoustically dispersed throughout the Project site.

Construction activities would be primarily limited to daytime hours when people would be out of their houses and would conform to the time-of-day restrictions of the City's Municipal Code. The Project would require some nighttime construction during a 24-hour foundation concrete pour. Therefore, per the requirements of Municipal Code Section 20.100.450 and to further reduce the potential for noise impacts, City Standard Permit Conditions and Downtown Strategy measures would be implemented to require a construction noise logistics plan that would incorporate best management practices during construction. Incorporation of the Permit Conditions would further minimize impacts from construction noise as it requires best practices such as placing stationary noise sources away from receptors, use of temporary barriers, requiring construction equipment to be equipped with properly operating and maintained mufflers and other state required noise attenuation devices. Additionally, construction should utilize quiet air compressors and other stationary noise sources where technology exists, control construction workers' radio noise, and construct solid plywood fences around ground level constructions sites adjacent to sensitive land uses. The Downtown Strategy standard noise control measures are required to ensure that construction noise levels are minimized, and time-of-day restrictions are adhered to. As described in the Downtown Strategy 2040 EIR, the Project would be required to implement standard noise control measures, which have been included below. Thus, with incorporation of standard noise control measures, a less than significant noise impact would result from construction activities. The Downtown Strategy 2040 EIR found less than significant impact from construction noise with implementation of the standard noise control measures (Mitigation Measure NOI-1) and compliance with General Plan policies.

The Project proposes nighttime construction for concrete pouring only. Therefore, in addition to the construction noise logistics plan required per Mitigation Measure NOI-1 as well as the requirements of General Plan Policy EC-1.7 and the Downtown Strategy 2040 FEIR, Mitigation Measure NOI-2 is required to reduce nighttime construction noise to less than significant levels. Mitigation Measure NOI-2 includes limitations to the number of pieces of equipment that would operate at night, arranging work sites away from sensitive receptors and to avoid the use of backup beepers, use shielding when adjacent to sensitive receptors, notifications for nighttime activities, and the provision of alternate accommodations, if necessary.

CONSTRUCTION TRAFFIC NOISE

Construction noise may be generated by large trucks moving materials to and from the Project site. Large trucks would be necessary to deliver building materials as well as remove dump materials. Excavation and cut and fill would be required. The Project is anticipating approximately 190,000 cubic yards (cy) of export material. Based on the California Emissions Estimator Model (CalEEMod) default assumptions for this project, as analyzed in Woz Way Air Quality Assessment, the Project would generate the highest number of daily trips during the building construction phase. The Project would generate approximately 641 worker trips and 300 vendor trips per day during the building construction phase. The model estimates that the Project would generate up to 23,875 hauling trips during the grading phase which would last approximately 150 days. This would be approximately 159 daily hauling trips. Because of the logarithmic nature of noise levels, a doubling of the traffic volume (assuming that the speed and vehicle mix do not also change) would result in a noise level increase of 3 dBA. Almaden Boulevard between Woz Way and I-280 northbound on-ramp has an average daily trip volume of 20,140 vehicles (*Table 10*) while Woz Way between SR 87 northbound off-ramp and Almaden Boulevard has an average daily trip volume of 7,000 vehicles (*Table 10)*. Therefore, 941 project construction trips (641 worker trips plus 300 vendor trips) would not double the existing traffic volume per day. Construction related traffic noise would not be

noticeable and would not create a significant noise impact.

California establishes noise limits for vehicles licensed to operate on public roads using a pass-by test procedure. Pass-by noise refers to the noise level produced by an individual vehicle as it travels past a fixed location. The pass-by procedure measures the total noise emissions of a moving vehicle with a microphone. When the vehicle reaches the microphone, the vehicle is at full throttle acceleration at an engine speed calculated for its displacement.

For heavy trucks, the State pass-by standard is consistent with the federal limit of 80 dB. The State pass-by standard for light trucks and passenger cars (less than 4.5 tons gross vehicle rating) is also 80 dB at 15 meters from the centerline.

OPERATIONS

Implementation of the Project would create new sources of noise in the project vicinity. The major noise sources associated with the Project that would potentially impact existing and future nearby residences include the following:

- Off-site traffic noise;
- Crowd noise;
- Mechanical equipment (i.e., trash compactors, air conditioners, etc.);
- Delivery trucks on the project site, and approaching and leaving the loading areas;
- Activities at the loading areas (i.e., maneuvering and idling trucks, loading/unloading, and equipment noise);
- Parking areas (i.e., car door slamming, car radios, engine start-up, and car pass-by); and
- Landscape maintenance activities.

As discussed above, the closest sensitive receptors is the on-site single-family residence. The City of San José stationary source exterior noise standard for residential areas is 55 dBA L_{eq} (Table 11: City of San José Zoning Ordinance Noise Standards). The land use compatibility standard for residential areas is also 60 dBA DNL for normally acceptable conditions (Table 10).

TRAFFIC NOISE

Implementation of the Project would generate increased traffic volumes along study roadway segments. The Project is expected to generate a net of 7,418 average daily trips, which would result in noise increases on project area roadways. In general, a traffic noise increase of less than 3 dBA is barely perceptible to people, while a 5-dBA increase is readily noticeable (Caltrans, 2013). Generally, traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by 3 dBA. Therefore, permanent increases in ambient noise levels of less than 3 dBA are considered to be less than significant.

As shown in Table 16, the existing traffic-generated noise level on Project area roadways is between 56.5 dBA DNL and 62.1 dBA DNL at 100 feet from the centerline. As previously described, DNL is 24-hour average noise level with a 10 dBA "weighting" added to noise during the hours of 10:00 p.m. to 7:00 a.m. to account for noise sensitivity in the evening and nighttime, respectively. As such, traffic noise under existing conditions dBA DNL is greater than the City's normally acceptable 60 dBA threshold for residential uses.

Table 16: Existing and Project Traffic Noise

Roadway Segment	Existing Conditions (Existing Development)		With Project		Project Change from Existing Conditions	Significant Impact?
	ADT	dBA DNL[1]	ADT	dBA DNL[1]		
Almaden Boulevard						
San Carlos Ave to Woz Way	17,050	62.1	18,360	62.5	0.4	No
Woz Way to I-280 NB On-Ramp	20,170	62.9	27,230	64.2	1.3	No
Woz Way						
SR-87 NB Off-Ramp to Almaden Blvd.	7,000	56.5	12,26	58.9	2.4	No

ADT = average daily trips; dBA = A-weighted decibels; DNL= day-night noise levels
[1] Traffic noise levels are at 100 feet from the roadway centerline.
Source: Based on traffic data provided by Kimley-Horn, 2020. Refer to Appendix A for traffic noise modeling results.

Traffic noise levels for roadways primarily affected by the project were calculated using the FHWA's Highway Noise Prediction Model (FHWA-RD-77-108). Traffic noise modeling was conducted for conditions with and without the project, based on traffic volumes (Kimley-Horn, 2020). As noted in *Table 10*, the project would not have an increase of less than 3.0 dBA for the three roadway segments analyzed. As an increase under 3 dBA is barely perceptible to people, the Project would not have a significant impact on existing traffic noise levels. The Downtown Strategy 2040 EIR determined that significant traffic noise impacts would occur at sensitive receptors along Almaden Boulevard. However, as shown in *Table 10*, the project's contribution to traffic noise levels would not be significant.

Table 17 shows the background conditions which includes projects that have been approved but not yet constructed near the project study area. Per the LTA, the Background Conditions Analysis includes 14 approved/pending project that were added to the existing 2019 volumes. The Almaden Office Project was excluded in Background scenario and included in Cumulative scenario. Refer to the LTA for a complete list of approved/pending projects included.

As shown in Table 17, background roadway noise levels with the Project would range from 57.4 to 63.7 dBA. The highest increase in noise levels would occur on Woz Way between SR-87 NB Off-Ramp and Almaden Boulevard. Noise levels along Woz Way would increase by 2.1 dBA with the Project. This level is below the perceptible noise level change of 3.0 dBA. Therefore, impacts are less than significant.

Table 17: Background and Background Plus Project Traffic Noise

Roadway Segment	Background		With Project		Project Change from Background	Significant Impact?
	ADT	dBA DNL[1]	ADT	dBA DNL[1]		
Almaden Boulevard						
San Carlos Ave to Woz Way	22,560	63.4	23,870	63.6	0.2	No
Woz Way to I-280 NB On-Ramp	23,990	63.7	31,050	64.8	1.1	No
Woz Way						
SR-87 NB Off-Ramp to Almaden Blvd	8,630	57.4	13,890	59.5	2.1	No

ADT = average daily trips; dBA = A-weighted decibels; DNL= day-night noise levels
[1] Traffic noise levels are at 100 feet from the roadway centerline.
Source: Based on traffic data provided by Kimley-Horn, 2020. Refer to Appendix A for traffic noise modeling results.

Project traffic would traverse and disperse over project area roadways, where existing ambient noise levels already exist. Future development associated with the Project would result in additional traffic on adjacent roadways, thereby increasing vehicular noise near existing and proposed land uses. This level is below the perceptible noise level change of 3.0 dBA. Therefore, impacts would be less than significant.

ON-SITE MOBILE NOISE

Exterior Noise at Outdoor Areas

The proposed Project would include a number of amenity terraces in the new towers. As discussed above, the project site is located within the 70-75 dB DNL I-280 and SR 87 traffic noise contours. As such, on-site visitors using the terrace could be exposed to traffic noise levels that exceed the City's 60 dBA DNL exterior noise standard. However, it should be noted that General Plan Policy EC-1.1 exempts the Downtown area from the 60 dBA DNL exterior noise standard. Therefore, impacts in this regard would be less than significant.

STATIONARY NOISE SOURCES

Implementation of the Project would create new sources of noise in the project vicinity from crowd noise, mechanical equipment, truck loading areas, parking lot noise, and landscape maintenance.

Crowd Noise

The Project may include some crowd noise due to events or amenities at the proposed office and retail areas. Crowd noise is dependent on several factors including vocal effort, impulsiveness, and the random orientation of the crowd members. Crowd noise is estimated at 60 dBA at one meter (3.28 feet) away for raised normal speaking. This noise level would have a +5 dBA adjustment for the impulsiveness of the noise source, and a -3 dBA adjustment for the random orientation of the crowd members. Therefore, crowd noise would be 62 dBA at one meter from the source. Noise has a decay rate due to distance attenuation, which is calculated based on the Inverse Square Law for sound propagation. Based upon the Inverse Square Law, sound levels decrease by 6 dBA for each doubling of distance from the source. As a result, crowd noise would be 56.0 dBA at 6.56 feet and 52.3 dBA at 10 feet. Therefore, crowd noise from the outdoor areas to the closest existing sensitive receptors (located 10 feet away) would not exceed the City's 55 dBA standard. Noise from crowd noise would primarily occur during the "daytime" activity hours of 7:00 a.m. to 7:00 p.m. Furthermore, the Project would be required to comply with the noise standards set forth in the City's General Plan and Municipal Code. A less than significant impact would occur in this regard.

Mechanical Equipment

Regarding mechanical equipment, the Project would generate stationary-source noise associated with heating, ventilation, exhaust fans, generators, and air conditioning (HVAC) units. HVAC units typically generate noise levels of approximately 50 to 60 dBA at 50 feet. Mechanical equipment for the Project would be located in fully enclosed spaces throughout the proposed building. In addition there would be dedicated rooms/spaces for mechanical exhaust, electrical, and generators. Most of the equipment rooms and all of the below-grade equipment rooms proposed by the Project would be located on the interior of the building. The Project would not place mechanical equipment near residential uses; the mechanical equipment would be located approximately 200 feet from existing residential uses. At 200 feet the mechanical equipment noise levels would be 48 dBA. However, an enclosure would provide additional noise level reduction of 10 dBA or more, which would reduce noise levels below the City's 55 dBA standard for mechanical equipment per Policy EC-1.3 at the nearest sensitive receptor property line. Given the distance and enclosures, noise from this equipment would not be perceptible at the closest sensitive

receptor (existing single-family residences adjoining the Project site) and the City's noise standards would not be exceeded. Impacts from mechanical equipment would be less than significant.

Loading Area Noise

The Project's loading areas are located within the parking garages on the north and south building. The project is an office and retail development that would necessitate occasional deliveries. The primary noise associated with deliveries is the arrival and departure of trucks. Operations of proposed mix use structure would potentially require deliveries of vans and light trucks and not heavy-duty trucks. Normal deliveries typically occur during daytime hours. During loading and unloading activities, noise would be generated by the trucks' diesel engines, exhaust systems, and brakes during low gear shifting' braking activities; backing up toward the docks/loading areas; dropping down the dock ramps; and maneuvering away from the docks. Typically, trucks used to make deliveries can generate a maximum noise level of 75 dBA at 50 feet. These are levels generated by a truck that is operated by a typically experienced driver with typically applied accelerations. Higher noise levels may be generated by the excessive application of power. Lower levels may be achieved but would not be considered representative of a nominal truck operations. The loading/unloading zone would be fully enclosed and noise truck idling/loading/unloading would be inaudible at the nearest sensitive receptors (adjoining the Project site).

Parking Areas

Traffic associated with parking areas is typically not of sufficient volume to exceed community noise standards, which are based on a time-averaged scale such as the CNEL scale. However, the instantaneous maximum sound levels generated by a car door slamming, engine starting up and car pass-bys may be an annoyance to adjacent noise-sensitive receptors. Parking lot noise can also be considered a "stationary" noise source.

The instantaneous maximum sound levels generated by a car door slamming, engine starting up, and car pass-bys range from 53 to 61 dBA at 50 feet and may be an annoyance to noise-sensitive receptors. Conversations in parking areas may also be an annoyance to sensitive receptors.[17] Sound levels of speech typically range from 33 dBA at 48 feet for normal speech to 50 dBA at 50 feet for very loud speech.[18] It should be noted that parking lot noise are instantaneous noise levels compared to noise standards in the DNL scale, which are averaged over time. As a result, actual noise levels over time resulting from parking lot activities would be far lower.

The proposed Project includes four levels of underground parking and three levels of above ground parking for a total of 1,259 parking stalls. Noise impacts associated with parking would be considered minimal since the parking area would be enclosed within a structure. However, the centerline of the gated driveway access to the parking garage is located approximately 30 feet south of the nearest sensitive receptor. Another driveway access to the garage is located approximately 50 feet north of the nearest sensitive receptor and is right-in and right-out only. The third driveway is located approximately 300 feet northwest of the nearest sensitive receptor. In addition, parking lot noise would also be partially masked by the background noise from traffic along, Almaden Boulevard, I-280, and SR-87.

For the purpose of providing a conservative, quantitative estimate of the noise levels that would be generated from the vehicles entering and exiting the parking structure, the methodology recommended

[17] Kariel, H. G., *Noise in Rural Recreational Environments*, Canadian Acoustics 19(5), 3-10, 1991.

[18] Elliott H. Berger, Rick Neitzel, and Cynthia A. Kladden. Noise Navigator Sound Level Database with Over 1700 Measurement Values, July 6, 2010.

by FTA for the general assessment of stationary transit noise sources is used. Using the methodology, the Project's peak hourly noise level that would be generated by the on-site parking levels was estimated using the following FTA equation for a parking lot:

$$L_{eq(h)} = SEL_{ref} + 10\log(NA/1{,}000) - 35.6$$

Where:

$L_{eq(h)}$ = hourly L_{eq} noise level at 50 feet
SEL_{ref} = reference noise level for stationary noise source represented in sound exposure level (SEL) at 50 feet
NA = number of automobiles per hour
35.6 is a constant in the formula, calculated as 10 times the logarithm of the number of seconds in an hour

Based on the peak hour trip generation rates in the Transportation Analysis, the Project is forecasted to generate 902 trips during the peak hour. Since there are two driveways, it is reasonable to assume that each driveway would have a peak hour volume of 451 vehicles. Using the FTA's reference noise level of 92 dBA SEL[19] at 50 feet from the noise source, the Project's peak hour vehicle trips would generate noise levels of approximately 53 dBA at 50 feet from the parking structure. The closest adjacent residential uses would be approximately 30 feet from the access driveway to the parking structure. Based on this distance, and using the inverse square law of sound propagation, the vehicle related noise levels would be approximately 57 dBA L_{eq}. Additionally, the walls would be located along the driveways, which would attenuate noise levels by 8 dBA[20], reducing the noise level to 49 dBA. However, noise levels would also be below the City's 55 dBA standard for residential uses. Furthermore, parking noise levels would be below the current ambient noise levels, which were measured at 72 dBA near I-280 and 68 dBA along Almaden Boulevard approximately the same distance from I-280 as the closest sensitive receptors from the parking structure entrance. Noise levels in this area are dominated by freeway noise. Noise from the parking garage would be well below ambient levels, and below the City's standards. Additionally, other hours of the day when less overall vehicles arrive and depart from the Project site, the noise levels at the nearest offsite sensitive land uses would be even lower. Therefore, noise impacts from parking lots would be less than significant.

Landscape Maintenance Activities

Development and operation of the Project includes new landscaping that would require periodic maintenance. Noise generated by a gasoline-powered lawnmower is estimated to be approximately 70 dBA at a distance of 5 feet. Maintenance activities would operate during daytime hours for brief periods of time as allowed by the City Municipal Code and would not permanently increase ambient noise levels in the project vicinity and would be consistent with activities that currently occur at the surrounding uses. Therefore, with adherence to the City's Municipal Code, impacts associated with landscape maintenance would be less than significant.

Overall, implementation of City of San José environmental standard conditions and adherence to Municipal Code requirements, noise impacts associated with traffic, mechanical equipment, deliveries, loading/unloading activities, and parking lot noise would be reduced to a less than significant level.

[19] Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, September 2018.

[20] Federal Highway Administration, Roadway Construction Noise Model User's Guide, January 2006.

Mitigation Measures:

Mitigation Measure NOI-1: *Construction Noise*

Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement 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 implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- 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" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- Pile-driving is prohibited.
- Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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

  Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Mitigation Measure NOI-2: Nighttime Construction

Prior to the issuance of any development permits, the project applicant shall prepare a noise logistic plan that includes measures to reduce noise from construction occurring outside of the allowable hours of 7:00 a.m. to 7:00 p.m., Monday through Friday within 500 feet of existing residential land uses, including concrete pouring during nighttime hours. 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. The following measures would reduce nighttime noise impacts at nearby noise-sensitive residences and shall be included in the noise logistics plan:

- Limit the active equipment to as few pieces of equipment as possible.
- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors during nighttime hours, and/or the work sites shall be arranged in a way that avoids the need for any reverse motions of trucks or the sounding of any reverse motion alarms during nighttime work. If these measures are not feasible, equipment and trucks operating during the nighttime hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or "smart alarms" that automatically adjust the alarm to 5 dBA above the ambient near the operating equipment).
- Limit nighttime concrete pouring to the northern location or a minimum distance of 270 feet from the sensitive receptor, where feasible. Restrict concrete trucks and pumps along Almaden Boulevard near sensitive receptor during all nighttime activities. Nighttime concrete trucks located closer than 270 feet shall install a temporary barrier with a minimum height of eight feet around the property line of the adjacent residence.
- If nighttime construction noise continues to result in excessive disruption to nearby neighbors, implement a construction noise monitoring plan, which includes a provision for noise monitoring at the nearby receptors to confirm that nighttime construction noise levels meet nighttime noise level thresholds at the adjoining single-family residential. Construction monitoring shall occur for the first two days of construction for period of nighttime construction work to demonstrate that the nighttime construction activities are compliant with the construction noise level thresholds (68 dBA Leq exterior noise level at the adjacent residence). These thresholds are based on existing ambient conditions. Additional noise monitoring shall be completed on a more frequent basis if

needed, in response to complaints. In the event of noise complaints, the contractor will provide information to client within 48 hours of being notified of the complaint, regarding the noise levels measured and activities that correspond to the complaints, as well as the proposed changes at the site to reduce the noise levels to below the thresholds.

- Sensitive receptors identified by the noise-monitoring with the potential to be exposed to nighttime construction noise levels exceeding 68 dBA Leq at the adjacent residence shall be provided with vouchers for alternate accommodations for the duration of the nighttime construction.
- Residences or other noise-sensitive land uses within 500 feet of construction sites should be notified of the nighttime construction schedule, in writing, prior to the beginning of construction. This notification shall specify the dates for all nighttime construction. Designate a "construction liaison" that would be responsible for responding to any local complaints about nighttime construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

NOI-2 ***Would the project result in generation of excessive groundborne vibration or groundborne noise levels?***

[Same Impact from Approved Project (Less than Significant)]

CONSTRUCTION

Increases in groundborne vibration levels attributable to the Project would be primarily associated with construction-related activities. Construction on the Project site would have the potential to result in varying degrees of temporary groundborne vibration, depending on the specific construction equipment used and the operations involved. Ground vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. The effect on buildings located in the vicinity of the construction site often varies depending on soil type, ground strata, and construction characteristics of the receiver building(s). The results from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibration at moderate levels, to slight damage at the highest levels. Groundborne vibrations from construction activities rarely reach levels that damage structures.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.20 in/sec PPV is used to minimize damage at buildings of conventional construction, however sensitive historic structures have a vibration limit of 0.08 in/sec PPV. The nearest sensitive receptor (541 Vine Street) is listed in the City of San Jose's Historic Resources Inventory as an Identified Structure. The structure is a one-story plus attic wood frame Neoclassical Cottage constructed in circa 1908. For the purposes of this analysis, the 0.08 in/sec PPV threshold was utilized.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used.

Table 18 lists vibration levels at 5 feet, 25 feet, and 150 feet for typical construction equipment. Groundborne vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. As indicated in Table 18, based on FTA data, vibration velocities from typical heavy construction equipment operations that would be used during Project construction range from 0.018 to 0.523 in/sec PPV at 5 feet from the source of activity based on the anticipation construction equipment. The nearest sensitive receptor is the single-family residence on-site.

Table 18: Typical Construction Equipment Vibration Levels

Equipment	Peak Particle Velocity at 25 Feet (in/sec) Reference Level	Peak Particle Velocity at 5 Feet (in/sec) [1, 2] Adjacent Sensitive Receptor	Peak Particle Velocity at 150 Feet (in/sec) [1, 2] Sensitive Receptor across Almaden Boulevard
Large Bulldozer	0.089	0.523	0.012
Loaded Trucks	0.076	0.446	0.011
Rock Breaker	0.059	0.347	0.082
Jackhammer	0.035	0.206	0.005
Small Bulldozer/Tractors	0.003	0.018	0.000

1. Calculated using the following formula: $PPV_{equip} = PPV_{ref} \times (25/D)^{1.1}$, where: PPV_{equip} = the peak particle velocity in in/sec of the equipment adjusted for the distance; PPV_{ref} = the reference vibration level in in/sec from Table 7-4 of the Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, 2018; D = the distance from the equipment to the receiver.
2. PPV levels have been adjusted based on the site's soil type per the *Caltrans Transportation and Construction Vibration Guidance Manual*, September 2013.

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

As shown in Table 18, the highest vibration levels are achieved with the large bulldozer operations. These pieces of equipment would have the potential to produce vibration levels of 0.08 in/sec PPV or more at the historic sensitive receptor within 5 feet of the Project site. At this distance, Project construction activities could reach levels of 0.523 in/sec PPV which would exceed the 0.08 in/sec PPV threshold. Groundborne vibration decreases rapidly with distance. Other buildings within the vicinity are calculated to be below the City's conventional vibration limit of 0.2 in/sec PPV.

While the nearest sensitive receptor is adjacent to the property line of the Project site, large pieces of vibratory equipment would not be used along the boundary. Due to site constraints, smaller and quieter pieces of lighter-duty construction equipment would be along the property lines and boundaries. For instance, the small bulldozer and tractor generating 0.018 in/sec would be utilized along the boundary rather than the heavier large bulldozer.

The U.S. Bureau of Mines analyzed the effects of vibration generated by construction activity on buildings and found approximately 20 percent probability of "threshold damage" at vibration levels of 1.2 in/sec PPV or less and no observations of minor or major damage at 1.2 in/sec PPV or less.[21] Therefore, based on the data threshold damage in the form of hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects may occur but not hairline cracking on masonry, loosening of plaster, wide cracking, or shifting of foundation or bearing walls to the single-family residence assuming a maximum vibration level of 1.2 in/sec PPV.

The Downtown Strategy 2040 EIR recommends placing operating equipment as far as possible from vibration-sensitive receptors and using smaller equipment, among other measures. In general, other construction activities would occur throughout the Project site and would not be concentrated at the

[21] Siskind, D.E., M.S. Stagg, J.W. Kopp, and C.H. Dowding, *Structure Response and Damage Produced by Ground Vibration form Surface Mine Blasting, Report of Investigations 8507*, Bureau of Mines, U.S. Department of the Interior 1980.

point closest to the nearest residential structure. Additionally, Mitigation Measure NOI-3 would require a Vibration Management Plan that would ensure the applicant demonstrates vibration control during demolition and construction activities. Mitigation Measure NOI-4 requires vibration monitoring at the nearest sensitive receptor during construction activities. With implementation of Mitigation Measure NOI-3 and Mitigation Measure NOI-4, vibration would not be expected to cause structural damage, vibration levels may still be perceptible. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum. Therefore, vibration impacts associated with the Project would be less than significant.

OPERATIONS

The Project would not generate ground-borne vibrations that could be felt at surrounding uses. The proposed Project would not involve railroads or substantial heavy truck operations, and therefore would not result in vibration impacts at surrounding uses. As such, a less than significant impact would occur in this regard.

Mitigation Measures:

Mitigation Measure NOI-3: Vibration Management Plan

Prior to the issuance of any grading permits, the project applicant shall provide a Vibration Management Plan or other evidence acceptable to the City of San José that demonstrates that vibration control of demolition and construction activities shall be implemented. The project applicant shall prepare a list of all high vibratory equipment to be used and shall submit the list to the City's Director of Planning, Building and Code Enforcement or Director's Designee for review and approval. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and shall identify methodologies and tasks to effort require for continuous vibration monitoring. This includes performing high-vibration activities during the middle of the day and spaced as far apart as possible to avoid multiple high-vibration activities at once. Vehicle routes should avoid sensitive receptor area as much as possible. Pile-driving is prohibited.

Mitigation Measure NOI-4: Vibration Monitoring

Prior to issuance of any demolition or grading permits, the project applicant shall prepare and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions at the adjacent historic sensitive receptor prior to, during, and after vibration generating construction activities. The project applicant shall submit the Plan to the City's Director of Planning, Building and Code Enforcement or Designee prior to issuance of any demolition or grading permits for review and approval. All plan tasks shall be conducted under the direction of a Professional Structural Engineer licensed in the State of California and be in accordance with industry accepted standard methods. The Plan shall include, but is not limited to, the following:

- A photo survey, elevation survey, and crack monitoring survey for the historic residence. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and 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 said structure. Frequency of intervals shall be recommended by the Professional Structural Engineer and shall be approved by the City.

- A contingency section or plan to identify 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 further document before and after construction period. Construction contingencies would be identified for when vibration levels approach the limits.
    - If vibration levels approach limits (0.08 in/sec PPV), suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.
- Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
- Summarize the results of all vibration monitoring and submit results in a report after completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims. The report shall be submitted to the City's Director of Planning, Building and Code Enforcement or designee and the Historic Preservation Officer two weeks after completion of each phase identified in the project schedule.
- 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.

NOI-3 ***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?***

[Same Impact from Approved Project (Less Than Significant)]

The nearest airports to the Project site are the Norman Y. Mineta San José International Airport located approximately 2 miles north of the Project and Reid Hillview Airport located approximately 3.5 miles east of the Project site. The Project site lies near the 65 dBA CNEL 2027 noise contour and future exterior noise levels would be up to 65 dBA CNEL/DNL at the Project site. According to General Plan Policy EC-1.11, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. The proposed project would not expose people working in the project area to excessive noise levels. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 Final EIR would occur and no new or additional mitigation is required no new or more significant impacts than those analyzed in the Downtown Strategy 2040 Final EIR would occur and no new or additional mitigation is required.

SECTION 4.0 CUMULATIVE IMPACTS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great of detail as is necessary for project impacts but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision-makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this SEIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

THRESHOLDS OF SIGNIFICANCE

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts:

1) Would the effects of all of the pending development listed result in a cumulatively significant impact on the resources in question? And, if that cumulative impact is likely to be significant, would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts?

CUMULATIVE SETTING

This section discusses whether the proposed would result in significant short-term or long-term environmental impacts when combined with other past, present, planned, and probable future projects in the area. Short-term impacts are generally associated with construction of the project, while long-term impacts are those that result from permanent project features or operation of the project.

Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. It is assumed that potential cumulative impacts would not occur in conjunction with other projects beyond this distance because of the nature of the project. Neither construction nor operation will result in impacts significant enough to be cumulatively considerable beyond a 0.5-mile radius of the Project site. This is true of the cumulative analysis for the project for all resource areas except for Transportation, where the cumulative impacts could occur up to two miles from the project; biology, where species could use the greater Guadalupe River as a migratory corridor; and air quality, and GHG emissions, where the project's contribution to a cumulative impact within the City of San José, the greater air basin, and globally is discussed.

Several projects were identified for analysis as part of this cumulative analysis. These projects are summarized in Table 19.

Table 19 Cumulative Projects within 0.5 Miles

Project	Location	Description	Impacts	Status
Almaden Office Project	Northwest corner of South Almaden Boulevard and Woz Way (0.02 mile from Project site)	Demolition of on an existing parking lot and the construction of an up to 17-story, approximately 2.6 million-square foot building on a 3.67-gross acre site. As proposed, the project would include approximately 2,111,000 square feet of office space in two towers (North Tower and South Tower), 35,200 square feet of ground floor commercial space, and up to 1,815 below-grade parking spaces.	New Significant and unavoidable impacts on air quality, and biological resources, and new less than significant impacts with mitigation for noise.	EIR circulated 7/31/20 to 9/14/20; Response to comments being prepared
Downtown West Mixed-Use Plan	Bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, South Almaden Street, and Royal Avenue to the east; Auzerais Avenue to the south; and Sunol Avenue, Diridon Station, and the Caltrain rail line to the west. The project also includes the area bounded by Los Gatos Creek to the west, San	Development up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistic/warehouse(s) totaling approximately 100,000 GSF and approximately 15 acres of open space, all on approximately 81 acres.	Significant and unavoidable impacts related to air quality, cultural resources, and noise and vibration, and population and housing.	EIR circulated 10/7/20 to 12/8/20, Response to comments being prepared.

Project	Location	Description	Impacts	Status
	Fernando Street to the south, the Guadalupe River to the east, and Santa Clara Street to the north. (0.5 mile from Project site)			
Sparq Apartments	598 South First Street (0.2 mile from Project site)	7 stories, 105 units, 3,000 square feet of ground-floor retail.	No new impacts beyond what was identified in Downtown Strategy 2040 Plan	Approved and under Construction
Adobe North Tower	335 West San Fernando Street (0.5 mile from Project site)	Development of an approximately 1,315,000-square-foot building, 690,328 square feet of research and development and office use, up to 8,132 square feet of retail use, a private pedestrian bridge connecting to existing office buildings to the south, extended weekday and Saturday construction hours, and a limited number (up to 30) of 24-hour workdays on an approximately 2.49-gross-acre site.	No new impacts beyond what was identified in Downtown Strategy 2040 Plan	Approved and under construction
200 Park Avenue Office Project	200 Park Avenue (0.2 mile from Project site)	Demolition of the existing buildings and the construction of an approximately 1,055,000 square-foot office building with 840,000 square feet of office space, 229,200 square feet of above-grade parking, and 282,800 square feet of below-grade parking on an approximately 1.7-gross acre site.	No new impacts beyond what was identified in Downtown Strategy 2040 Plan	Approved and under construction

Project	Location	Description	Impacts	Status
477 South Market Street	477 South Market Street (0.2 mile from project site)	Six-story mixed-use development with 130 residential units and approximately 5,000-square feet street of commercial space.	Environmental documentation in process.	Planning Phase
226 Balbach Street	226 Balbach Street (0.1 mile from project site).	Eight-story building with approximately 87 affordable residential units totaling approximately 95,463 square feet,	Environmental documentation in process.	Planning Phase
San José Tribute Hotel	211 South First Street (0.4 mile from project site).	24-story, 274-room hotel, integrated with the Montgomery Hotel	No new impacts beyond what was identified in Downtown Strategy 2040 Plan	Approved by not constructed
Gateway Tower	493—480 South Market Street (0.3 mile from project site).	25 stories, 308 residential units, 8,000 square feet of ground floor retail	Significant and unavoidable impacts on cultural resources and aesthetics.	Approved but not constructed.
The Graduate	80 East San Carlos Street (0.5 mile from project site).	Construction of a 19-story building with up to 260 residential units and approximately 14,800 square feet of ground floor retail/commercial space.	No new impacts beyond what was identified in Downtown Strategy 2040 Plan	Under Construction
Museum Place	180 Park Avenue (0.3 mile from project site).	Construction of a 24-story mixed-use building with approximately 214,000 square feet of office, 13,402 square feet of ground floor retail, 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units.	Significant and unavoidable impacts from shading on Plaza de Cesar Chavez.	Approved but not constructed
Block 8 Office Project	282 South Market Street (0.3 mile from Project site)	Construction of a 20-story commercial building with approximately 16,500 square feet of commercial retail and approximately 628,000 square feet of commercial office on an	Significant and unavoidable land use impact related to shade and shadow	EIR circulated 11/23/20 to 01/11/21. Response to comments being prepared.

Project	Location	Description	Impacts	Status
		approximately 1.49-gross acre site.		
South Fourth Street Mixed-Use	439 South Fourth Street (0.5 mile From Project Site)	Construction of an 18-story mixed use building consisting of 218 residential units, approximately 1,345 square feet of commercial use and approximately 12,381 square feet of public eating establishment.	Environmental documentation in process.	Planning Phase
City View Plaza Project	Northeast corner of Almaden Boulevard and Park Avenue	Demolition of the approximately 960,567 square-foot CityView Plaza, removal of 31 ordinance size trees, and construction of an office development totaling approximately 3.8 million square feet of office and commercial space above a subterranean parking garage on an approximately 8.1 gross-acre site.	Significant and unavoidable air quality impact, cultural resources impact, and noise impact.	Approved but not constructed
Garden Gate Tower	600 South First Street (0.3 mile from Project site)	Development of a 27-floor building with a maximum height of approximately 283 feet. The buildings would have a similar footprint and design with the exception of some minor differences in the ground floor layout. Both options would also include the demolition of an existing two-story residential building (on the City's Historic Resources Inventory), façade treatment to an existing single-story brick office building, and relocation of an on-site neon sign to the	Significant and Unavoidable cultural resources impacts.	Approved, not constructed.

Project	Location	Description	Impacts	Status
		roof of the proposed development.		
Post and San Pedro Tower	171 Post Street (0.5 mi from Project site)	Construction of a 21-story residential tower with 228 residential units and 10,863 sf of ground floor retail	No new impacts beyond what was identified in Downtown Strategy 2000 Plan	Approved, not constructed.

POTENTIAL CUMULATIVE IMPACTS

The Downtown Strategy 2040 FEIR evaluated potential cumulative impacts on a programmatic level to address broader cumulative impacts as a result of implementing the full development envisioned in the plan. As this SEIR is a supplement to the previously certified Downtown Strategy 2040 FEIR, the Project's cumulative contribution to plan-wide impacts such as traffic impacts, regional air quality impacts, long-term 2035 GHG impacts have already been disclosed as part of the cumulative impact analysis completed for the Downtown Strategy 2040 FEIR.

Of the cumulative projects, the Almaden Office project and the proposed Project are located nearest together, at approximately 0.02 mile apart. The Almaden Office project, located at the northwest corner of South Almaden Boulevard and Woz Way, is currently in the planning phase, and a Draft SEIR was circulated for public review in July 2020. Construction of the Almaden Office project is estimated to begin in 2021 and last for a period of 51 months (i.e. 4.25 years). As such, the two projects could potentially have overlapping construction schedules. For the other projects that have not yet been approved, it is too speculative to predict when those projects might start construction at this time.

Based on the analysis in the Initial Study (Appendix B), the project would result in a less than significant impacts to aesthetics, agricultural/forestry resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use, mineral resources, population and housing, public services, recreation, transportation, and utilities and service systems. The degree to which the project would add to existing or probable future impacts on existing land uses and/or resources would be negligible and would therefore not considerably contribute to any cumulative impacts associated with these topic areas. However, the Project would have potentially significant impacts on air quality, biological resources, cultural resources, and noise and vibration as detailed in Section 3.1 and 3.2 of this SEIR, as well as in the air quality section of the initial study in Appendix B. The Project's potential to contribute to any cumulatively significant biological resources, cultural resources, and noise and vibration impacts are discussed below.

BIOLOGICAL IMPACTS

The Almaden Office project SEIR identified that there would be a new cumulatively considerable impact to the riparian corridor of the Guadalupe River as a result of the Almaden Office project. The Almaden Office project, located immediately north of the Project site, would result in habitat encroachment and shading effects on the Guadalupe River as a result of a proposed zero to approximately 26-foot setback from the riparian corridor along the length of the site The Almaden Office project SEIR also found that

encroachment of new buildings within 35 feet of the riparian corridor would result in a cumulatively considerable contribution on the riparian corridor impact.

When considered individually, neither the Project nor the Almaden Office project would shade more than 10 percent of the entire Guadalupe River Park (as shown in Figure 15 and detailed in the Initial Study in Appendix B). Further, the Downtown West Mixed-Use Plan EIR determined that the maximum effect of that project would increase the area shaded by 3.5 percent of the Guadalupe River park ark area, at 3 p.m. on the winter solstice. At the other times analyzed, the Downtown West Mixed-Use Plan EIR determined the increase in the area of Guadalupe River Park shaded would range from 0 percent to 1.8 percent. Based on the Downtown Strategy 2040 FEIR, future development proposals for parcels within 100 feet of the riparian corridor of Los Gatos Creek or the Guadalupe River shall assess the effects of the proposed structures (shading and thermal radiation) on riparian vegetation and creek temperatures. Projects that result in a 20 percent or more increase in shade or any increase in average daily temperature within the river corridor shall be required to: 1) alter their design to reducing shading; or 2) implement other measures to reduce instream water temperatures. Such measures could include increasing the setback or planting of additional shaded riverine aquatic habitat. When considered cumulatively, the Project and the cumulative projects would not shade more than 20 percent of the entire Guadalupe River Park.

Given the developed state of the Project site and its urban development and bordered by a predominantly urban setting, the Project site is not considered to be important habitat for any special status species. Sensitive bat species could utilize the site for foraging, roosting, and/or breeding habitat. However, the site is not considered to be critical or high-quality habitat for any bat species because of the developed nature of the Project site. Likewise, nesting migratory birds adapted to urban settings could utilized residential yards for breeding and foraging habitat. However, the site does not provide important habitat for nesting migratory birds because of the developed nature of the Project site and areas to the north, east, and south. Therefore, the project would not contribute to any significant cumulative impact to the loss of habitat for any sensitive species.

The only sensitive or biologically important habitat in the vicinity of the Project site is the Guadalupe River riparian corridor. In the portion of the channel that flows through urban, downtown San José, the river is comprised of a matrix of fragmented riparian habitat including heavily armored and engineered concrete channel reaches such as those that pass under bridges or those that have benching comprised of concrete and native plantings. Despite these pressures, steelhead, chinook salmon, western pond turtle, and numerous native species of animals and plants continue to utilize the channel as important habitat.

Of the cumulative projects, only three are considered to have a cumulative effect for impacts to the Guadalupe River: the Adobe North Tower, the Downtown West Mixed-Use Plan and the Almaden Office project. The Adobe North Tower site is sufficiently set back from the Guadalupe River such that impacts, and cumulative impacts, to the riparian habitat are lacking from the project. Given this setting, the cumulative impact analysis centers on the question of whether the cumulative impact of the Woz Way Project, the Downtown West Mixed-Use Plan, and the Almaden Office project significantly impact the Guadalupe River riparian corridor, when considered together.

The Downtown West Mixed-Use Plan proposes a 30-foot setback from the top of the channel wall along the Guadalupe River and finds that, with the incorporation of mitigation measures, the project would have less than significant biological effects to the Guadalupe River riparian corridor.

The Almaden Office project would have a new significant and unavoidable impact on the biological goals and objectives of the Santa Clara Valley Habitat Plan and would conflict with the SCVHP stream setback requirements. Further, the Almaden Office project would have new cumulatively significant Unavoidable Impact to the Guadalupe River riparian habitat. The Almaden Office project encroachment within the standard 100-foot riparian setback, specifically the project's 0-foot setback, would result in a considerable contribution to significant cumulative impacts without mitigation. Even with implementation of Mitigation Measures from the Almaden Office project, encroachment of new buildings within 35 feet of the riparian corridor would still result in a cumulatively considerable contribution on the riparian corridor.

As described in Section 3.1, the Guadalupe River adjacent to the Project site is of degraded quality, even as compared to the segment of river that is adjacent to the Almaden Office Project. This is because the segment adjacent to the Woz Way Project site has harscaped concrete banks with relatively sparce landscaping and it passes beneath two roadway overpasses (including the 1-280/SR-87 interchance), while the segment adjacent to the Almaden Office Project site has natural banks with dense vegetation. Further, the Almaden Office Proejct encroaches within the 35-foot setback boundary, developing as close as 0-feet from the riparian corridor. In fact, approximately 1.8 acres of the 3.57 acre Almaden Office Project site (50%) is within the 100-foot riparian setback. As such, the biological contexts for the two projects are different and the consideration of the Woz Way Project's contributions to a cumulative biological impact must recognize these differences. In contrast, the Woz Way Project does not encroach within the 35-foot setback, and the entire northern portion of the project complies with the 100-foot setback. The setback for the subject Project would minimize impacts to the riparian corridor and therefore not contribute to the cumulative riparian impacts.

Based on the analysis in this SEIR, the Project would have potentially significant impacts to special status bat species and to riparian habitat within the Project's 35-foot setback area. However, with implementation of the measures identified in this SEIR, the Project would not adversely impact bat species or the riparian corridor, and therefore would have less than significant impacts on these resources. The Project would not result in a cumulatively considerable contribution to bat species because implementation of Mitigation Measure BIO-1 would ensure the Project has no contribution to any cumulative bat impacts. Further, when considered cumulatively with the Almaden Office project, the Project would not considerably contribute to a cumulative impact on the Guadalupe River riparian habitat for the following reasons: (1) the Project will observe a 35-foot setback from the riparian corridor, which will provide sufficient space within this highly urbanized context to provide an appropriate riparian buffer between the development and the Guadalupe River, (2) the Project would implement Mitigation Measure BIO-2 to ensure appropriate plantings are implemented in the development-free 35-foot setback area, which would ensure the riparian habitat adjacent to the Project site is not adversely affected, and (3) the Project would include several design features, including a 35-foot setback, bird-safe building materials, and lighting strategies, to minimize and avoid any potential impacts to bird species as a result of collision with the proposed buildings. As such, the Project would not have any significant contributions to cumulative biological impacts.

CULTURAL RESOURCES

The Gateway Tower project, City View Plaza project, and Garden Gate Tower project each identified significant unavoidable impacts to cultural resources. As such, there is an identified cumulatively significant impact on historical resources in downtown San Jose. As discussed in Impact CUL-1, the Project

would demolish 16 single-family houses, including five houses that are contributing structures to the Candidate City Landmark District. This would result in a significant and unavoidable impact to historical resources. When this significant impact is taken in consideration with the surrounding cumulative setting, the Project's contribution to the adverse cumulative cultural impact would be considerable. The Project would adhere to Mitigation Measure CUL-1, which would require the Project to document the existing structures per Historic American Building Survey guidelines, advertise the structures as available for relocation, salvage the building materials during demolition, and commemorate the historic structures. Despite implementation of Mitigation Measure CUL-1, the Project's contribution to the cumulative cultural resources impact would be significant and unavoidable.

NOISE AND VIBRATION

Construction Noise

The Project's construction activities, when properly mitigated, would not result in a substantial temporary increase in ambient noise levels. The City permits construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Project would contribute to other proximate construction noise impacts if construction activities were conducted concurrently. However, based on the noise analysis above, the Project's construction-related noise impacts would be less than significant following compliance with local regulations and mitigation measures outlined in this study.

Construction activities at other planned and approved projects would be required to take place during daytime hours, and the City and project applicants would be required to evaluate construction noise impacts and implement mitigation, if necessary, to minimize noise impacts. Construction for the proposed Almaden Office Project would overlap with the proposed Project. However, the Almaden Office Project is in the vicinity of two other projects while the Woz Way Project is only in the vicinity of one project (Almaden Office Project), so there is less of a cumulative contribution. The proposed Project is further away from the receptors that would be affected by the Almaden Office Project and its related projects. Conversely, the proposed Project receptors are further away from the Almaden Office Project. Noise attenuates with distance and from intervening topography and structures which would reduce cumulative exposure. A receptor close to one construction site is shielded by other features from the related project. For example, the Park Avenue receptors have a direct line of sight to the Almaden Office Project, but line of sight is obstructed to the proposed Project by the convention center. Construction would be distributed throughout both sites and not focused adjacent to one receptor. Additionally, the loudest construction phase is usually earthwork, which is also one of the shortest as discussed above. There would be less potential for these phases to overlap for the two Projects. Also, if there are subterranean levels, once the equipment gets below grade, the site has a natural noise barrier, which reduces the duration that overlapping construction noise would interact. It takes a doubling of sound energy to result in a noticeable noise increase. Therefore, even if the both construction projects were equal distances from a receptor, the cumulative contribution would be barely perceptible.

With regard to construction noise, 1,000 feet is generally considered to be the distance in which cumulative noise effects could occur. The Almaden Office project is located approximately 110 feet from the Project site, and the remainder of the cumulative projects listed above are located further than 1,000 feet from the Project site. The Almaden Office project SEIR concluded that it would not have significant construction noise impacts on its own, after implementation of project-specific mitigation measures. However, the Almaden Office project SEIR did conclude that when considered cumulatively with the Museum Place development, 200 Park Avenue Office project, CityView Plaza project, and Balbach

Affordable Housing project, the Almaden Office project would have a significant cumulative construction noise impact. The Museum Place development, 200 Park Avenue Office project, CityView Plaza project, and Balbach Affordable Housing project are located more than 1,000 feet from the Project site and would therefore not be considered as part of the cumulative construction noise environment for the Project.

Because the Almaden Office project is located approximately 110 feet north of the Project site and is the only project within 1,000 feet of the Project site, it is the only other foreseeable project that would constitute the cumulative setting for construction noise. Construction noise from the Project is considered to be less than cumulatively considerable, when considered with the Almaden Office project, for the following reasons: (1) construction noise from the Project would largely effect different sensitive receptors than the Almaden Office project because the Project site is further away from the receptors that would be affected by the Almaden Office project and its related cumulative projects; while the Project's sensitive receptors are further away from the Almaden Office project[22]; (2) while the Almaden Office project is located 1,000 feet from the four construction projects previously identified, and therefore had a significant cumulative noise setting to contribute to, the Project is only located near one other construction project and would therefore generate less cumulative noise exposure; (3) noise attenuates with distance and from intervening structures which would reduce cumulative exposure; and (4) and the loudest construction phase is generally earthwork, which is also one of the shortest. There would be less potential for these phases of the Project and the Almaden Office project to overlap given the small window of time associated with each project's earthwork and the different entitlement stages.

Additionally, the Project would implement the noise mitigations outlined in this SEIR to reduce project construction noise to a less than significant level. The Almaden Office Project implementing a construction noise logistics plan as required by Mitigation Measure NOI-1.1 in the Almaden Office Project SEIR would reduce that project's construction noise effects. The combination of both projects implementing construction noise logistic plans would not result in a cumulatively considerable construction noise impact.

Operational Noise

Cumulative noise impacts describe how much noise levels are projected to increase over existing conditions with the development of the Project and other foreseeable projects. Cumulative noise impacts would occur primarily as a result of increased traffic on local roadways due to buildout of the Project and other projects in the vicinity. However, noise from generators and other stationary sources could also generate cumulative noise levels.

Stationary Noise

As discussed above, impacts from the Project's operations would be less than significant. Due to site distance, intervening land uses, and the fact that noise dissipates as it travels away from its source, noise impacts from on-site activities and other stationary sources would be limited to the Project site and vicinity. Similar to the proposed Project, other planned and approved projects would be required to mitigate for stationary noise impacts at nearby sensitive receptors, if necessary. As stationary noise

[22] For example, the Project site is approximately 335 feet from the Children's Discovery Museum, while the Almaden Office Project is only 200 feet from the Children's Discovery Museum. Conversely, the Almaden Office Project is located approximately 530 feet from the residential uses along South Almaden Avenue, while the Project site is only 230 feet from these residential uses (across South Almaden Boulevard).

sources are generally localized, there is a limited potential for other projects to contribute to cumulative noise impacts. Therefore, other potential projects in the vicinity would not compound or increase the operational noise levels generated by the Project. Thus, the Project would not make a cumulatively considerable contribution to significant cumulative operational noises and cumulative operational noise impacts from related projects, in conjunction with project-specific noise impacts, would not be cumulatively significant.

Traffic Noise

A project's contribution to a cumulative traffic noise increase would be considered significant when the combined effect exceeds perception level (i.e., auditory level increase) threshold. Cumulative increases in traffic noise levels were estimated by comparing the Existing Plus Project and Cumulative scenarios to existing conditions. The traffic analysis considers cumulative traffic from future growth assumed in the traffic mode, as well as cumulative projects identified by the City of San José.

The following criteria is used to evaluate the combined effect of the cumulative noise increase.

- *Combined Effect*. The cumulative with Project noise level ("Cumulative With Project") would cause a significant cumulative impact if a 3.0 dB increase over "Existing" conditions occurs and the resulting noise level exceeds the applicable exterior standard at a sensitive use. Although there may be a significant noise increase due to the project in combination with other related projects (combined effects), it must also be demonstrated that the project has an incremental effect. In other words, a significant portion of the noise increase must be due to the project.

The following criteria have been used to evaluate the incremental effect of the cumulative noise increase.

- *Incremental Effects*. The "Cumulative With Project" causes a 1.0 dBA increase in noise over the "Cumulative Without Project" noise level.

A significant impact would result only if both the combined and incremental effects criteria have been exceeded. Noise by definition is a localized phenomenon and reduces as distance from the source increases. Consequently, only the Project and growth due to occur in the general area would contribute to cumulative noise impacts. *Table 20: Cumulative Plus Project Conditions Predicted Traffic Noise Levels*, identify the traffic noise effects along roadway segments in the vicinity of the Project site for "Existing," "Cumulative Without Project," and "Cumulative With Project," conditions, including incremental and net cumulative impacts.

Table 20: Cumulative Plus Project Conditions Predicted Traffic Noise Levels

Roadway Segment	Existing[1]	Cumulative Without Project[1]	Cumulative With Project[1]	Combined Effects: dBA Difference: Existing and Cumulative With Project	Incremental Effects: dBA Difference: Cumulative Without and With Project	Cumulatively Significant Impact?
Almaden Boulevard						
San Carlos Ave to Woz Way	62.1	64.0	64.2	2.1	0.2	No
Woz Way to I-280 NB On-Ramp	62.9	64.1	65.1	2.2	1.0	No
Woz Way						
SR-87 NB Off-Ramp to Almaden Blvd.	56.5	59.6	61.0	4.5	1.4	No[2]

ADT = average daily trips; dBA = A-weighted decibels; DNL= day-night noise levels

1. Traffic noise levels are at 100 feet from the roadway centerline.
2. This level is above the combined and incremental effects for cumulative analysis. However, the downtown core is exempt from the standard 60 dBA noise threshold for residential and museum uses. There are no residences located on Woz Way. The closest museum activity area is approximately 135 feet from the roadway centerline. At this distance, traffic noise would not exceed 60 dBA at the nearest residential or museum use.

Source: Based on traffic data provided by Kimley-Horn, 2020.

First, it must be determined whether the "Future With Project" increase above existing conditions (Combined Effects) is exceeded. As indicated in Table 20, the Project would have one roadway segment (Woz Way between SR 87 and Almaden Boulevard) that would exceed the combined effects criterion. The Project would increase local noise levels by a maximum of 4.5 dBA DNL. The increase is greater than 3 dBA and the resulting noise level would be 61.0 dBA which is greater than the City's noise threshold for residential and museum uses (60 dBA). Next, under the incremental effects criteria, cumulative noise impacts are defined by determining if the forecast ambient ("Future Without Project") noise level is increased by 1 dB or more. The Project would exceed the incremental effects for two roadway segment (Almaden Boulevard between Woz Way and I-280 NB On-Ramp and Woz Way between SR 87 and Almaden Boulevard). However, General Plan Policy EC 1.1 exempts the downtown core from the noise standard. Additionally, the cumulative traffic noise would be below the City's standard for outdoor recreation and park uses (65 dBA). The noise level 61 dBA is conditionally acceptable by the City and that per the U.S. EPA (Protective Noise Levels, 1978), standard construction reduces noise levels by approximately 25 dBA, which would reduce interior noise to 36 dBA and below the 45 dBA interior standard. Therefore, the Project's cumulative noise contribution would be less than significant. The Project would not result in long-term mobile noise impacts based on project-generated traffic as well as cumulative and incremental noise levels. Therefore, the Project, in combination with cumulative background traffic noise levels, would not result in a significant cumulative impact.

CUMULATIVE IMPACTS CONCLUSION

Implementation of the Project, in combination with other past, present, and foreseeable projects would result in a cumulatively considerable impact to significant historic resources in San José.

There is no mitigation reasonably feasible to reduce this impact to a less than significant level.

SECTION 5.0 GROWTH-INDUCING IMPACTS

For the purposes of this Project, a growth-inducing impact is considered significant if the Project would:

a. Cumulatively exceed official regional or local population projections;

b. Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or

c. Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans.

Would the Project Cumulatively exceed official regional or local population projections?

The Project does not include residential uses and would therefore not directly increase the City's population. The Project includes approximately 1.2 million additional square feet office space beyond what was analyzed in the Downtown Strategy 2040 and the Envision San José 2040 General Plan because of the General Plan Amendment and corresponding Site Development Permit. The office and retail components of the Project could result in an overall employment growth of 4,130 jobs, which could potentially increase indirect population growth. The City assumes 1.55 employees per household[23]. Given the creation of an estimated 4,130 job opportunities, the Project could potentially result in approximately 2,665 additional households.

There is currently a shortage of available jobs relative to available housing within the City of San José. The Downtown Strategy 2040 identified that San José has a jobs to employed residents' ratio of 0.8:1 as of December 2018, indicating an imbalance toward more housing than jobs in the City[24]. In 2020, the ratio was identified as 0.81:1 in the 2020 General Plan Annual Performance Review.[25] San José is unique in that all other large cities in the U.S. function as regional job centers, with a greater than 1:1 ratio of jobs to employed residents. As such, the City of San José is "housing-rich", and the increase of jobs from the Project would promote a jobs/housing balance that is closer to 1 to 1.

[23] Plan Bay Area 2040 Regional Forecast of Jobs, Population and Housing Final Supplemental Report. July 2017. Page 32.

[24] City of San José. Downtown Strategy 2040 Integrated Final EIR, Page 245.

[25] City of San José, Envision San José 2020 General Plan Annual Performance Review: Executive Summary

The main environmental issue associated with a jobs/housing imbalance is increased VMT. The proposed Project site is located within 0.33 miles of bus Routes 23, 81, 168, 201, and 323, and 0.25 miles north-east of the Children's Discovery Museum light rail station. Therefore these employment opportunities would be easily accessible via transit, furthering the City's General Plan goals to support a healthy community, reduce traffic congestion and decrease greenhouse gas emissions and energy consumption. In addition, the intensification of residential and office development in Downtown can reduce the distances between jobs and housing, supporting alternative transportation modes over vehicle use for commuting.

The Project would occur on an infill site in an urbanized area of the City with connections to roads, transit, utilities, and public services. The Project would not require the expansion of utilities because these services are provided to the site given its infill nature. As noted above, the Project would not require the expansion of roads because of its proximity to transit and the project does not propose the expansion of transit services. Additional public services would not be required because the Project site is currently served by existing utilities and the Project would connect these services. The Project site is currently served by public safety providers, and the Project would continue to be served by the providers. While the proposed Project could potentially increase population indirectly by adding jobs, the proposed Project would promote the Downtown Strategy 2040 FEIR goals for focused and sustainable growth because it supports the intensification of development in an urbanized area that is currently served by existing roads, transit, utilities, and public service. As such, no indirect growth is anticipated as a result of expanded infrastructure.

If growth anticipated from the Downtown Strategy 2040 occurs as planned, including substantial new employment uses beyond the needs of the local workforce, an indirect effect of that job growth would be inducing population growth elsewhere. As a result, full build out of the Downtown Strategy 2040 would have the potential to indirectly induce growth outside of the City. New job growth in the City could result in an indirect effect on population growth elsewhere. Since the Project would include job growth beyond what was considered in the Downtown Strategy 2040, the Project would contribute to the significant unavoidable impact previously identified in the Downtown Strategy 2040.

Would the Project directly induce substantial growth or concentration of population? The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans?

The Project does not propose any residential uses, not does it propose development in a previously undeveloped area. As such, it would not directly induce substantial population growth or accelerate development in an undeveloped area.

Would the Project indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans?

As noted above, the Project has the potential to indirectly cause population growth. Notably, due to the creation of an estimated 4,130 job opportunities, the Project could potentially result in approximately 2,665 additional households beyond what the Downtown Strategy 2040 FEIR contemplated. As identified in the Downtown Strategy 2040 FEIR, new job growth in the City could result in an indirect effect on population growth elsewhere. Since the Project would include job growth beyond what was considered in the Downtown Strategy 2040, the Project would contribute to the significant unavoidable impact previously identified in the Downtown Strategy 2040.

However, the Project is proposed on an infill site in the downtown core of the City of San José. The site is surrounded by existing infrastructure and both existing and planned development. Development of the Project would not require upgrades to the existing sanitary sewer and/or storm drain systems, beyond the connection lines that directly serve the Project site. As such, the Project does not include expansion of infrastructure that would facilitate growth in the Project area or other areas of the City.

The Project proposes a GPA for the boundaries of the Project site to allow for consistency in land use designations across the entire site. In the event the remaining parcel within the boundaries becomes available for purchase, the underlying general plan designation assigned to the parcel would allow for future development consistent with the proposed Project. Any future development would require separate entitlement approvals from the City, including environmental review.

SECTION 6.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed Project, should it be implemented." [Section 15126(c)]

Development of this site would involve the use of non- renewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non- renewable resources. Once the new development is complete, occupants would use some non- renewable fuels to heat and light the buildings. The proposed Project would also result in the increased consumption of water. Water consumption is currently low because the primary use of the site is two two-story structures and surface parking lots.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed Project would be built to current codes, which require insulation and design to minimize wasteful energy consumption. In addition, the site is an infill location currently served by public transportation networks and within walking distance of jobs and services. The proposed Project would, therefore, facilitate more efficient use of resources over the lifetime of the Project.

SECTION 7.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the Project is implemented as it is proposed. The following significant and unavoidable impacts have been identified as a result of the Project:

- Cultural Resources: Demolition of the existing structures on-site considered contributors to a Candidate City Landmark Historic District, would result in a significant and unavoidable impact to the historical resource and a significant contribution to a cumulative cultural impact.

SECTION 8.0 ALTERNATIVES

Section 15126.6 of the CEQA Guidelines require that an EIR describe a reasonable range of alternatives to the proposed Project that could feasibly attain most of the Project objectives, while avoiding or considerably reducing any of the significant impacts of the proposed Project. In addition, the No Project Alternative must be analyzed in the document.

In order to comply with the purposes of CEQA, it is necessary to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented while trying to meet most of the basic objectives of the Project. The Guidelines emphasize a common-sense approach.

The alternatives shall be reasonable, shall "foster informed decision making and public participation," and shall focus on alternatives that avoid or substantially lessen the significant impacts.

The objectives of the Project are to:

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
2. Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
3. Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
4. Provide an office and retail development that provides a pedestrian-oriented uses and access that enlivens the Guadalupe River Park in the vicinity of the I-280/SR-87 interchange and the surrounding segment of Almaden Avenue.
5. Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
6. Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
7. Create building transitions, setbacks, landscaping, and other measures to minimize development impacts on the adjacent Guadalupe River.
8. Provide appropriately scaled open space for gathering spaces and event spaces for the downtown business community.
9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.
10. Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.

11. Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.
12. Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.
13. Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region as a whole.
14. Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.
15. Construct a high-quality development.

There is an unavoidable significant impact to historical resources identified by this SEIR, and the Project would have potentially significant impacts to biological resources that would be reduced to less than significant levels by implementing mitigations outlined in this SEIR.

Alternatives to reduce or avoid the significant and unavoidable impacts resulting from buildout of the Downtown Strategy 2040 as a whole was presented in the 2018 FEIR and are not repeated here as they are not relevant to the current decision-making for the proposed specific development Project that is the subject of this SEIR.

There is no rule requiring an EIR to explore off-site Project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project and evaluate the comparative merits of the alternatives." (CEQA Guidelines, Section 15126.6, subd. (a)) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative Project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.

ALTERNATIVES CONSIDERED AND REJECTED FROM FURTHER CONSIDERATION

As discussed previously in this SEIR, the Project would result in significant unavoidable impacts to historical resources. Early in the site planning process, several alternatives were considered with the objective of trying to avoid or minimize impacts to historical resources. The alternatives that were considered and the reasons they were rejected from further detailed analysis are discussed below.

ALTERNATIVE LOCATION

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the Project would be avoided or substantially lessened by putting the Project in another location." The proposed Project is a two-tower development within the downtown core near transit, major roadways, and jobs and services. The potential impacts identified are unique to the location of the Project. Other downtown properties are themselves development opportunity sites that, together with the subject Project, are anticipated for development as part of the Downtown Strategy 2040 FEIR, and so they are not truly alternative locations but rather other Downtown Strategy 2040

component sites. An alternative location would locate the subject Project outside of the downtown, rather than simply move the proposed development to another downtown development opportunity site. Furthermore, most of the available parcels in the downtown core are already under consideration for redevelopment as part of the Downtown Strategy 2040 and would not likely be large enough to support the density proposed by the Project. For these reasons, an alternative location was not analyzed.

FULL PRESERVATION IN PLACE ALTERNATIVE

As discussed previously in this SEIR, the Project would result in significant impacts to historical resources, because six buildings on-site are considered contributing structures to a Candidate City Landmark District (i.e. a historical resources under CEQA). The project would result in the demolition of five of these structures, which is a significant impact pursuant to CEQA.[26] An alternative that would preserve the six existing on-site structures that comprise the Candidate City Landmark District was considered because it would avoid the Project's significant impact to historical resources.

Figure 16 demonstrates that access from Almaden Boulevard is not feasible if the Project were to preserve the six structures comprising the Candidate City Landmark District on-site. The access driveway would be too close to the intersection of Woz Way and Almaden Boulevard, which adversely affect vehicle congestion and safety[27]. Two access points (Woz Way and Almaden Boulevard) are needed for the Project site to ensure users are not unsafely congested at one access driveway, or the surrounding off-site intersections. Two access points also allows for appropriate emergency access to the site.

Additionally, to preserve in-place the six structures, the Project would have to be reduced in size. When considering the 35-foot setback from the riparian corridor, the remaining developable area is 2.93-acres. If all six structures that contribute to the Candidate City Landmark District were preserved in-place, in addition to the 35-foot setback, there would be approximately 2.07 acres of developable area left for the office towers. Within the currently proposed 2.93-acre site development area, the Project proposes to develop two office towers, each with a floor area of approximately 40,000 square feet. Based on data from Jones-Lang-Lasalle (JLL), average floor plates for technology companies range from 35,000 to 45,000 square feet. Accordingly, the designed 40,000-square foot floor plate is an essential design factor needed to attract tenants in the Silicon Valley [28]. As such, a smaller floor plan for either office tower would result in a project design that is not consistent with the identified spatial needs of targeted end-users, nor in sync with projected market demand for office use. Under this full preservation alternative, there is insufficient space within the 2.07-acre development area to accommodate the necessary floor plates.

An alternative that preserves the Candidate City Landmark District in-place would severely limit the vehicular access to the Project site as well as constrain potential footprints of new structures on-site, as discussed above. Further, the full preservation alternative would severely limit the ability of the project to provide a plaza between the two towers consistent with the City of San Jose Downtown Design Guideline goals to create active pedestrian level designs, and the ability to provide the necessary loading

[26] One of the six contributing structures will remain on-site because 264-31-042 is not included in the site development boundary because it is not owned by the project applicant.

[27] Per City guidance, driveways should be spaced 150 feet minimum from any intersection.

[28] Technology Firm Leasing Activity by Average Floor Plate Size in Silicon Valley (2015-Present). JLL, November 10, 2020. JLL is a leader in the industry for debt and equity financing required on major projects in the Bay Area.

areas necessary to support the commercial and office uses per City Municipal Code 20.70.400-480. As such, the reduced developable area would constrain an office development that aligns with the site configuration (floor plate dimensions) desired by end users and may also encroach within the 100-foot riparian setback zone. Development setback 35-feet from the top of bank, and the associated encroachment in the 100-foot riparian setback, would result in similar potential biological impacts as the Project.

In summary, redesigning the project to preserve the City Candidate Landmark District on-site, thereby avoiding the significant impact to historical resources, would not meet most the project's objectives as follows:

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
    - This alternative would result in a lower density development on this infill site in downtown San José, which result in reduced efficiency of urban services, as compared to the Project.
2. Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
    - This alternative would result in a smaller office space than the Project, resulting in fewer jobs. Additionally, the reduce floorplate size required by this alternative would reduce the ability to attract the desired end-users, which is in conflict with the objective to strengthen downtown as a regional job-destination.
3. Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.
    - This alternative would provide fewer retail and office uses than the Project, thereby resulting in a higher vehicle miles traveled regionally, as compared to the Project, because fewer jobs would be located downtown near transit.
4. Provide an office and retail development that provides a pedestrian-oriented uses and access that enlivens the Guadalupe River Park in the vicinity of the I-280/SR-87 interchange and the surrounding segment of Almaden Avenue.
    - This alternative would not allow for an outdoor plaza, due to site size limitations, and would therefore not have the same level of pedestrian-oriented design as the Project.
5. Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
    - This alternative would require smaller floorplates due to the reduced developable area. High-tech and/or biomedical tenants have historically rented office spaces with an approximate floorplate size of 40,000 square feet. It is anticipated that this alternative would therefore not meet the market demand for the desired end users.

6. Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.

    - This alternative would not allow for adequate vehicular access because preserving the six existing structures in-place would necessitate the South Almaden Boulevard access driveway be located closer to the corner of South Almaden Boulevard and Woz Way, which would provide unsafe turning and queuing movements.

7. Create building transitions, setbacks, landscaping, and other measures to minimize development impacts on the adjacent Guadalupe River.

    - This alternative would observe a 35-foot setback, just as the Project would, and would therefore meet this objective.

8. Provide appropriately scaled open space for gathering spaces and event spaces for the downtown business community.

    - This alternative would allow for a smaller developable area (2.07 acres vs 2.93 acre) and would therefore allow for less open space because buildings would need to occupy the majority of the site. Additionally, the common open space planned on the roof of the Project's parking structure would be reduced or converted to parking under this alternative, because of developable area limitations, thereby reducing the event spaces for the downtown business community, as compared to the Project.

9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

    - This alternative would meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

10. Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.

    - This alternative would preserve the six structures in-place, largely preserving the existing pedestrian frontage along Almaden Boulevard. It would not allow for an improved pedestrian-oriented connection from the Guadalupe River Park to Almaden Boulevard, directly, as the Project does, because the vehicular access driveway would need to utilize the remaining frontage along Almaden Boulevard. Further, this alternative would not allow for a pedestrian-oriented paseo, as the Project does, due to site size limitations, which would not meet the objective to promote visitor activity.

11. Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.

    - This alternative would preserve the six structures in-place, largely preserving the existing pedestrian frontage along Almaden Boulevard. As noted above, this would prohibit pedestrian/bicycle-oriented connections to the Guadalupe River Park, which is a Class I

multi-use trail that connects downtown with the Diridon Station. As such, this alternative would not create a connected gathering place that encourages walking and cycling, as compared to the Project. Further, the six (6) single family structures would be incompatible with the high-density commercial development being considered immediately north of the Project site.

12. Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.
    - This alternative would observe a 35-foot setback from the Guadalupe River, similar to the Project, and would therefore have the same direct interface with the Guadalupe River Park. However, this alternative would not allow for a pedestrian paseo design due to developable area limitations, and would therefore not enhance connectivity, as compared to the Project.
13. Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region as a whole.
    - This alternative would allow for less office space than the Project, would not meet the anticipated market demand of the targeted end users, and would provide fewer jobs. Therefore, this alternative would provide fewer economic and fiscal benefits to the City of José.
14. Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.
    - This alternative would provide a place for people to work downtown and would be designed consistent with all applicable design standards. As such, this alternative would meet this objective.
15. Construct a high-quality development.
    - This alternative would be designed consistent with all applicable design standards and constructed in accordance with all applicable building codes; it would therefore meet this objective.

Given that this alternative fails to meet most of the basic project objectives and would otherwise be infeasible to meet projected market demands, it was rejected from further consideration.

PARTIAL PRESERVATION IN-PLACE ALTERNATIVE

The partial preservation in-place alternative that would preserve in place at least one of the contributing structures to the Candidate City Landmark District within the site development boundary, in addition to 541 Vine Street (APN 264-31-042), which is already planned to remain on-site.[29] As such, at least two of the contributing structures to the Candidate City Landmark District would remain on-site under this

[29] Parcel 264-31-042 is not included in the site development boundary because it is not owned by the project applicant.

alternative. This alternative was considered because it would minimize the Project's significant impact to historical resources, but it was rejected on the basis of feasibility and because it would not avoid the significant impact to the Candidate City Landmark District because the remaining four contributing structures within the development area would be demolished.

Vehicle access to the Project site from South Almaden Boulevard would be infeasible if any of the five contributing structures, besides 541 Vine Street (APN 264-31-042), were to be preserved in-place (See Figure 16 and Figure 3). Two access points (Woz Way and South Almaden Boulevard) are required for the Project site to ensure users are not unsafely congested at one access driveway, or the surrounding off-site intersections. Two access points also allows for the required emergency access to the site. Specifically, if 533 Vine Street (APN 264-31-041) were preserved, the Project driveway would require relocation to the north because a southern relocation would be located too close to the I-280 on-ramp for safe turning movements. Should the driveway be relocated to the north of 533 Vine Street, it would provide less queuing space for safe turning movements because it would be close to the Woz Way intersection.[30] Similarly, preservation of 527 Vine Street (APN 264-31-040) and 515 Vine Street (APN 264-31-039) would require relocation the access driveway on South Almaden Boulevard further north than its current location and this would create an unsafe turning movement near the intersection of Woz Way and South Almaden Boulevard.

Preservation in place of 547 Vine Street (APN 264-31-043) and 553 Vine Street (APN 264-31-044) would displace the proposed parking structure with no alternate location for the garage on site due to the loss of developable site area caused by retaining the two houses in-place. Therefore, a reduced office floor plate would be required to accommodate the relocated parking structure. As described above, a smaller floor plan for either office tower would result in a project that does not meet end-user needs. There is insufficient space in the 2.93-acre development area to accommodate the necessary floor plates if any of the contributing structures to the Candidate City Landmark District are preserved in-place.

The partial preservation in-place alternative would not preserve the historical resources as a historic district grouping and would therefore not avoid the Project's significant and unavoidable impact to a historical resource. Further, on-site office development that aligns with the site configuration (floor plate dimensions) desired by end users, consistent with projected market demand, would not meet most of the Project objectives and would be extremely constrained to develop within the reduced developable area. The site is also constrained by in the required 35-foot development setback from the riparian corridor. The reduced development area resulting from the partial preservation in place alternative would necessitate encroachment into the setback area from the riparian corridor, should the necessary floor plates be maintained, and result in similar potential biological effects as the Project.

In summary, as detailed above, redesigning the Project to preserve at least two of the contributing structures of the City Candidate Landmark District would not meet most the Project's objectives as follows:

1. Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.

[30] Per City guidance, driveways should be spaced 150 feet minimum from any intersection.

- This alternative would result in a lower density development on this infill site in downtown San José, which result in reduced efficiency of urban services, as compared to the Project.

2. Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.

    - This alternative would result in a smaller office space than the Project, resulting in fewer jobs. Additionally, the reduce floorplate size required by this alternative would reduce the ability to attract the desired end-users, which is in conflict with the objective to strengthen downtown as a regional job-destination.

3. Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.

    - This alternative would provide fewer retail and office uses than the Project, thereby resulting in a higher vehicle miles traveled regionally, as compared to the Project, because fewer jobs would be located downtown near transit.

4. Provide an office and retail development that provides a pedestrian-oriented uses and access that enlivens the Guadalupe River Park in the vicinity of the I-280/SR-87 interchange and the surrounding segment of Almaden Avenue.

    - This alternative would not allow for an outdoor plaza, due to site size limitations, and would therefore not have the same level of pedestrian-oriented design as the Project.

5. Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.

    - This alternative would require smaller floorplates due to the reduced developable area. High-tech and/or biomedical tenants have historically rented office spaces with an approximate floorplate size of 40,000 square feet. It is anticipated that this alternative would therefore not meet the market demand for the desired end users.

6. Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.

    - This alternative would not allow for adequate vehicular access because preserving some of existing structures in-place would necessitate the Almaden Boulevard access driveway be located either closer to the corner of Almaden Boulevard and Woz Way or closer to the I-280 on-ramp, both of which would provide unsafe turning and queuing movements.

7. Create building transitions, setbacks, landscaping, and other measures to minimize development impacts on the adjacent Guadalupe River.

    - This alternative would observe a 35-foot setback, just as the Project would, and would therefore meet this objective.

8. Provide appropriately scaled open space for gathering spaces and event spaces for the downtown business community.

    - This alternative would allow for a smaller developable area (2.07 acres vs 2.93 acre) and would therefore allow for less open space because buildings would need to occupy most of the site. Additionally, the common open space planned on the roof of the Project's parking structure would be reduced or converted to parking under this alternative, because of developable area limitations, thereby reducing the event spaces for the downtown business community, as compared to the Project.

9. Meet high sustainability and green building standards by designing the development to meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

    - This alternative would meet minimum U.S. Building Code LEED requirements and CALGreen standards for new construction.

10. Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.

    - This alternative would preserve some structures in-place, partially preserving the existing pedestrian frontage along Almaden Boulevard. It would minimize potential for an improved pedestrian-oriented connection from the Guadalupe River Park to Almaden Boulevard, directly, as the Project does, because the vehicular access driveway would need to utilize the remaining frontage along Almaden Boulevard not occupied by preserved structures and this would leave little space for pedestrian-oriented spaces. Further, this alternative would not allow for a pedestrian-oriented paseo, as the Project does, due to site size limitations, which would not meet the objective to promote visitor activity.

11. Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.

    - This alternative would preserve some structures in-place, largely preserving the existing pedestrian frontage along Almaden Boulevard. As noted above, this would minimize pedestrian/bicycle-oriented connections to the Guadalupe River Park, which is a Class I multi-use trail that connects downtown with the Diridon Station. As such, this alternative would not create a connected gathering place that encourages walking and cycling, as compared to the Project. Further, the preserved single-family homes would be incompatible with the high-density commercial development being considered immediately north of the Project site.

12. Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.

    - This alternative would observe a 35-foot setback from the Guadalupe River, similar to the Project, and would therefore have the same direct interface with the Guadalupe River Park. However, this alternative would not allow for a pedestrian paseo design due to

developable area limitations, and would therefore not enhance connectivity, as compared to the Project.

13. Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region.
    - This alternative would allow for less office space than the Project, would not meet the anticipated market demand of the targeted end users, and would provide fewer jobs. Therefore, this alternative would provide fewer economic and fiscal benefits to the City of José.
14. Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.
    - This alternative would provide a place for people to work downtown and would be designed consistent with all applicable design standards. As such, this alternative would meet this objective.
15. Construct a high-quality development.
    - This alternative would be designed consistent with all applicable design standards and constructed in accordance with all applicable building codes; it would therefore meet this objective.

Given that this alternative fails to meet most of the basic project objectives and would otherwise be infeasible to meet projected market demands, it was rejected from further consideration.

PARTIAL RELOCATION ALTERNATIVE

The partial relocation alternative would relocate at least one of the contributing structures to the Candidate City Landmark District to a receiver site with similar context and setting. The house(s) would be relocated individually to appropriate receiver site(s) that maintain sufficient setting and context to convey the historical association of the structure(s), as they might be available.

However, this alternative was rejected based on feasibility and because it would not avoid the significant historical impact. This alternative was rejected from further consideration as it does not avoid the significant impact to the Candidate City Landmark District since the structures that comprise the district would be separated from one another and would no longer form a cohesive grouping. Should any of the homes be relocated, they would have to pass underneath bridge structures which would likely not be feasible.

HOTEL, RESIDENTIAL, AND OFFICE DEVELOPMENT ALTERNATIVE

As discussed above, several preservation alternatives were rejected from further consideration, in part due to the effect of the reduced development area on floor plate size, loading areas, and parking associated with office uses. The hotel, residential and office development alternative was explored to consider how some of the Candidate City Landmark District structures might be preserved on-site, while still allowing for a development with alternate land uses. This alternative would allow for greater flexibility in the size and location of structures on the Project site, as well as requiring less parking and loading areas, and could potentially allow some of the contributing structures to the Candidate City Landmark District to be preserved on-site.

Under this alternative, the Project would consist of development of two 27- story towers with a maximum height of 297 feet and an FAR of 4.8. The Project would include approximately 381,600 square feet of residential uses (300 residential units), 500,900 square feet of office space, 9,500 square feet of retail space, and 192,900 square feet of hotel uses (300 hotel rooms). This alternative would also include four levels of underground parking and three levels of above ground parking. This alternative would allow for two of the six contributing structures to the Candidate City Landmark District to be preserved on-site, including 541 Vine Street, which is already planned to remain on-site.

This alternative was rejected from further consideration because it does not avoid the significant impact to the Candidate City Landmark District since four of the contributing structures to the Candidate City Landmark District would be demolished. Nor does this alternative meet the Project objectives to provide large office space that could meet the needs of technology and/or biomedical companies. It also would not generate as many jobs as the Project. Further, this alternative would have the same potential effects on biological resources as the Project.

ALL RESIDENTIAL ALTERNATIVE

As discussed above, several preservation alternatives were rejected from further consideration, in part due to the stringent requirements for floor plate size, loading areas, and parking associated with office uses. The all residential development alternative was explored to consider how some, or all, of the contributing structures to the Candidate City Landmark District might be preserved on-site, while still allowing for development. Residential development would allow for greater flexibility in the size and location of structures on the Project site, as well as requiring less parking and loading areas. This alternative would potentially allow two of the contributing structures to be preserved on-site, including 541 Vine Street, which is already planned to remain on-site.

Under this alternative, the Project would entail two 27-story towers with a maximum height of 297 feet and an FAR of 6.7. The Project would include approximately 1,022,250 square feet of residential uses (1,208 residential units). The all residential alternative would also include four levels of underground parking and two levels of above ground parking. This alternative would allow for two of the six (6) contributing structures to the Candidate City Landmark District to be preserved in-place.

This alternative was rejected from further consideration because it does not avoid the significant impact to the Candidate City Landmark District since four of the contributing structures to the Candidate City Landmark District would be demolished. Nor does the all residential alternative meet the Project objectives to provide large office space that could meet the needs of technology and/or biomedical companies. It also would not generate any jobs, which is a key Project objective. Further, this alternative would have the same potential effects on biological resources as the Project.

PROJECT ALTERNATIVES ANALYSIS

An analysis of project alternatives that might reduce or avoid the significant and unavoidable historical impact of the Project are evaluated below.

A. NO PROJECT ALTERNATIVE

The CEQA Guidelines [Section 15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the Project is not approved, based on current plans and consistent with available infrastructure and community services."

The No Project – No Development Alternative would retain the current General Plan land use designation, existing buildings, and continue the current operations. No immediate development of the proposed Project would occur. If the Project site were to remain as is, there would be no new impacts.

Conclusion: Implementation of the "No Project" No Development alternative would avoid the significant impacts identified in this SEIR. The "No Project" alternative would, however, allow for new development to be proposed on the Project site consistent with the Envision San José 2040 General Plan and the Downtown Strategy 2040 Plan goals, which considered that the Project site could be developed with Public/Quasi-Public uses including schools, colleges, corporation yards, homeless shelters, supportive housing for the homeless, libraries, fire stations, water treatment facilities, convention centers and auditoriums, and museums. Any proposed development on the Project site under the "No Project" alternative would be subject to separate environmental review. The development allowed under the "No Project" alternative would not meet any of the Project objectives listed above.

B. 100-FOOT SETBACK ALTERNATIVE

Stream setbacks measured from the top of the stream bank are required to be 35 to 100 feet, depending on the category of the stream. Setbacks for Category 1 streams are at least 100 feet. The Guadalupe River is a Category 1 stream. As discussed above, the Project proposes a 35-foot setback from the Guadalupe River. The Santa Clara Valley Habitat Plan (SCVHP) provides a framework for allowable exceptions to these setbacks. The Project proposes an exception request from the Santa Clara Valley Habitat Agency (Habitat Agency) for approval of a reduced setback. The Habitat Agency recommended approval of the 35-foot setback for the Project (See Appendix C-2).

This alternative considers restricting development within 100-feet of the riparian edge. Under this alternative, the Project would be designed to observe a 100-foot setback from the riparian corridor. This alternative would propose two office towers of the same height and uses as the Project, but would have a reduced size (i.e. smaller floor plates resulting in less office space and less retail space).

Two access points (Woz Way and Almaden Boulevard) are needed for the Project site to ensure users are not unsafely congested at one access driveway, or the surrounding off-site intersections[31]. Two access points also allows for appropriate emergency access to the site. As shown in Figure 13, observing a 100-foot setback would require relocation of the planned access driveway along Woz Way to be further east than the current placement. With the understanding that the Woz Way driveway cannot be fully eliminated and would need to be be redeigned further east (i.e. closer to the Woz Way/Almaden Boulevard intersection), the only possible configuration would be to place it where the Project's north tower is planned. This would require further reductions to the building size, and potentially unsafe circulation conditions when considering the nearby intersection and the Woz Way access driveway to the proposed Almaden Office project immediately north of the Project site.

This alternative would be physically and economically infeasible because smaller floor plan sizes for either office tower, as required by the reduced developable area if observing a 100-foot setback, would result in the inability to meet end-user needs.

[31] Per City guidance, driveways should be spaced 150 feet minimum from any intersection.

Further, this alternative would not avoid any of the Project's significant and unavoidable impacts. While the Project would have a potentially significant impact to the Guadalupe River, it would mitigate this to a less than significant level. Further, the Habitat Agency recommended approval of the 35-foot setback request because the site-specific conditions for the Project, in tandem with Project design features, warrant a conclusion that observing a 35-foot setback of the riparian corridor is sufficient to minimize impacts to the riparian environment.

This alternative would not meet the following Project objectives:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 5: Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 12: Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.

C. HISTORIC DISTRICT RELOCATION ALTERNATIVE

Under this alternative, the Project would relocate five of the six contributing structures to the Candidate City Landmark District from the Project site to a single receiver site that would maintain their spacial relationships to one another. Only five of the six homes would be relocated because the sixth structure (541 Vine Street, APN 264-31-042) is not under the applicant's ownership. However, should the sixth structure (541 Vine Street, APN 264-31-042) come under ownership of the applicant, all the contributing structures that comprise the Candidate City Landmark District would be relocated from the Project site to a single receiver site. Following the relocation of the contributing the structures to a receiver site, the Project site would be developed with the same development as the proposed Project. As such, all impacts of the Project, apart from the impact to a historical resource, would be the same as the Project.

A Relocation Analysis was prepare by MacRostie and Associates in October 2020 (Appendix G-3) to identify any potential receiver sites with the following criteria: (1) located within 0.5 miles of the Project site so as to maintain a similar setting as the Project site; and, (2) the receiver parcel(s) would have to be large enough to accommodate the houses in a placement that would allow for the retention of orientation, setback, and historic relationship to one another. To this end, it was determined that a receiver site must be at least 0.9 acres in size.

Only one potential receiver site was identified that fit these parameters: 201-279 Delmas Avenue. The parcels at 201-279 Delmas Avenue include: 217 Delmas Avenue (which includes the former 205 and 253 Delmas Avenue), 201 Delmas Avenue, 255 Delmas Avenue, 257 Delmas Avenue, 267 Delmas Avenue, and 279 Delmas Avenue). The six undeveloped parcels along Delmas Avenue total 1.25 acres and exceed the required 0.9 acres for the potential relocation of the contributing structures to the Candidate Landmark Historic District. The six Delmas Avenue parcels provide the requisite acreage with enough space to retain the historic set back and spatial relationship between the houses. These six parcels shall be referred to as the "receiver site" hereto forth.

The receiver site is currently undeveloped, fallow land and is zoned for Downtown Primary Commercial. The site once housed the former San José City Landmark Evangelical Lutheran Bethel Church. Constructed in 1903, the building was destroyed by fire in 2010. At that time, the church was not in use and had been boarded up since it was vacated by its last tenant, Primera Iglesia, in 2007. The receiver site also included a single-family house constructed in 1905 that was once the residence of the owner of the San José Mercury News, and was also vacant at the time.

In 2009, the receiver site had been identified for potential multifamily development. After the fire, the receiver site was cleared of all buildings, but the multifamily development did not proceed, and the land remained undeveloped.

In 2016, a second multifamily project was proposed for the receiver site and adjacent parcels ([SP16-016] and [SP16-010]). The proposed projects included the demolition of the existing office building at the corner of Park Avenue and Sonoma Street at 410 Park Avenue and the construction of 4 and 5-story development with up to 123 residential units and 1,000 square feet of ground floor commercial retail space and a 5-story mixed use development with 36 residential units and 2,375 square feet of commercial space. The projects received planning approvals and the building at 410 Park Avenue was demolished. By 2016, twelve parcels, totaling over two aces were all cleared for development. The projects have not proceeded, and the parcels remain undeveloped. The undeveloped properties had a single, private owner.

In April 2019, it was reported that the receiver site, and the adjacent property included in the 2016 development projects ([SP16-016] and [SP16-010]), were for sale by property owner Park Delmas Investors LLC[32]. It is unknown at the time of s SEIR preparation if the sale was completed, but as of November 2020, the County Assessor records show that the property has not changed ownership since 2007.[33] The receiver site is not publicly owned.

The Relocation Analysis found that the receiver site would have sufficient area to allow the relocated structures to retain their historic orientation, with primary elevations facing east. Further, the immediate setting, that is their relationship to the street and each other, could be reestablished at the proposed

[32] https://www.connect.media/key-site-near-googles-planned-village-in-san-jose-listed/

[33] The Tax Cuts and Jobs Act of 2017 classified the receiver site as a qualified Opportunity Zone, meaning it's defined by the Internal Revenue Service (IRS) as "economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment." The property was marketed as a qualified Opportunity Zone site with pre-existing entitlements. As such, it is likely that another development could be proposed on this site in the future.

receiver site through the retention of the setback, the elevated porches with steps from the sidewalks, and the spatial relationships between each of the buildings.

If the Candidate City Landmark District were to be relocated, it must retain integrity of design, workmanship, feeling, and association, or those elements of integrity which are necessary to convey its significance for its architectural value.

The Relocation Analysis found that the Candidate Landmark District, if moved, could continue to convey integrity of design through the hipped and front facing gable roofs and elevated porches. Integrity of materials would continue to be evident in elements such as the clapboard siding which is present on each of the buildings. Integrity of workmanship would continue to convey the significance through architectural detailing on each of the buildings such as turned columns, decorative fascia details, and dentil courses. Feeling and Association would be conveyed through the buildings' continued exterior form of single-family houses, representative of a neighborhood with examples of Craftsman and Neoclassical cottage architecture constructed between 1908 and c. 1916. While the Candidate City Landmark District, if moved, would lose integrity of location and setting, the receiver site would otherwise be an appropriate location, in terms of retaining some historic significance, for the relocated Candidate City Landmark[34].

However, the relocation of the Candidate City Landmark would be cost prohibitive because the costs of this alternative when compared to the cost of the proposed Project, would be too great. As such, this alternative would be economically infeasible.

Additionally, this alternative would not avoid the significant and unavoidable impact to the Candidate City Landmark District. While relocating the district as a whole would minimize the effects of the Project, by allowing the relocated district to retain some historic significance, it would still result in the removal of the historical resource from the Project site which would still be considered a significant and unavoidable impact.

This alternative would not meet the Project objectives focused on infill and commercial development within the downtown core because the relocated single-family homes would occupy a site that otherwise is entitled for much denser infill development with commercial components. Specifically, this alternative would not meet the following Project objectives:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 3: Maximize use of an infill site by providing retail and offices in an area served by various modes of public transportation; thereby reducing vehicle miles traveled and lowering overall greenhouse gas emissions.

[34] Setting here refers to the broader surrounding setting. This is separate and distinct from 'immediate setting', which refers to the immediate setting within the district about how the structure relate to one another.

- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 10: Revitalize this downtown gateway location with a strong and complementary office development that promotes economic, community and visitor activity thereby improving connections and utilization of the adjacent Guadalupe River Park.
- Objective 11: Create an innovative, active, and connected work and gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed projects adjacent to the Project site.
- Objective 13: Create a new development that provides positive economic and fiscal benefits to the City of San José, local school districts, Santa Clara County, and the region as a whole.
- Objective 14: Create an active, inviting, safe and comfortable place for people to work downtown, proximate to and commensurate with the City's plans for expanding Diridon Station.

Further, the identified receiver site is a downtown property entitled for a development up to 123 residential units and 1,000 square feet of ground floor commercial retail space (SP16-016) and a 5-story mixed use development with 36 residential units and 2,375 square feet of commercial space (SP16-010). Relocating the Candidate City Landmark District structures to the receiver site, thereby occupying the site with five or six single family homes and precluding future development on the receiver site, would not meet the following City objectives identified in the Downtown Strategy 2040 FEIR:

- Encourage job and housing balance in Downtown. This growth capacity is important to achieve multiple City goals, including support for regional transit systems, correcting the City's jobs to housing imbalance, and for the development of Downtown as a regional job center, consistent with the 2040 General Plan, Downtown Strategy 2000.
- Update and re-analyze Downtown traffic based on 2040 General Plan Transportation Goals that promote multi-modal mobility and the reduction of Vehicle Miles Traveled (VMT).
- Allow additional residential development, consistent with the 2040 General Plan, to capitalize on the walkable, livable, and business supportive environments within the Downtown.
- Preserve the jobs sites (commercial, office, and hotel development) envisioned in the Downtown Strategy 2000 and 2040 General Plan.
- Continue to create a highly active and lively pedestrian and bicycle friendly environment with excellent connectivity to downtown destinations and regional transit.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the No Project Alternative, the EIR shall identify an environmentally superior alternative among the other alternatives.

The environmentally superior alternative is the 100-Foot Setback Alternative because it would result in reduced impacts to Biology as compared to development under the proposed Project or other alternatives. This alternative would still require demolition of the contributing structures to the Candidate

City Landmark District on-site and would retain the potential to impact the historical resource. This is considered to be environmentally superior because the Historic District Relocation Alternative would not avoid the Project's significant impact to the Candidate City Landmark District, and the 100-foot setback Alternative would minimize the potential effects to the adjacent riparian corridor such that a setback exception from the Habitat Agency is not required.

However, this alternative would not achieve most of the basic objectives of the proposed Project and would not avoid any significant impacts of the Project. Specifically, this alternative would not meet the following Project objectives:

- Objective 1: Provide a development that implements the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 Plan by locating high-density development on infill sites in downtown San José to foster transit use and improving the efficiency of urban services.
- Objective 2: Provide a development that offers large office space within the downtown core, strengthening downtown as a regional job destination.
- Objective 5: Provide an office development that meets the needs of high-tech and/or biomedical tenants, as these industries have a high demand for office space and these industries provide good paying jobs.
- Objective 6: Provide adequate parking and vehicular access, compatible with a high-quality office campus environment, that meet the needs of future employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.
- Objective 12: Create an enhanced interface with the Guadalupe River Park to enhance opportunities for pedestrian and bicycle mobility and connectivity in and around Downtown.

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SECTION 10.0 LEAD AGENCY AND CONSULTANTS

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