

Initial Study

Woz Way Project

GP19-008 and H20-004
SCH# 2003042127

March 2021



Table of Contents

1.0	Introduction & Purpose	1
1.1	Project History	1
1.2	Current Application	2
1.3	Tiering Of The Environmental Review	4
2.0	Project Information	8
2.1	Project Title And File Number	8
2.2	Project Location	8
2.3	Lead Agency Contact	8
2.4	Property Owner/Project Applicant	8
2.5	Assessor's Parcel Number	9
2.6	Zoning District And General Plan Designation	9
2.7	Habitat Plan Designation	9
2.8	Project-Related Approvals, Agreements And Permits	10
3.0	Project Description	11
3.1	Existing Project Site	11
3.2	Project Site Vicinity	12
3.3	Proposed Project	13
4.0	Environmental Setting, Checklist, And Discussion Of Impacts	26
4.1	Aesthetics	26
4.2	Agriculture And Forestry Resources	35
4.3	Air Quality	38
4.4	Biological Resources	63
4.5	Cultural Resources	68
4.6	Energy	69
4.7	Geology And Soils	82
4.8	Greenhouse Gas Emissions	94
4.9	Hazards And Hazardous Materials	116
4.10	Hydrology And Water Quality	127
4.11	Land Use And Planning	139
4.12	Mineral Resources	149
4.13	Noise	151
4.14	Population And Housing	152
4.15	Public Services	157
4.16	Recreation	163
4.17	Transportation	166
4.18	Tribal Cultural Resources	178
4.19	Utilities And Service Systems	181
4.20	Wildfire	194
4.21	Mandatory Findings Of Significance	197
5.0	References	200

Figures

Figure 1: Regional Map.....	6
Figure 2: Project Vicinity Map.....	7
Figure 3: Assessor Parcel Map.....	18
Figure 4: Concept Rendering A.....	19
Figure 5: Concept Rendering B.....	20

Figure 6: Concept Rendering C.....	21
Figure 7: Site Map.....	22
Figure 8: Typical Ground Floor Plan	23
Figure 9: Typical Office Floor Plan.....	24
Figure 10: Landscape Plan.....	25
Figure 11: Biological Study Area	65
Figure 12: Riparian Setback Zone.....	66
Figure 13: Riparian Setback in Relation to the Project.....	67
Figure 14: Geological and Seismic Hazards.....	92
Figure 15: Paleontological Sensitivity Area.....	93
Figure 16: Fire Hazard Severity Zone Map.....	125
Figure 17: Santa Clara County Wildland Urban Interface Fire Area.....	126
Figure 18: Shade and Shadow	147
Figure 19: Shade and Shadow at Guadalupe River Park.....	148

Tables

Table 1 : Summary of the Woz Way Project Site Development.....	17
Table 2: Downtown Design Guidelines	28
Table 3: State and Federal Ambient Air Quality Standards.....	39
Table 4: Bay Area Air Quality Management District Emissions Thresholds	43
Table 5: Project Consistency with Applicable Clean Air Plan Control Measures.....	48
Table 6: Construction-Related Emissions	52
Table 7: Maximum Daily Project Operational Emissions – Criteria Air Pollutants.....	54
Table 8: Construction Risk.....	59
Table 9: Cumulative On-Site Health Risk.....	60
Table 10: Project Energy Consumption During Construction.....	78
Table 11: Annual Energy Consumption During Operations	79
Table 12: Construction Greenhouse Gas Emissions	107
Table 13: Operational Greenhouse Gas Emissions.....	107
Table 14: Project Consistency with Applicable CARB Scoping Plan Measures.....	112
Table 15: General Plan Consistency Analysis	143
Table 16: Proposed Population Growth.....	154
Table 17: Project Trip Generation.....	175
Table 18: Total Water Demand Estimated for Existing Conditions.....	186
Table 19: Total Water Demand Estimated for Proposed Project.....	186
Table 20: Wastewater Generation of Existing Conditions	188
Table 21: Wastewater Generation of Proposed Project.....	188
Table 22: Existing Solid Waste Generation.....	191
Table 23: Proposed Solid Waste Generation	192

1.0 INTRODUCTION & PURPOSE

1.1 Project History

This Initial Study has been prepared by the City of San José (City) as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed Project to the decision makers who will be reviewing and considering the Project.

The Project site is located on the southwest corner of Woz Way and South Almaden Boulevard in the City of San José. As shown in Figure 1, Regional Map and Figure 2, Project Vicinity Map, the Project site is within the Downtown core of San José.

Envision San José 2040 General Plan Final and Supplemental Environmental Impact Report

In November 2011, the City of San José approved the Envision San José 2040 General Plan (General Plan), which is a long-range program for the future growth of the City. The General Plan Final Environmental Impact Report (FEIR) (SCH#2009072096), as amended, was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR to be a program level document from which subsequent development consistent with the General Plan could tier. The General Plan FEIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan FEIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the full built-out of the General Plan. For all other effects, it was concluded that implementation of General Plan policies, existing regulations, and adopted plans and policies would reduce the impact to a less than significant level. These conclusions are generally based on the assumption that all future projects allowed under the Envision San José 2040 General Plan will reduce impacts to a less than significant level through measures included in project design or as conditions of approval, consistent with the policies and procedures for protecting environmental quality in the Envision San José 2040 General Plan. Future development projects will be evaluated for consistency with this assumption and may require supplemental analysis to identify additional mitigation measures.

In December 2015, the City of San José approved the Envision San José 2040 General Plan Supplemental FEIR (General Plan SEIR) to include the greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and SEIR. The addendum reduced the job capacity by 87,800 jobs from 839,450 to 751,650. The number of dwelling units remained the same at 429,350 dwelling units.

Downtown Strategy 2040 Final Environmental Impact Report

On December 18, 2018, the City of San José certified the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR) (Resolution No. 78942), which updated the Downtown Strategy 2000 FEIR. The Downtown Strategy 2040 FEIR increased the amount of new commercial office by an additional three million square feet (approximately 4,000 dwelling units and 10,000 jobs) to be

transferred from other areas of the City consistent with the General Plan Four-Year Review recommendations. The plan includes the following development:

- 14.2 million square feet of office,
- 1.4 million square feet of retail space,
- 14,360 residential units, and
- 3,600 hotel guest rooms

While the certified Downtown Strategy 2040 FEIR (SCH#2003042127) was primarily a broad range, program-level environmental document, it provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program level.

All subsequent development that has occurred as part of the Downtown Strategy 2040 has had project specific supplemental environmental review.

The Downtown Strategy 2040 FEIR analysis assumed that project-level, site-specific environmental issues for a given parcel proposed for redevelopment would require additional review. This Initial Study provides that subsequent project-level environmental review. Since this Initial Study tiers from the Downtown Strategy 2040 FEIR, references to the “approved project” within this document refers to the Downtown Strategy 2040 FEIR.

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 Initial Study 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 Initial Study 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.

1.2 Current Application

The currently proposed Project includes the General Plan Amendment to change land use designation from Public/Quasi-Public (PQP) to Downtown (DT) and a Site Development Permit to allow for the demolition of all structures and construction of 1,226,600 square feet of office space and approximately 10,107 square feet of retail space in two 20-story towers with the maximum height of 297 feet on the Project site.

In accordance with the California Environmental Quality Act (CEQA) (California Public Resources Code Section 21000 et seq.) and its Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), this Initial Study has been prepared to evaluate the potential environmental effects associated with the construction and operation of the proposed Garden Gate Tower project.

Pursuant to Section 15367 of the State CEQA Guidelines, the City is the Lead Agency charged with the responsibility of deciding whether to approve the proposed Project.

With respect to the requirements for an Initial Study, the applicable subsections of the State CEQA Guidelines Section 15063 are:

- (A.1) All phases of project planning, implementation, and operation must be considered in the Initial Study of the project.
- (A.3) An Initial Study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. However, an Initial Study is neither intended nor required to include the level of detail included in an EIR.
- (B.2) The Lead Agency shall prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.

The purposes of an Initial Study are to:

- (C.1) Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration.
- (C.2) Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration.
- (C.3) Assist in the preparation of an EIR, if one is required
- (C.4) Facilitate environmental assessment early in the design of a project;
- (C.5) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;
- (C.6) Eliminate unnecessary EIRs;
- (C.7) Determine whether a previously prepared EIR could be used with the project.

An Initial Study shall contain in brief form:

- (D.1) A description of the project including the location of the project;
- (D.2) An identification of the environmental setting;
- (D.3) An identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries. The brief explanation may be either through a narrative or a reference to another information source such as an attached map, photographs, or an earlier EIR or

negative declaration. A reference to another document should include, where appropriate, a citation to the page or pages where the information is found.

- (D.4) A discussion of the ways to mitigate the significant effects identified, if any;
- (D.5) An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls;
- (D.6) The name of the person or persons who prepared or participated in the Initial Study.
- (E) If the project is to be carried out by a private person or private organization, the Lead Agency may require such person or organization to submit data and information which will enable the Lead Agency to prepare the Initial Study. Any person may submit any information in any form to assist a Lead Agency in preparing an Initial Study.
- (F) Sample forms for an applicant's project description and a review form for use by the lead agency are contained in Appendices G and H. When used together, these forms would meet the requirements for an initial study, provided that the entries on the checklist are briefly explained pursuant to subdivision (d)(3). These forms are only suggested, and public agencies are free to devise their own format for an initial study. A previously prepared EIR may also be used as the initial study for a later project.
- (G) As soon as a Lead Agency has determined that an Initial Study will be required for the project, the Lead Agency shall consult informally with all Responsible Agencies and all Trustee Agencies responsible for resources affected by the project to obtain the recommendations of those agencies as to whether an EIR or a Negative Declaration should be prepared. During or immediately after preparation of an Initial Study for a private project, the Lead Agency may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study.

1.3 Tiering of the Environmental Review

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, this Initial Study, as part of the Supplemental Environmental Impact Report (SEIR), tiers from the certified Downtown Strategy 2040 FEIR (SCH#2003042127).

CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the Lead Agency. "Tiering" refers to using the analysis of general matters contained in a broader Environmental Impact Report (EIR) in subsequent EIRs or Initial Studies/Negative Declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project [CEQA Guidelines Section 15152(a)].

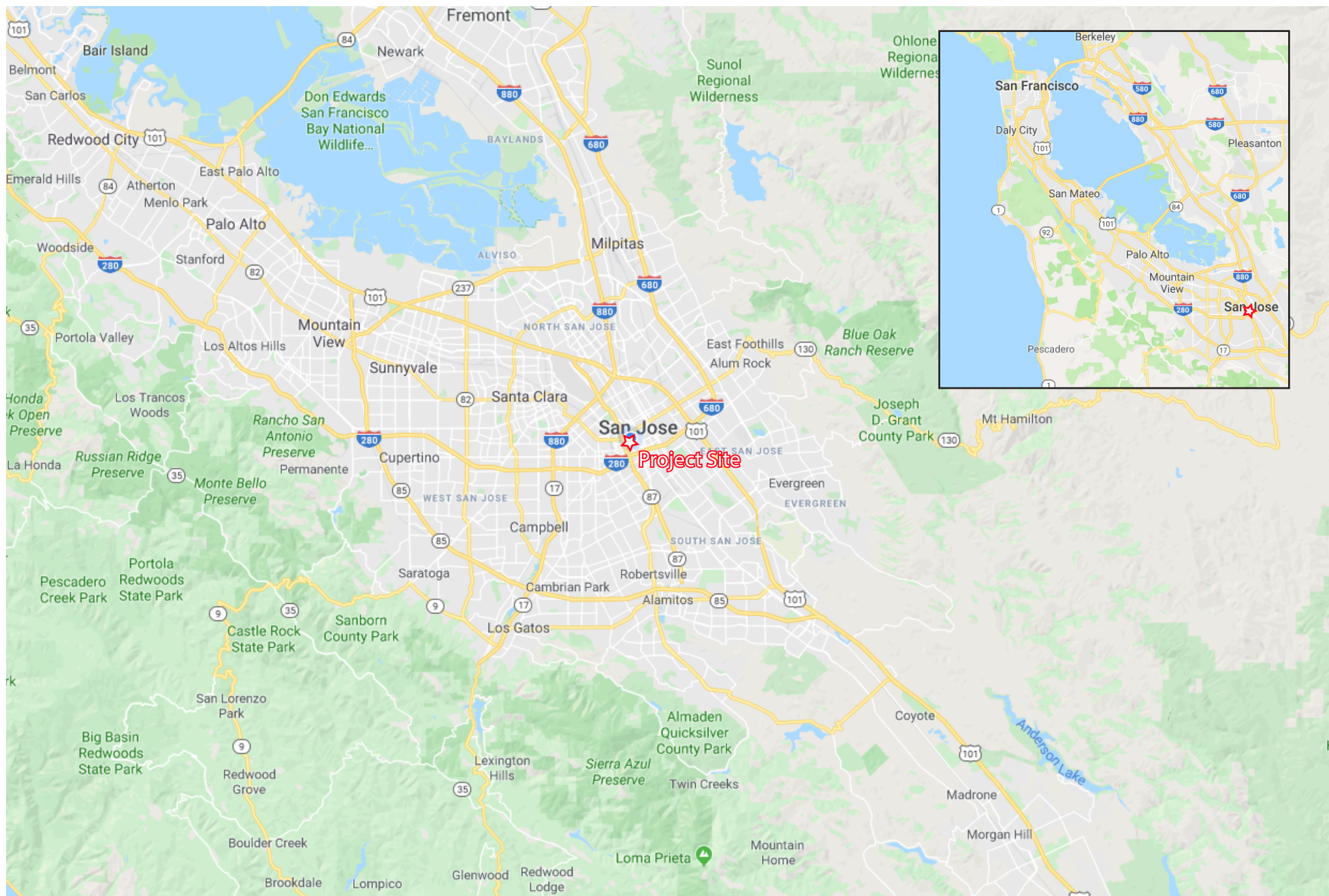
Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

The CEQA Guidelines Section 15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the proposed Project description and knowledge of the Project site, the City has concluded that the proposed Project could potentially result in new impacts to biological and cultural resources not previously disclosed in the Downtown Strategy 2040 FEIR. Thus, in accordance with CEQA Guidelines Section 15162(1), a supplement EIR (SEIR) is required and will be prepared for the proposed Project to analyze the impacts of the Project on Biological and Cultural Resources.

Generally, all documents referenced in this Initial Study are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East 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 Initial Study and the SEIR can be accessed remotely until such time as City Hall is open 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>



Source: Google Earth, 2020

Figure 1: Regional Map

Woz Way Project



Source: Nearmap, 2020

Figure 2: Project Vicinity Map

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.

2.0 PROJECT INFORMATION

2.1 Project Title and File Number

Woz Way Project
File No. GP19-008 and H20-004

2.2 Project Location

The 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 Plan boundary in the City of San José. See Figure 1, Regional Map and Figure 2, Project Vicinity Map.

2.3 Lead Agency Contact

City of San José
200 East Santa Clara Street, 3rd Floor
San José, California 95113

Environmental Project Manager: Adam Petersen
Phone: 408-535-1241
Email: Adam.Petersen@sanjoseca.gov

Principal Environmental Planner: David Keyon
Phone: (408) 535-7898
Email: David.Keyon@sanjoseca.gov

2.4 Property Owner/Project Applicant

Contact: Mark Tersini
KT Urban
21710 Stevens Creek Blvd., Ste. 200
Cupertino, CA 95014

2.5 Assessor's Parcel Number

The Project site comprises 18 parcels as identified by APN below:

- 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

The Project applicant requests approval of a General Plan Amendment (GPA), which would change the land use designation of the project site from Public/Quasi-Public to Downtown. The second entitlement request is for a Site Development Permit, which would facilitate construction of the Project.

The 3.08-acre total Project site comprises the boundaries of the proposed GPA, and the proposed Site Development Permit boundary excludes one of the parcels, as shown in Figure 3. The GPA is proposed for the entire Project site, including all 18 parcels noted above.

The Project applicant requests approval a Site Development Permit. The Site Development Permit is proposed for 17 of the 18 parcels within the Project site, totaling 2.93 acres, as shown in Figure 3. Specifically, parcel 246-31-042 is not included in the site development boundary.

2.6 Zoning District and General Plan Designation

Existing

General Plan: Public/Quasi-Public

Zoning: Downtown Primary Commercial (DC)

Proposed

General Plan: Downtown (DT)

Zoning: Downtown Primary Commercial (DC)

2.7 Habitat Plan Designation

Land Cover Designation:	<i>Urban-Suburban</i>
Development Zone:	<i>Urban Development greater than two acres covered</i>
Fee Zone:	<i>Urban Area</i>
Owl Conservation Zone:	<i>N/A</i>

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.

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.

2.8 Project-Related Approvals, Agreements and Permits

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

3.0 PROJECT DESCRIPTION

3.1 Existing Project Site

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 18 Assessor Parcel Numbers (APNs) comprising the site are identified below.

APNs:

- | | |
|---------------------------|--------------|
| • 264-31-037 | • 264-31-062 |
| • 264-31-038 | • 264-31-063 |
| • 264-31-039 | • 264-31-064 |
| • 264-31-040 | • 264-31-065 |
| • 264-31-041 | • 264-31-066 |
| • 264-31-042 ³ | • 264-31-067 |
| • 264-31-043 | • 264-31-092 |
| • 264-31-044 | • 264-31-107 |
| • 264-31-061 ⁴ | • 264-31-108 |

Locust Street bisects the Project site at Woz Way as shown in Figure 2. The approximately 3.08-acre Project site, which comprises the whole of the Project actions, contains the 18 parcels listed above⁵. 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. There is a total of 89 existing trees on the Project site.

Currently, vehicle access to the Project site is provided via Locust Street, Woz Way, and South Almaden Boulevard. Vehicle access is also available from the intersection of Woz Way and Locust Street. Locust Street is currently a no-through road. For vehicles exiting the Project site onto Woz Way, vehicles must make a right turn to exit onto Woz Way. There is existing utility access (e.g., water, sewer, electricity, gas) to the Project site and the existing riparian habitat of the Guadalupe River adjacent (west) to the Project site.

³ 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.

⁴ 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.

⁵ 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.

The Project site runs parallel to the Guadalupe River Trail along the western boundary of the Project site. Pedestrian access to the trail is provided immediately west of the intersection of Woz Way and Locust Street.

3.2 Project Site Vicinity

The Project site is in an urban area with a mix of uses including commercial, office, and residential uses. The Project is bound by Woz Way to the north, South Almaden Boulevard to the east, I-280 to the south, and Guadalupe River to the west.

The Project site is in an area of transitional land uses from a surface parking lot to the north, single-story single-family homes and commercial uses to the east, I-280 to the south, and Guadalupe River Park to the west. The Guadalupe River Trail and river are located along the western boundary of the Project site to the immediate west of Locust Street. Elevated sections of the I-280 and State Route 87 interchange is visually prominent from the Project site.

Land uses surrounding the proposed Project site are as follows:

- **North** – surface parking lot⁶ 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

The Project site is served by several nearby transit stops. The nearest Santa Clara Valley Transportation Authority (VTA) light rail stations and bus stops to the Project site, within 0.5 miles, are:

Light Rail Stations:

- Children’s Discovery Museum Station (located 0.20-mile northwest)
- Convention Center Station (located 0.25-mile northeast)

Bus Stops:

- San Carlos & Woz Way Bus Stop (located 0.25-mile north)
- San Carlos & Guadalupe River Bus Stop (located 0.25-mile north)
- San Carlos & Market Bus Stop (located 0.25-mile northeast)
- 1st & Reed Stop (located 0.30-mile east)
- San Carlos & Convention Center Bus Stop (located 0.30-mile northeast)
- 2nd & William Bus Stop (located 0.35-mile east)
- 2nd & San Salvador Bus Stop (located 0.35-mile east)
- 1st & San Salvador Bus Stop (located 0.37-mile east)

⁶ 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.

3.3 Proposed Project

The Project site is bounded by Woz Way to the northwest, Almaden Boulevard to the northeast, an on-ramp to northbound Interstate 280 (I-280) to the southeast, and the Guadalupe River to the west.

General Plan Amendment

The Project site currently has a land use designation of Public/Quasi-Public in the Envision San José 2040 General Plan and is zoned Downtown Primary Commercial (DC). The Project proposes a General Plan Amendment (GPA) to change the entire Project site's land use designation to Downtown (DT). The 3.08-acre total Project site comprises the boundaries of the proposed GPA, and the proposed Site Development Permit boundary excludes one of the parcels, as shown in Figure 3. The GPA is proposed for the entire Project site, including all 18 parcels.

Site Development

The proposed site development is for planning, design, construction, and operation of two interconnected high-rise office towers with offices, some retail set within an office complex ambience within Downtown San José. As part of the Site Development Permit, the existing Locust Street is planned to be vacated. The Site Development Permit is proposed for 17 of the 18 parcels within the Project site, totaling 2.93 acres, as shown in Figure 3. Specifically, parcel 246-31-042 is not included in the site development boundary.

Site Development Components

The Project proposes two 20-story office towers, a maximum height of 297 feet. The total gross square footage will 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.

The conceptual floor plan consists of:

- Levels B1 to B4 include approximately 424,216 square feet of basement parking.
- Level 1 includes approximately 10,107 square feet of retail space, approximately 25,530 square feet of office, and approximately 36,160 square feet of parking, including two secured bike rooms.
- Levels B1 to B4, and Level 1 to 4, include a total of 1,259 vehicle parking spaces and 13 total truck loading spaces.
- Levels 2 through 4, combined, include approximately 150,286 square feet of office and approximately 81,060 square feet of parking space (184 parking spaces)
- Level 5 through 20 include approximately 1,050,784 square feet of office space and approximately 8,957 square feet of open space

Renderings of the proposed office towers are illustrated in Figure 4, Figure 5, and Figure 6, and the Conceptual Site Map is shown in Figure 7. The proposed Project is designed and will be constructed in accordance with Title 24 California Building Standards, which promotes energy conservation, green

design, fire and life safety, and accessibility. The proposed designs will be evaluated for consistency with the City's Downtown Design Guidelines and Standards.

The Guadalupe River and the Guadalupe River Park are located immediately west of the Project site. The Project proposes a 35-foot setback from this riparian corridor. This setback, which requires an exception from the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan), is designed to protect the environmental quality of the riparian corridor. The Project does not include any alterations to the Guadalupe River corridor. Additionally, the Project will be in conformance with the City Council Policy 6-34, Riparian Corridor Protection and Bird Safety Design which supplements the regulations for Riparian Corridor protection in the Habitat Plan. 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.

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 buildings will also comply with the City of San José's Dark Sky Policy, which will ensure that night lighting is directed downward and away from the riparian corridor. The Project would direct exterior night lighting downward and away from the riparian corridor of the Guadalupe River.

In San José all private sector and municipal building projects constructing or adding more than 10,000 square feet of occupied space (as defined in the adopted building code) are required to be designed and constructed to achieve at a minimum the United States Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED™) Rating System Silver level of certification with a goal of reaching LEED Gold or Platinum.. 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.

Project Access, Parking, & Infrastructure: The proposed Project includes a total of 1,259 parking spaces. Four underground parking levels provide 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 pedestrian entrances to the north tower lobby are provided from Woz Way. The primary pedestrian entrance to the south tower lobby is provided from the internal driveway, which has vehicular entrances and exits on both Woz Way and Almaden Boulevard. 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, construction of an 18-inch storm drain main along Almaden Boulevard, construction of two sanitary sewer connections along Almaden Boulevard which would require the existing sanitary sewer main on Almaden Boulevard to be upsized from 6-inch to 8-inch, and connections to existing utility infrastructure.

Proposed Demolition: The proposed Project involves demolition of 16 single-family residential structures and removal of on-site trees. The 16 single-family residential structures to be demolished are all low-density, single-family dwellings. These homes have all been purchased by the applicant and have been abandoned under the terms of the property sale/acquisition.

Excavation: The Project requires excavation to approximately 40 feet of depth to construct four levels of subterranean parking. The Project includes excavation of approximately 191,000 cubic yards of soil and hauling the excavated soil from the Project site.

Construction: The Project would be constructed over approximately 31-months, beginning in mid-2021. 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.

Typical construction equipment associated with site development includes, 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 includes 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.

The Project would use a CARB certified Tier 4 off-road equipment fleet.⁷ Typical Tier 4 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 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 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 a.m. to 7:00 p.m. At the time when the foundation is poured, construction operations would take place over one 24-hour period.

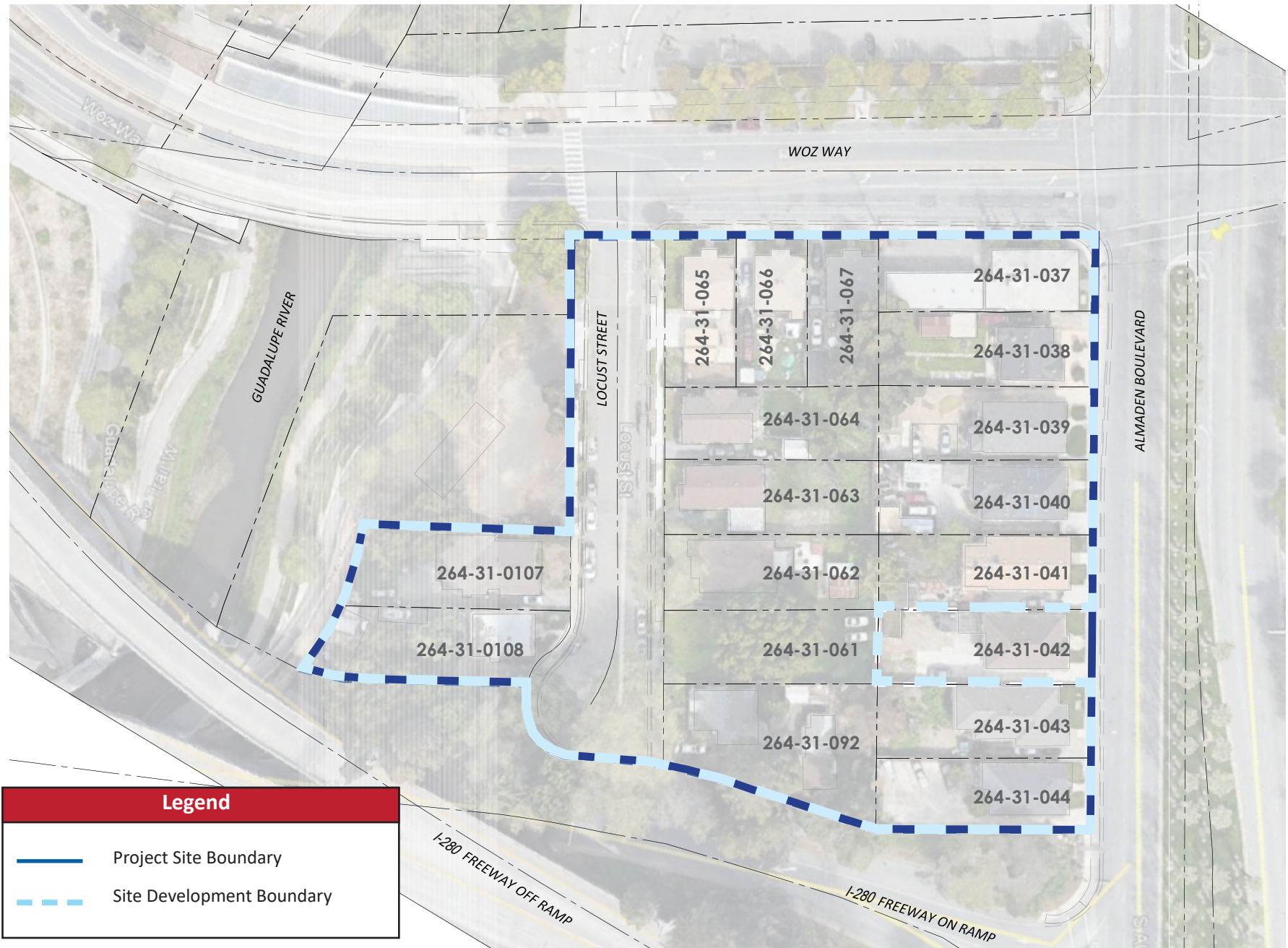
Consistent with the City's Municipal Code requirements, construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit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

Operations: Currently, the proponent anticipates leasing the office spaces.

⁷ Per Mitigation Measure AQ-1, 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.

Table 1 : Summary of the Woz Way Project Site Development

Component	Proposed Site Development*
Retail Space	10,107 sf.
Office Space	1,226,600 sf.
Parking Level	8 (4 Subterranean Levels and 4 at and above grade)
Parking Spaces Required	2,607
Parking Spaces Provided	1,259
Bicycle Parking	274 spaces
Building Height	297 ft.
Common Open Space	8,957 sf.
Estimated Construction Time Frame	Approximately 31 months
Entrance	2 entrances to internal driveway on Woz Way and Almaden Blvd 2 entrances to basement parking via Internal Driveway and driveway on Almaden Blvd 2 entrances to at and above grade parking via Internal Driveway and driveway on Almaden Blvd 1 loading area in north tower, accessible via internal driveway 1 loading area in south tower, accessible via internal driveway.
Exit	2 exits from internal driveway on Woz Way and Almaden Blvd 2 exits from basement parking via Internal Driveway and driveway on Almaden Blvd 2 exits from at and above grade parking via Internal Driveway and driveway on Almaden Blvd 1 loading area in north tower, exit via internal driveway 1 loading area in south tower, exit via internal driveway



Source: C2K Architecture, 2020

Figure 3: Assessor Parcel Map

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



AERIAL PERSPECTIVE LOOKING EAST



FREEWAY PERSPECTIVE LOOKING EAST



STREET PERSPECTIVE LOOKING SOUTHWEST FROM ALMADEN BLVD.



STREET PERSPECTIVE LOOKING SOUTHEAST FROM WOZ WAY



FREEWAY PERSPECTIVE LOOKING NORTH



STREET PERSPECTIVE LOOKING WEST FROM ALMADEN BLVD.

Source: C2K Architecture, 2021

Figure 4: Concept Rendering A

Woz Way Project



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

Woz Way Project



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



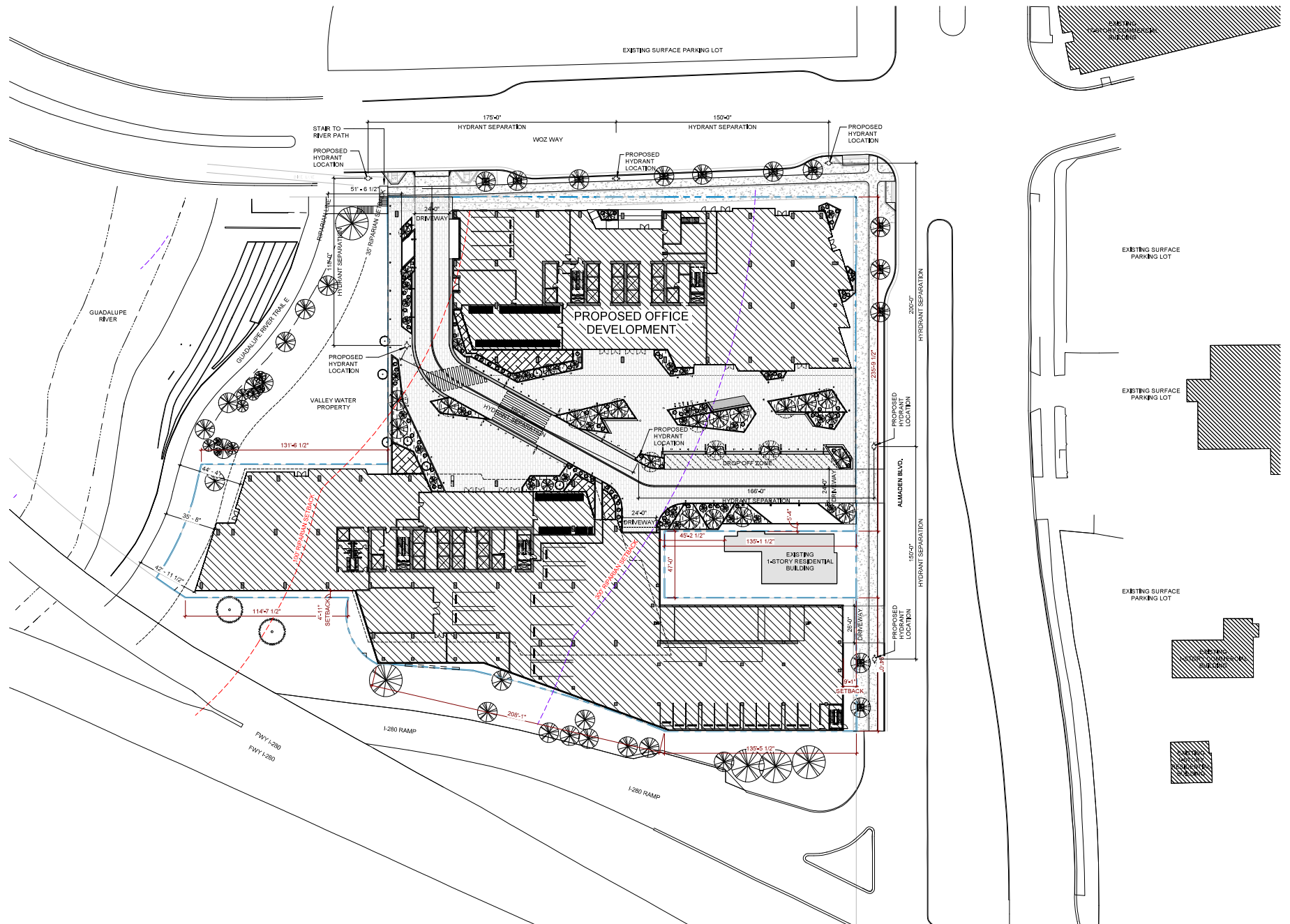
SIDEWALK PERSPECTIVE LOOKING WEST ACROSS PLAZA



PLAZA PERSPECTIVE LOOKING AT SOUTH TOWER OFFICE LOBBY ENTRANCE

Source: C2K Architecture, 2021

Figure 6: Concept Rendering C
Woz Way Project



Source: C2K Architecture, 2021

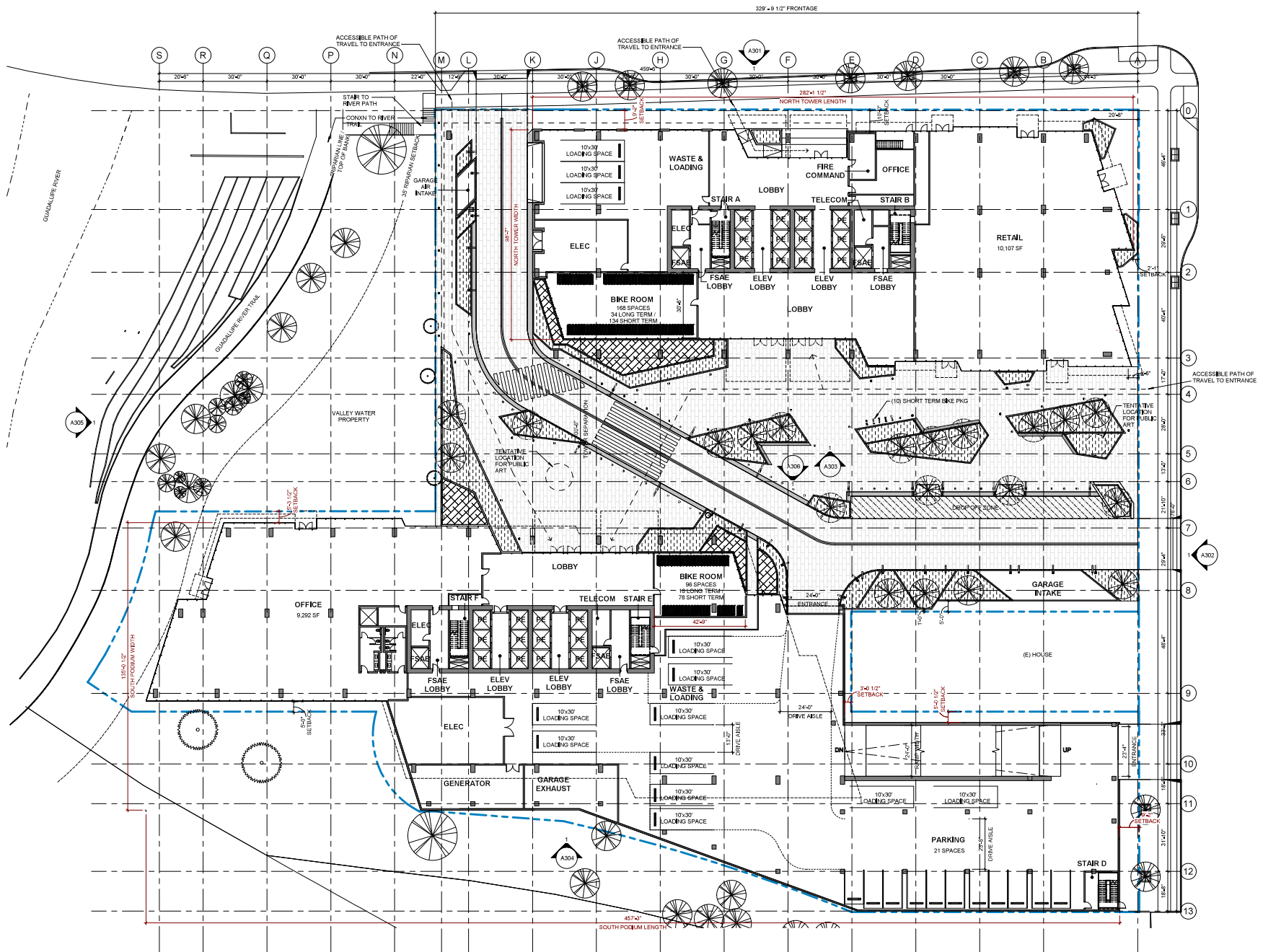
Figure 7: Site Map

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: C2K Architecture, 2021

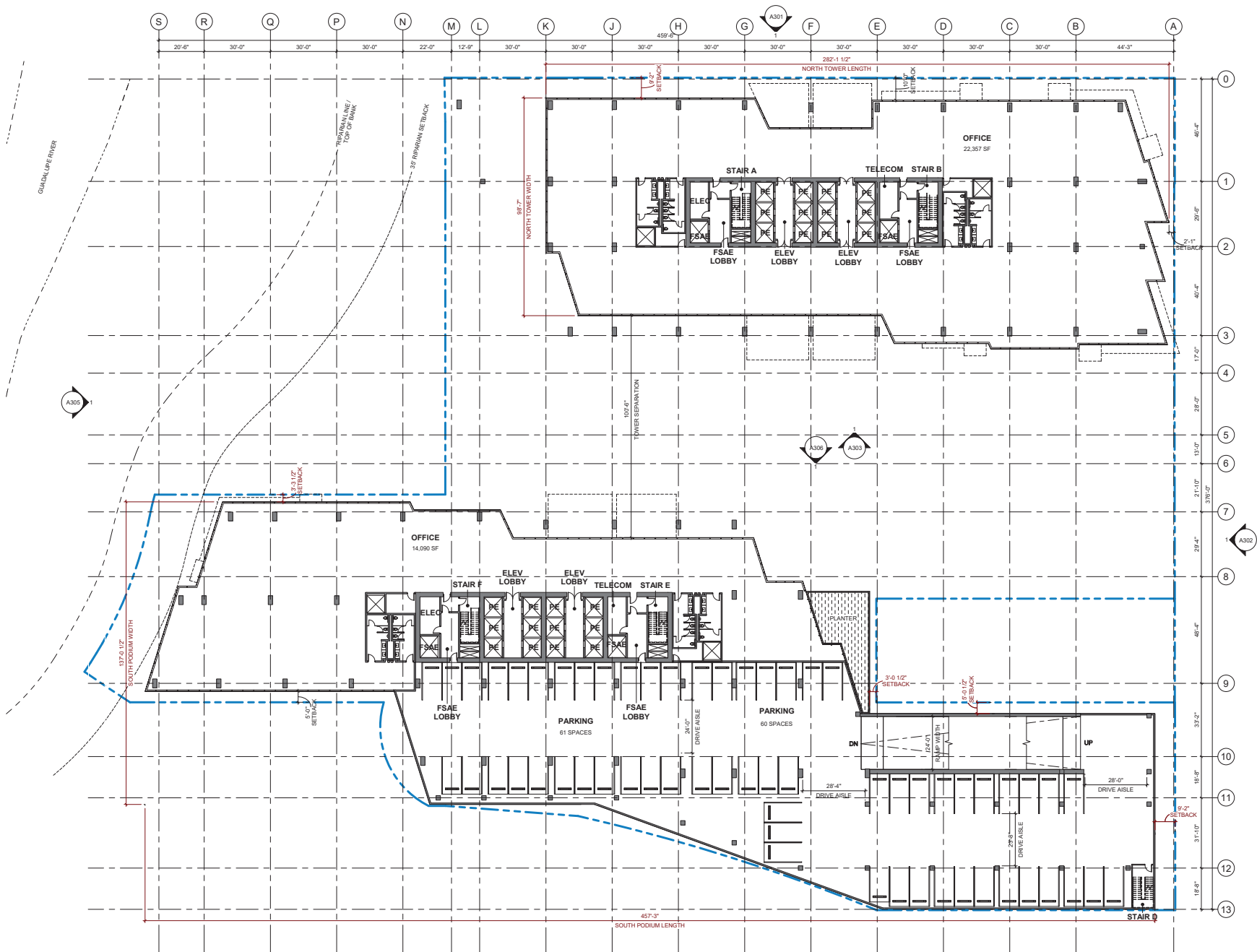
Figure 8: Typical Ground Floor Plan

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: C2K Architecture, 2021

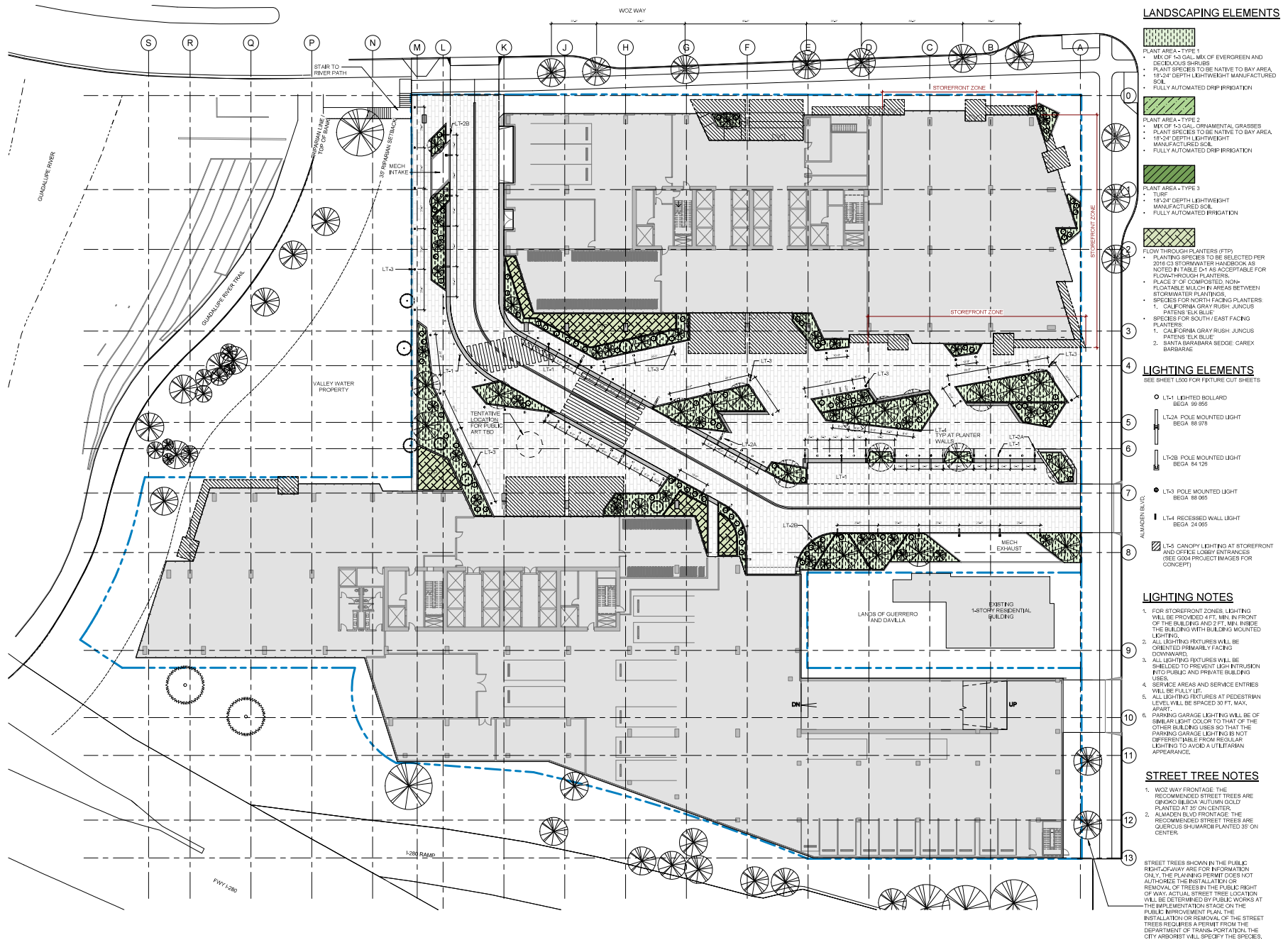
Figure 9: Typical Office Floor Plan

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: C2K Architecture, 2021

Figure 10: Landscape Plan

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.

4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

4.1 Aesthetics

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

Applicable Plans, Policies, and Regulations

Senate Bill 743

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

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.⁸

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

State Designated Scenic Routes

The State Scenic Highways Program was created by the California State Legislature in 1963 and is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no designated scenic highways in the vicinity of the Project site and the Project site is not visible from a designated scenic highway⁹.

City of San José Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Council Lighting Policy 4-2

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

City Council Outdoor Lighting Policy 4-3

City Council Policy 4-3 contains guidelines for the use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and skyglow. The Downtown area is exempt from this policy.

⁸An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed May 2020.

⁹ California Department of Transportation. "California Scenic Highway Program". Accessed January 19, 2021.

<https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>.

City Design Guidelines and Design Review Process

The Downtown Design Guidelines further refine the strategies and policies set forth in the Downtown Strategy 2040 and help provide direction for the design of future development. The 2004 Downtown Design Guidelines has three principal objectives: enhancing the character of the City and ensuring new development sensitively fits the City's expectations for the context, character, and quality defined by San José; encourage creativity, achieve design excellence, and provide a reasonable degree of certainty; and providing flexibility in the application of development standards. The guidelines include topics such as lighting, materials for construction, exterior design, massing and scale, orientation, and identity. Select guidelines are identified in Table 2: Downtown Design Guidelines below:

Table 2: Downtown Design Guidelines

Guidelines	Description
Skyline Design and Height	The tops of tall buildings should be designed to provide visual interest to the form of the downtown skyline. Buildings over 150 feet have a responsibility to the community to contribute to the skyline that defines Downtown. Relative to the rest of development on a block, taller buildings should be built at the short ends and corners to emphasize intersections, to maintain sun exposure at mid-block, and to frame views of the surrounding mountain ranges. The gradual subtraction of mass towards the top floors reduces the appearance of the overall bulk and generally produces a more interesting building form.
Massing and Scale	Buildings should be compatible with the scale of development anticipated by the Downtown Strategy Plan and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones.
Sustainable Design	The City encourages design, construction, and operation of buildings and landscapes in an environmentally responsible manner. This includes reduction of energy and water use, reducing solid and hazardous waste, preventing indoor and outdoor pollution, and using materials more efficiently.
Materials	Use the materials consistently and exceed the design and quality existing in the Downtown on facades and exterior walls of buildings to give a perception of permanence and civic pride. Use the most durable (i.e., low maintenance) materials at the public level. Do not create highly reflective facades or use glass that will cause glare at the street level and for neighboring structures.
Lighting	Lighting should be coordinated with the Federal Aviation Administration (FAA) and the Lick Observatory. Illuminating building features should create a sense of safe and intimate space around the precinct of the building. Provide appropriate levels of building mounted lighting on façade, in private landscaped areas, in merchandising display windows, and on signage.

Source: City of San José, *Downtown Design Guidelines*, 2004

Envision San José 2040 General Plan

The Envision San José 2040 General Plan identifies “gateways,” freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Gateway is on South First Street, from East San Carlos Street to Martha Street, located along the Project site. The City of San José has designated I-280 as an Urban Throughway which extends east to west and is located to the south of the Project site. Various policies in the Envision San José 2040 General Plan

have been adopted or the purpose of reducing or avoiding impacts related to aesthetics, as listed in the following list.

Attractive City

- Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- Policy CD-1.2: Install and maintain attractive, durable, and fiscally – and environmentally – sustainable urban infrastructure to promote the enjoyment of space developed for public use.
- Policy CD-1.4: Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping, and other amenities.
- Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
- Policy CD-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
- Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
- Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

- Policy CD-1.24: Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effects 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.
- Policy CD-4.9: For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Downtown Urban Design

- Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
- Policy CD-6.8: Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.
- Policy CD-6.9: Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
- Policy CD-6.10: Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high-quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
- Policy CD-6.11: Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.

Attractive Gateways

- Policy CD-10.2: Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.
- Policy CD-10.3: Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

Existing Setting

Project Site

The Project site is currently occupied by 17 single-story, single-family residences. There is existing landscaping and surface light fixtures along the frontages of the single-family residences. The Project site is developed with existing sidewalks that run along Locust Street, Woz Way and South Almaden Boulevard.

The Project site and surrounding area is highly urbanized. Buildings and transportation infrastructure (i.e., freeways, and roadways) dominate the aesthetic character. Much of the surrounding area is comprised impervious surfaces consisting of roadways, sidewalks, and buildings.

Surrounding Area

The Project site is bounded by Woz Way to the north, South Almaden Boulevard to the east, I-280 to the south, and the Guadalupe River Trail to the immediate west. An elevated freeway interchange (I-280 and SR 87) is visible from the Project site and contributes to a vehicle-oriented landscape.

Scenic Views

The City of San José is in the Santa Clara Valley, bounded by the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. The topography of the Project site is flat and therefore does not provide scenic views of the Santa Cruz Mountains, approximately 10 miles west, of the proposed Project site. However, scenic views of the Diablo foothills, approximately 7 miles east, are visible from eastbound Woz Way. Due to its urban location, existing buildings, trees, and infrastructure (e.g., utility lines, elevated roadways, etc.) obscure viewpoints and viewsheds from the ground floor level. Panoramic views of the Downtown skyline itself is also a key scenic feature in the San José area.

Nighttime Lighting

Sources of nighttime lighting in Downtown San José include indoor lighting visible through windows and outdoor lighting of signs, buildings, walkways, parking lots, and parking structures. In the immediate area, nighttime lighting is dominated by the light fixtures along the frontages of the single-family residences and light fixtures, as well as, passing traffic on I-280.

Discussion

The proposed Project would meet the criteria of SB 743 because 1) the Project would construct an employment center project and 2) the Project is located within a transit priority area.¹⁰ Consistent with Public Resources Code Section 21099, the Project would have a less than significant aesthetics impact. While the Project would have a less than significant aesthetic impact, this Initial Study addresses the threshold questions for informational purposes, given the size and location of the Project within the downtown core.

¹⁰ Metropolitan Transportation Commission. Transit Priority Areas (2017).
http://opendata.mtc.ca.gov/datasets/d97b4f72543a40b2b85d59ac085e01a0_0?geometry=-121.930%2C37.306%2C-121.898%2C37.312.

a) Have a substantial adverse effect on a scenic vista?

Same Impact as Approved Project, Less Than Significant. Panoramic views of hillside areas and the downtown skyline are key scenic features in the San José area. Roadways, freeways, and public trails tend to provide the best view of these natural and man-made features. The San José General Plan designates “gateways”, which are key roadways allowing entrance into the City of San José. The nearest gateway is located adjacent to the proposed Project site at the intersection of I-280 and SR 87. Other key roadways in the vicinity of the General Plan area with views of hillside areas include I-280, SR-87, and the “Grand Boulevards” (The Alameda/Santa Clara Street and San Carlos Street). The Downtown Strategy 2040 FEIR found that future development of mid-to-high-rise buildings would have the potential to alter the views of hillsides from areas within the Downtown Strategy 2040 FEIR boundaries. Specifically, the Downtown Strategy 2040 FEIR found that where tall structures are constructed immediately adjacent to gateways and freeways, there is a possibility that important views could be partially obscured for motorist, bicyclists, and pedestrians. Given that the proposed Project would result in the development of high-rise towers directly adjacent to existing gateways and key roadways, there is a potential that important views could be partially obscured for motorist, bicyclists, and pedestrians. Figure 4 and Figure 5 show renderings of the proposed Project from various viewpoints.

The Project site is relatively flat and located in an urbanized area within the City of San José. Therefore no scenic views are visible from the immediate Project site. The nearest roadways to the Project site with surroundings views of hillside areas are I-280 located north, SR-87 located east, and San Carlos Street located south of the Project site. Additionally, foothills located approximately 5 miles to the east of the Project site are intermittently visible from eastbound Woz Way, . However, obstruction of the scenic views from the roadways would not be substantial. Motorist pass at high rates of speed making blockage of views momentary. Further existing high-rise structures in the Project vicinity blocking views of the hillside areas. In addition, the proposed Project would comply with the City’s Downtown Design Guidelines, which would minimize effects on a scenic vista.

The proposed Project would adhere to the General Plan policies, stating that new development adjacent to Gateways, Grand Boulevards, and freeways shall be designed to preserve and enhance attractive natural and man-made vista, resulting in a less than significant impact on a scenic vista. Therefore, with implementation of the General Plan Policies, no new or significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Thus, impacts would be less than significant, and no new or additional mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. The Project site is surrounded by existing urban development and roadways, with a mix of older and more modern buildings. While there are intermittent views of the Diablo Mountain range from eastbound Woz Way, adjacent to the Project site, the Project site is relatively level and views other than buildings and roadways from the ground floor are limited. The Project is not located along a designated state scenic highway or designated scenic corridor. The nearest Officially Designated State Scenic Highway is Highway 9 located approximately nine (9) miles southwest of the Project site.

Santa Clara County has two Eligible State Scenic Highways sections: I-280 and Highway 17, approximately three (3) miles west and nine (9) miles southwest of the Project site, respectively. However, the Project site would not be visible from these Eligible State Scenic Highway or Officially Designated State Scenic Highway segments as the site is relatively flat and views to these areas from the ground are obstructed by vegetation, topography, and development patterns.

Therefore, the proposed Project would have a less than significant impact on scenic resources within a State-designated scenic highway, and no new or more significant impacts than those discussed in Downtown Strategy 2040 FEIR would occur. No new or additional mitigation is required.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Same Impact as Approved Project, Less Than Significant. Construction of the proposed Project may create temporary aesthetic nuisances associated with grading, the presence of construction debris, equipment, and truck traffic. This visual impact would be characteristic of a typical building construction site in a downtown neighborhood. These activities would not result in a substantial degradation to the Project site or surrounding area; no valuable aesthetic resources would be destroyed because of construction-related activities. These impacts are temporary in nature and would cease upon construction completion. Therefore, potential impacts from Project construction on existing visual character and quality of the site are less than significant.

The Project site is in downtown San José, which is an urbanized area with buildings constructed across a broad timeframe. Some older buildings were constructed in the late 19th century, while current construction of modern buildings reflects the recent addition of new residential and office towers. The proposed Project would be consistent with the design concepts, regulation and guidelines outlined in the Applicable Plans, Policies, and Regulations section above as required of its site development entitlement request. Although the Project would require a GPA to change the land use designation from Public/Quasi-Public to Downtown, the Project site zoning designation would remain as Downtown Primary Commercial.

The project is subject to design review as part the Site Development Permit entitlement request. The design review would ensure that the Project complies with the Downtown Design Guidelines. Accordingly, the project would be visually compatible with the surrounding downtown area, and consistency with Downtown Design Guidelines would create a more attractive, pedestrian-oriented environment.

With adherence to the Design Downtown Guidelines and the policies set forth in Downtown Strategy 2040 FEIR, the Project would not substantially degrade the existing visual character or quality of the site and its surroundings. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be less than significant, and no new or additional mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. The proposed Project would be visible from the immediate area and nearby freeways, I-280 and SR 87, and would include outdoor lighting on the Project site typical of high-rise development. Existing ambient source of nighttime lighting include neon and florescent signs, lighting of building exteriors for safety or architectural accents, interior building lighting that illuminates the exteriors of buildings through windows, landscape lights, street lighting, parking lot lighting, vehicle headlights and freeway lighting. Glare in downtown San José is created by the reflection of sunlight and electric lights from the existing windows and building surfaces.

While the proposed Project includes internal building lights, security lights, and external building lights, project lighting will be designed and managed consistent with the Downtown Design Guidelines and Standards and adopted City policies. These Guidelines and policies control the amount and color of light shining on streets, sidewalks, and protect the night sky. Non-reflective glass and building materials would be used, consistent with the Downtown Design Guidelines, which restrict the use of highly reflective materials. Compliance with the Downtown Design Guidelines would minimize the glare at street level and for neighboring structures and for trail users along the Guadalupe River, park users at Discovery Park, visitors to the Children's Discovery Museum, and motorists on the I-280 and SR 87. Further, Project lighting would be shielded and directed downward. The Project would add a screen of native trees between the proposed buildings and the Guadalupe River which would further reduce potential light and glare emanating from the Project.

The proposed Project would go through a design review process, prior to issuance of building permits, and would be reviewed for consistency with the City's Downtown Design Guidelines. The Downtown Strategy 2040 FEIR concluded that new development and redevelopment would result in new sources of nighttime lighting and daytime glare; however, implementation of design concepts and guidelines from the Downtown Strategy 2040 FEIR and City policies and regulations would avoid substantial light and glare impacts. As such, potential impacts are considered less than significant. The applicable design concepts and guidelines include:

- Amenities such as lighting, planting, and paving for pedestrian ways
- Orientation of structures to receive adequate sun and protection from the elements
- Massing of buildings to minimize bulk
- Height and location of the tallest buildings on the short ends of the City blocks and at corners

Adherence to these policies would not create a new source of substantial light or glare and the impacts are the same as the impacts of that in the Downtown Strategy 2040 FEIR. Therefore, impacts would be less than significant, and no new or additional mitigation is required.

4.2 Agriculture and Forestry Resources

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?					X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?					X	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?					X	
d) Result in the loss of forest land or conversion of forest land to non-forest use?					X	
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?					X	

Applicable Plans, Policies, and Regulations

Williamson Act

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

Farmland Mapping and Monitoring Program

The California Natural Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

Existing Setting

The Project area is in the Downtown area of the City, which does not contain Farmland. The Downtown area is designated Urban and Built-Up Land on the State of California Important Farmland Map. Urban and Built-Up Land is defined as land occupied by structures with a building density of at least one unit to a 1.5-acre parcel (or approximately six structures to a 10-acre parcel). Residential, industrial, institutional facilities, cemeteries, and sanitary landfills are common examples of Urban Built-Up Land. There is no designated farmland on or adjacent to the Project site. The Project site is also not subject to a Williamson Act contract.¹¹

Discussion

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

Same Impact as Approved Project, No Impact. The Project site and surrounding areas are not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on the State of California Important Farmland Map. Therefore, the development of this Project would not result in a conversion of documented agricultural lands to non-agricultural use. Therefore, the impact is the same as the

¹¹ California, State of, Department of Conservation, Williamson Act/Land Conservation Act. Available at <https://www.conservation.ca.gov/dlrp/wa>. Accessed September 5, 2019.

Downtown Strategy 2040 FEIR. Thus, no impact would occur, and no new or additional mitigation is required.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

Same Impact as Approved Project, No Impact. The proposed Project site is not zoned for agricultural use, it is zoned for Downtown Primary Commercial, which does not allow for agricultural uses. Further, the Project site is not currently under a Williamson Act contract. Therefore, the impact is the same as the Downtown Strategy 2040 FEIR. No impact would occur, and no new or additional mitigation is required.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Same Impact as Approved Project, No Impact. The Project site is zoned as Downtown Primary Commercial, which does not allow for forest land, timberland, or timberland zoned for production. Therefore, the development of the proposed Project would not conflict with existing zoning or cause rezoning of any such land. Therefore, the impact is the same as the Downtown Strategy 2040 FEIR. No impact would occur, and no new or additional mitigation is required.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

Same Impact as Approved Project, No Impact. The Project site does not contain forest land. Therefore, no impact would occur regarding changing forest land to non-forest use. Therefore, the impact is the same as the Downtown Strategy 2040 FEIR. No impact would occur, and no new or additional mitigation is required.

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

Same Impact as Approved Project, No Impact. No designated agricultural or forest land is located on the Project site. The Project site is in the Downtown area of San Jose which is designated Urban and Built-Up Land. Accordingly, the site does not contain Farmland, nor does it contain forest land. The Project site would be on a parcel that is zoned as Downtown Primary Commercial and would not conflict with Farmland or forest land. The proposed Project would not involve other changes in the existing environment, which due to their location or nature, would result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest land. Therefore, the impact is the same as the Downtown Strategy 2040 FEIR. No impact would occur, and no new or additional mitigation is required.

4.3 Air Quality

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?					X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?		X				
c) Expose sensitive receptors to substantial pollutant concentrations?		X				
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?					X	

An Air Quality Assessment and Health Risk Assessment have been prepared by Kimley-Horn and Associates (February 2021) to address effects on air quality that would be caused by implementation of the Project. The reports are summarized below in the discussion and included as Appendix D and Appendix F of the SEIR.

Applicable Plans, Policies, and Regulations

Federal Clean Air Act

Air quality is federally protected by the Federal Clean Air Act (FCAA) and its amendments. Under the FCAA, the EPA developed the primary and secondary National Ambient Air Quality Standards (NAAQS) for the criteria air pollutants including ozone, NO₂, CO, SO₂, PM₁₀, PM_{2.5}, and lead. Depending on whether the standards are met or exceeded, the local air basin is classified as in “attainment” or “nonattainment.” Some areas are unclassified, which means no monitoring data are available. Unclassified areas are considered to be in attainment. Proposed projects in or near nonattainment areas could be subject to more stringent air-permitting requirements. The FCAA requires that each state prepare a State Implementation Plan (SIP) to demonstrate how it will attain the NAAQS within the federally imposed deadlines. The U.S. Environmental Protection Agency (EPA) has designated enforcement of air pollution control regulations to the individual states. Applicable federal standards are summarized in Table 3: State and Federal Ambient Air Quality Standards.

CARB administers California's air quality policy. The California Ambient Air Quality Standards (CAAQS) were established in 1969 pursuant to the Mulford-Carrell Act. These standards, included with the NAAQS in, are generally more stringent and apply to more pollutants than the NAAQS. In addition to the criteria pollutants, CAAQS have been established for visibility reducing particulates, hydrogen sulfide, and sulfates.

The California Clean Air Act (CCAA), which was approved in 1988, requires that each local air district prepare and maintain an Air Quality Management Plan (AQMP) to achieve compliance with CAAQS. These AQMPs also serve as the basis for the preparation of the SIP for meeting federal clean air standards for the State of California. Like the EPA, CARB also designates areas within California as either attainment or nonattainment for each criteria pollutant based on whether the CAAQS have been achieved. Under the CCAA, areas are designated as nonattainment for a pollutant if air quality data shows that a state standard for the pollutant was violated at least once during the previous three calendar years. Exceedances that are affected by highly irregular or infrequent events such as wildfires, volcanoes, etc. are not considered violations of a State standard, and are not used as a basis for designating areas as nonattainment. The applicable State standards are summarized in Table 3.

Table 3: State and Federal Ambient Air Quality Standards

Pollutant	Averaging Time	State Standards ¹		Federal Standards ²	
		Concentration	Attainment Status	Concentration ³	Attainment Status
Ozone (O ₃)	8 Hour	0.070 ppm (137 µg/m ³)	N ⁹	0.070 ppm	N ⁴
	1 Hour	0.09 ppm (180 µg/m ³)	N	NA	N/A ⁵
Carbon Monoxide (CO)	8 Hour	9.0 ppm (10 mg/m ³)	A	9 ppm (10 mg/m ³)	A ⁶
	1 Hour	20 ppm (23 mg/m ³)	A	35 ppm (40 mg/m ³)	A
Nitrogen Dioxide (NO ₂)	1 Hour	0.18 ppm (339 µg/m ³)	A	0.10 ppm ¹¹	U
	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)	-	0.053 ppm (100 µg/m ³)	A
Sulfur Dioxide ¹² (SO ₂)	24 Hour	0.04 ppm (105 µg/m ³)	A	0.14 ppm (365 µg/m ³)	A
	1 Hour	0.25 ppm (655 µg/m ³)	A	0.075 ppm (196 µg/m ³)	A
	Annual Arithmetic Mean	NA	-	0.03 ppm (80 µg/m ³)	A
Particulate Matter (PM ₁₀)	24-Hour	50 µg/m ³	N	150 µg/m ³	-U
	Annual Arithmetic Mean	20 µg/m ³	N ⁷	NA	-
Fine Particulate Matter (PM _{2.5}) ¹⁵	24-Hour	NA	-	35 µg/m ³	U/A
	Annual Arithmetic Mean	12 µg/m ³	N ⁷	12 µg/m ³	N
Sulfates (SO ₄₋₂)	24 Hour	25 µg/m ³	A	NA	-
Lead (Pb) ^{13, 14}	30-Day Average	1.5 µg/m ³	-	NA	A
	Calendar Quarter	NA	-	1.5 µg/m ³	A
	Rolling 3-Month Average	NA	-	0.15 µg/m ³	-
Hydrogen Sulfide (H ₂ S)	1 Hour	0.03 ppm (0.15 µg/m ³)	U	NA	-

Pollutant	Averaging Time	State Standards ¹		Federal Standards ²	
		Concentration	Attainment Status	Concentration ³	Attainment Status
Vinyl Chloride (C ₂ H ₃ Cl)	24 Hour	0.01 ppm (26 µg/m ³)	-	NA	-
Visibility Reducing Particles ⁸	8 Hour (10:00 to 18:00 PST)	-	U	-	-
A = attainment; N = nonattainment; U = unclassified; N/A = not applicable or no applicable standard; ppm = parts per million; µg/m ³ = micrograms per cubic meter; mg/m ³ = milligrams per cubic meter; - = not indicated or no information available.					
<ol style="list-style-type: none"> 1. California standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1-hour and 24-hour), nitrogen dioxide, suspended particulate matter - PM₁₀, and visibility reducing particles are values that are not to be exceeded. The standards for sulfates, Lake Tahoe carbon monoxide, lead, hydrogen sulfide, and vinyl chloride are not to be equaled or exceeded. If the standard is for a 1-hour, 8-hour or 24-hour average (i.e., all standards except for lead and the PM₁₀ annual standard), then some measurements may be excluded. In particular, measurements are excluded that CARB determines would occur less than once per year on the average. The Lake Tahoe CO standard is 6.0 ppm, a level one-half the national standard and two-thirds the state standard. 2. National standards shown are the "primary standards" designed to protect public health. National standards other than for ozone, particulates and those based on annual averages are not to be exceeded more than once a year. The 1-hour ozone standard is attained if, during the most recent three-year period, the average number of days per year with maximum hourly concentrations above the standard is equal to or less than one. The 8-hour ozone standard is attained when the 3-year average of the 4th highest daily concentrations is 0.070 ppm (70 ppb) or less. The 24-hour PM₁₀ standard is attained when the 3-year average of the 99th percentile of monitored concentrations is less than 150 µg/m³. The 24-hour PM_{2.5} standard is attained when the 3-year average of 98th percentiles is less than 35 µg/m³. Except for the national particulate standards, annual standards are met if the annual average falls below the standard at every site. The national annual particulate standard for PM₁₀ is met if the 3-year average falls below the standard at every site. The annual PM_{2.5} standard is met if the 3-year average of annual averages spatially-averaged across officially designed clusters of sites falls below the standard. 3. National air quality standards are set by the EPA at levels determined to be protective of public health with an adequate margin of safety. 4. On October 1, 2015, the national 8-hour ozone primary and secondary standards were lowered from 0.075 to 0.070 ppm. An area will meet the standard if the fourth-highest maximum daily 8-hour ozone concentration per year, averaged over three years, is equal to or less than 0.070 ppm. EPA will make recommendations on attainment designations by October 1, 2016, and issue final designations October 1, 2017. Nonattainment areas will have until 2020 to late 2037 to meet the health standard, with attainment dates varying based on the ozone level in the area. 5. The national 1-hour ozone standard was revoked by U.S. EPA on June 15, 2005. 6. In April 1998, the Bay Area was redesignated to attainment for the national 8-hour carbon monoxide standard. 7. In June 2002, CARB established new annual standards for PM_{2.5} and PM₁₀. 8. Statewide VRP Standard (except Lake Tahoe Air Basin): Particles in sufficient amount to produce an extinction coefficient of 0.23 per kilometer when the relative humidity is less than 70 percent. This standard is intended to limit the frequency and severity of visibility impairment due to regional haze and is equivalent to a 10-mile nominal visual range. 9. The 8-hour CA ozone standard was approved by the Air Resources Board on April 28, 2005 and became effective on May 17, 2006. 10. On January 9, 2013, EPA issued a final rule to determine that the Bay Area attains the 24-hour PM_{2.5} national standard. This EPA rule suspends key SIP requirements as long as monitoring data continues to show that the Bay Area attains the standard. Despite this EPA action, the Bay Area will continue to be designated as "nonattainment" for the national 24-hour PM_{2.5} standard until such time as the Air District submits a "redesignation request" and a "maintenance plan" to EPA, and EPA approves the proposed redesignation. 11. To attain this standard, the 3-year average of the 98th percentile of the daily maximum 1-hour average at each monitor within an area must not exceed 0.100ppm (effective January 22, 2010). The US Environmental Protection Agency (EPA) expects to make a designation for the Bay Area by the end of 2017. 12. On June 2, 2010, the U.S. EPA established a new 1-hour SO₂ standard, effective August 23, 2010, which is based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The existing 0.030 ppm annual and 0.14 ppm 24-hour SO₂ NAAQS however must continue to be used until one year following U.S. EPA initial designations of the new 1-hour SO₂ NAAQS. 13. CARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure below which there are no adverse health effects determined. 14. National lead standard, rolling 3-month average: final rule signed October 15, 2008. Final designations effective December 31, 2011. 15. In December 2012, EPA strengthened the annual PM_{2.5} National Ambient Air Quality Standards (NAAQS) from 15.0 to 12.0 micrograms per cubic meter (µg/m³). In December 2014, EPA issued final area designations for the 2012 primary annual PM_{2.5} NAAQS. Areas designated "unclassifiable/attainment" must continue to take steps to prevent their air quality from deteriorating to unhealthy levels. The effective date of this standard is April 15, 2015. 					
Source: Bay Area Air Quality Management District, <i>Air Quality Standards and Attainment Status</i> , 2017. http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status .					

Regional - Bay Area Air Quality Management District (BAAQMD) and CEQA Air Quality Guidelines

The Project is located within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area. As previously mentioned, the federal Clean Air Act and the California Clean Air Act mandate the control and reduction of specific criteria air pollutants.

The BAAQMD is the regional agency with jurisdiction over the nine-county region located in the Basin. The Association of Bay Area Governments (ABAG), Metropolitan Transportation Commission (MTC), county transportation agencies, cities and counties, and various nongovernmental organizations also join in the efforts to improve air quality through a variety of programs. These programs include the adoption of regulations and policies, as well as implementation of extensive education and public outreach programs.

Clean Air Plan

Air quality plans developed to meet federal requirements are referred to as State Implementation Plans. The federal and state Clean Air Acts require plans to be developed for areas designated as nonattainment (except for areas designated as nonattainment for the state PM₁₀ standard). The BAAQMD is responsible for developing a Clean Air Plan, which guides the region's air quality planning efforts to attain the CAAQS. The BAAQMD adopted the 2017 Clean Air Plan: Spare the Air, Cool the Climate on April 19, 2019, by the BAAQMD.

BAAQMD periodically develops air quality plans that outline the regional strategy to improve air quality and protect the climate. The most recent plan, 2017 Bay Area Clean Air Plan, includes a wide range of control measures designed to reduce emissions of air pollutants and GHGs, including the following examples that may be relevant to this Project: reduce emissions of toxic air contaminants by adopting more stringent limits and methods for evaluating toxic risks; implement pricing measures to reduce travel demand; accelerate the widespread adoption of electric vehicles; promote the use of clean fuels; promote energy efficiency in both new and existing buildings; and promote the switch from natural gas to electricity for space and water heating in Bay Area buildings.

The 2017 Clean Air Plan provides a regional strategy to protect public health and protect the climate. To protect public health, the plan describes how the BAAQMD will continue progress toward attaining all state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 Clean Air Plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious greenhouse gas (GHG) reduction targets for 2030 and 2050 and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets. The 2017 Clean Air Plan contains district-wide control measures to reduce ozone precursor emissions (i.e., ROG and NO_x), particulate matter, TACs, and greenhouse gas emissions. The Bay Area 2017 Clean Air Plan updates the Bay Area 2010 Clean Air Plan in accordance with the requirements of the California Clean Air Act to implement "all feasible measures" to reduce ozone; provides a control strategy to reduce ozone, PM, TACs, and greenhouse gases in a single, integrated plan; reviews progress in improving air quality in recent years; and establishes emission control measures to be adopted or implemented in both the short term and through 2050.

The 2017 Clean Air Plan includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other “super-GHGs” that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

The following BAAQMD rules would limit emissions of air pollutants from construction and operation of the Project:

- Regulation 6, Rule 3. Wood-Burning Devices. The purpose of this rule is to limit emissions of particulate matter and visible emissions from wood-burning devices used for primary heat, supplemental heat, or ambiance.
- Regulation 8, Rule 3. Architectural Coatings. This rule governs the manufacture, distribution, and sale of architectural coatings and limits the reactive organic gases content in paints and paint solvents. Although this rule does not directly apply to the Project, it does dictate the ROG content of paint available for use during the construction.
- Regulation 8, Rule 15. Emulsified and Liquid Asphalts. This rule dictates the reactive organic gases content of asphalt available for use during construction through regulating the sale and use of asphalt and limits the ROG content in asphalt. Although this rule does not directly apply to the Project, it does dictate the ROG content of asphalt for use during the construction.
- Regulation 9, Rule 8. Organic Compounds. This rule limits the emissions of nitrogen oxides and carbon monoxide from stationary internal combustion engines with an output rated by the manufacturer at more than 50 brake horsepower.

BAAQMD prepared an Ozone Attainment Demonstration Plan to satisfy the federal 1-hour ozone planning requirement because of the Air Basin’s nonattainment for federal and State ozone standards. The U.S. EPA revoked the 1-hour ozone standard and adopted an 8-hour ozone standard. The BAAQMD will address the new federal 8-hour ozone planning requirements once they are established.

The BAAQMD’s CEQA Air Quality Guidelines provides significance thresholds for both construction and operation of projects, shown in Table 4.

Table 4: Bay Area Air Quality Management District Emissions Thresholds

Criteria Air Pollutants and Precursors (Regional)	Construction-Related	Operational-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emission (pounds/day)	Annual Average Emission (tons/year)
Reactive Organic Gases (ROG)	54	54	10
Nitrogen Oxides (NO _x)	54	54	10
Coarse Particulates (PM ₁₀)	82 (exhaust)	82	15
Fine Particulates (PM _{2.5})	54 (exhaust)	54	10
PM ₁₀ / PM _{2.5} (fugitive dust)	Best Management Practices	None	
Local CO	None	9.0 ppm (8-hour average) 20.0 ppm (1-hour average)	
Risk and Hazards for new sources and receptors (Individual Project)	Same as Operational Thresholds	Compliance with Qualified Community Risk Reduction Plan OR Increased cancer risk of >10.0 in a million Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute) Ambient PM _{2.5} increase: > 0.3 µg/m ³ annual average <u>Zone of Influence</u> : 1,000-foot radius from property line of source or receptor	

Source: Bay Area Air Quality Management District, 2017 CEQA Air Quality Guidelines, 2017.

National Emissions Standards for Hazardous Air Pollutants Program

Under federal law, 188 substances are listed as hazardous air pollutants (HAPs). Major sources of specific HAPs are subject to the requirements of the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program. The EPA is establishing regulatory schemes for specific source categories and requires implementation of Maximum Achievable Control Technologies (MACTs) for major sources of HAPs in each source category. State law has established the framework for California's TAC identification and control program, which is generally more stringent than the federal program and is aimed at HAPs that are a problem in California. The state has formally identified 244 substances as TACs and is adopting appropriate control measures for each. Once adopted at the state level, each air district will be required to adopt a measure that is equally or more stringent.

California Air Toxics "Hot Spots" Information and Assessment Act (AB 2588)

The California Air Toxics "Hot Spots" Information and Assessment Act (AB 2588) is a state-wide program enacted in 1987. AB 2588 requires facilities that exceed recommended Office of Environmental Health Hazard Assessment (OEHA) levels to reduce risks to acceptable levels.

Typically, land development projects generate diesel emissions from construction vehicles during the construction phase, as well as some diesel emissions from small trucks during the operational phase. Diesel exhaust is mainly composed of particulate matter and gases, which contain potential cancer-causing substances. Emissions from diesel engines currently include over 40 substances that are listed by EPA as hazardous air pollutants and by CARB as toxic air contaminants. On August 27, 1998, CARB identified particulate matter in diesel exhaust as a TAC, based on data linking diesel particulate emissions to increased risks of lung cancer and respiratory disease.

In September 2000, CARB adopted a comprehensive diesel risk reduction plan to reduce emissions from both new and existing diesel-fueled engines and vehicles. The goal of the plan is to reduce diesel PM emissions and the associated health risk by 75 percent in 2010 and by 85 percent by 2020. As part of this plan, CARB identified Airborne Toxic Control Measures (ATCM) for mobile and stationary emissions sources. Each ATCM is codified in the California Code of Regulations, including the ATCM to limit diesel-fueled commercial motor vehicle idling, which puts limits on idling time for large diesel engines (13 CCR Chapter 10 Section 2485).

Senate Bill 1889, Accidental Release Prevention Law/California Accidental Release Prevention Program

Senate Bill (SB) 1889 required California to implement a new federally mandated program governing the accidental airborne release of chemicals promulgated under Section 112 of the Clean Air Act. Effective January 1, 1997, the California Accidental Release Prevention Law (CalARP) replaced the previous California Risk Management and Prevention Program and incorporated the mandatory federal requirements. CalARP addresses facilities that contain specified hazardous materials, known as regulated substances, which if involved in an accidental release, could result in adverse offsite consequences. CalARP defines regulated substances as chemicals that pose a threat to public health and safety or the environment because they are highly toxic, flammable, or explosive.

Construction TAC and PM_{2.5} Health Risks

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs are found in ambient air, especially in urban areas, and are released by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. CARB has adopted regulations for stationary and mobile sources to reduce emissions of diesel exhaust and diesel particulate matter (DPM). Several of these regulatory programs affect medium and heavy-duty diesel trucks, which represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).

Fine Particulate Matter (PM_{2.5}) is a TAC composed of a mix of substances, such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), PM_{2.5} can lodge deeply into the lungs. According to BAAQMD, PM_{2.5} is the air pollutant most harmful to the health of Bay Area residents. Sources of PM_{2.5} include gasoline stations, dry cleaners, diesel vehicles, and diesel backup generators.

Local risks associated with TACs and PM_{2.5} are evaluated based on risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors.

Under the BAAQMD Air Quality Guidelines (as shown in Table 4), an incremental cancer risk of greater than 10 cases per million for a 70-year exposure duration at the Maximally Exposed Individual or MEI will result in a significant impact. The 10 in 1 million threshold is based on the latest scientific data, and is designed to protect the most sensitive individuals in the population as each chemical's exposure level includes large margins of safety. In addition to this carcinogen threshold, OEHHA recommends that the non-carcinogenic hazards for TACs at ground level should not exceed a chronic hazard index of greater than one.

Vehicle exhaust emissions of diesel particulates from traffic on I-280 are below the PM₁₀ and PM_{2.5} range. Diesel particulate matter (DPM) is the only pollutant needed for the cancer risk analysis since the cancer slope factor established by OEHHA for the DPM cancer risk assessment includes consideration of the individual toxic species that could be adsorbed onto DPM particles.

City of San José General Plan

The City's General Plan includes the following air quality policies applicable to the Project:

- Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
- Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
- Policy MS-10.5: In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
- Policy MS-10.6: Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.
- Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
- Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

- Policy MS-11.4: Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
- Policy MS-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
- Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
- Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Existing Setting

The City of San José is in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The Project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. This portion of the Santa Clara Valley is bounded to the north by the San Francisco Bay and the Santa Cruz Mountains to the southwest and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

Pollutants in the air can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

Ambient Air Monitoring

CARB monitors ambient air quality at approximately 250 air monitoring stations across the state. Air quality monitoring stations usually measure pollutant concentrations ten feet above ground level; therefore, air quality is often referred to in terms of ground-level concentrations. Existing levels of ambient air quality, historical trends, and projections near the Project site are documented by measurements made by the Bay Area Air Quality Management District (BAAQMD)'s air pollution regulatory agency that maintains air quality monitoring stations, which process ambient air quality measurements.

Ozone (O₃) and particulate matter (PM₁₀ and PM_{2.5}) are pollutants of concern in the BAAQMD. The closest air monitoring station to the Project site that monitors ambient concentrations of these pollutants is the San José-Jackson Street Monitoring Station located approximately 1.5 miles northeast of the Project site. Local air quality data from 2016 to 2018 is provided in the Air Quality and Greenhouse Gas Assessment (Appendix D and Appendix E of the SEIR). Particulate matter (PM₁₀ and PM_{2.5}) were both exceeded in 2018 at the closest monitoring stations. In general, the Bay Area experiences low concentrations of most pollutants when compared to federal standards, except for O₃ (ozone) and particulate matter (PM), for which standards are exceeded periodically. With respect to federal standards, the Bay Area's attainment status for 8-hour ozone is classified as "marginal nonattainment" and "nonattainment" for PM_{2.5}. The

region is also considered to be in nonattainment with the California Ambient Air Quality Standards (CAAQS) for PM₁₀ and PM_{2.5}. Area sources generate the majority of these airborne particulate emissions. The Basin is considered in attainment or unclassified with respect to the CO, NO₂ and SO₂ National Ambient Air Quality Standards (NAAQS) and CAAQS.

Toxic Air Contaminants Sources

Toxic air contaminants (TACs) are airborne substances that can cause short-term (acute) or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. They may be emitted from a variety of common sources including gasoline stations, automobiles, dry cleaners, industrial operations, and painting operations. The current California list of TACs includes more than 200 compounds, including particulate emissions from diesel-fueled engines.

CARB identified diesel particulate matter (DPM) as a toxic air contaminant. DPM differs from other TACs in that it is not a single substance but rather a complex mixture of hundreds of substances. Diesel exhaust is a complex mixture of particles and gases produced when an engine burns diesel fuel. DPM is a concern because it causes lung cancer; many compounds found in diesel exhaust are carcinogenic. DPM includes the particle-phase constituents in diesel exhaust. The chemical composition and particle sizes of DPM vary between different engine types (heavy-duty, light-duty), engine operating conditions (idle, accelerate, decelerate), fuel formulations (high/low sulfur fuel), and the year of the engine. Some short-term (acute) effects of diesel exhaust include eye, nose, throat, and lung irritation, and diesel exhaust can cause coughs, headaches, light-headedness, and nausea. DPM poses the greatest health risk among the TACs. Almost all diesel exhaust particle mass is 10 microns or less in diameter. Because of their extremely small size, these particles can be inhaled and eventually trapped in the bronchial and alveolar regions of the lung.

Sensitive Receptors Around the Project Site

The Project site is in an urban area in City of San José. The surrounding land uses are predominantly residential and office. The nearest sensitive receptor is adjoining the Project site. The second nearest is located approximately 150 feet east of the site across Almaden Boulevard.

Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

Same Impact as Approved Project, Less Than Significant. The most recently adopted plan, the 2017 Clean Air Plan, in the Basin outlines how the San Francisco Area will attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions.

The Project would change the General Plan land use designation from Public/Quasi-Public to Downtown to allow for the proposed office development. The new use allowed by the Project includes approximately 1,226,600 square feet of office space and approximately 10,107 square feet of retail space. The proposed development would result in an anticipated 4,130 new employment opportunities. ABAG predicts that job opportunities in the City of San José will grow from 387,510 in 2010 to 554,875 by 2040. As of 2015, there are 359,128 job opportunities in the City. While the Project was not contemplated by the City General Plan, the addition of 4,130 new jobs would be within the ABAG growth projections for the City of approximately 554,875 jobs by 2040. Accordingly, population growth would be needed to support the job

growth anticipated by ABAG. Therefore, population growth from the Project would be consistent with ABAG's projections for the City and with the City's General Plan.

A project would be consistent with the 2017 Clean Air Plan Progress Report if it would not exceed the growth assumptions in the plan. The primary method of determining consistency with the 2017 Clean Air Plan growth assumptions is consistency with the General Plan land use designations and zoning designations for the site. It should be noted that the Clean Air Plan does not make a specific assumption for development on the site, but bases assumptions on growth in population, travel, and business, based on socioeconomic forecasts. The Project proposes to change the General Plan land use designation that would allow for increased job opportunities and, indirectly, potential for increased population growth. However, the Project would not exceed the ABAG growth assumptions for employment in the City. Therefore, the growth assumptions in the Clean Air Plan would not be exceeded.

The Project is consistent with the 2017 Clean Air Plan policies that are applicable to the Project site. As discussed in Table 5: Project Consistency with Applicable Clean Air Plan Control Measures, the Project would comply with city, state, and regional requirements.

Table 5: Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Stationary Source Control Measures	
SS21: New Source Review of Toxic Air Contaminants	Consistent. The Project would not include uses that would generate new sources of TAC to impacts to the nearby sensitive receptors.
SS25: Coatings, Solvents, Lubricants, Sealants and Adhesives	Consistent. The Project would comply with Regulation 8, Rule 3: Architectural Coatings, which would dictate the ROG content of paint available for use during construction. The Project is required to use low-VOC paints (per Mitigation Measure AQ-1).
SS26: Surface Prep and Cleaning Solvent	
SS29: Asphaltic Concrete	Consistent. Paving activities associated with the Project would be required to utilize asphalt that does not exceed BAAQMD emission standards in Regulation 8, Rule 15.
SS30: Residential Fan Type Furnaces	Consistent. BAAQMD is the responsible party for implementation of this regulation. This BAAQMD control measure regulates furnace emissions. The Project would use the latest central furnaces, which are required to comply with the applicable regulations.
SS31: General Particulate Matter Emissions Limitation	Consistent. This control measure is implemented by the BAAQMD through Regulation 6, Rule 1. This Rule Limits the quantity of particulate matter in the atmosphere by controlling emission rates, concentration, visible emissions and opacity. The Project would be required to comply with applicable BAAQMD rules.
SS32: Emergency Back-up Generators	Consistent. Use of back-up generators by the Project is currently not anticipated. However, if emergency generators were to be installed they would be required to meet the BAAQMD's emissions standards for back-up generators during subsequent permitting stage.
SS33: Commercial Cooking Equipment	Consistent. The Project does include the potential development of additional restaurant facilities in the retail area. However, if any kitchen facilities or restaurants occur and they install a char broiler, a catalytic oxidizer system must also be installed pursuant to BAAQMD Rule 6-2.

SS34: Wood Smoke	Consistent. The Project would comply with BAAQMD Regulation 6, Rule 3 and prohibit the construction of wood burning appliances/ fireplaces.
SS36: Particulate Matter from Trackout	Consistent. Mud and dirt that may be tracked out onto the nearby public roads during construction activities would be removed promptly by the contractor based on BAAQMD's requirements.
SS37: Particulate Matter from Asphalt Operations	Consistent. Paving and roofing activities associated with the Project would be required to utilize best management practices to minimize the particulate matter created from the transport and application of road and roofing asphalt.
SS38: Fugitive Dust	Consistent. Material stockpiling and track out during grading activities as well as smoke and fumes from paving and roofing asphalt operations would be required to utilize best management practices, such as watering exposed surfaces twice a day, covering haul trucks, keeping vehicle speeds on unpaved roads under 15 mph, to minimize the creation of fugitive dust. See City of San José permit standard conditions for a more detailed list.
SS40: Odors	Consistent. The Project is an office development and is not anticipated to generate odors
Transportation Control Measures	
TR2: Trip Reduction Programs	Consistent. The Project would include a number of travel demand measures (TDM) such as commute trip reduction marketing/education, employee parking "cash-out" for certain employees, subsidized or discounted transit passes for some employees, telecommuting and alternative work schedules and ride-sharing programs. These TDM Programs would help reduce vehicle miles traveled (VMT) and mobile greenhouse gas emissions.
TR8: Ridesharing and Last-Mile Connections	
TR9: Bicycle and Pedestrian Access Facilities	Consistent. There is currently pedestrian access to/from the Project site via sidewalks along Locust Street, Woz Way, and Almaden Boulevard. Bicyclists currently share the road with vehicles on Almaden Boulevard, Woz Way and Reed Street. Bicycle lanes along the Almaden Boulevard, Woz Way, and Reed Street would remain and would connect to any existing bicycle routes. In addition, the proposed driveways would be able to safely accommodate bicyclists in both directions and vehicles accessing the Project site. Additionally, the Project would provide improvements to enhance the pedestrian access on- and off-site.
TR10: Land Use Strategies	Consistent. This measure is a BAAQMD funding tool to maintain and disseminate information on current climate action plans and other local best practices and collaborate with regional partners to identify innovative funding mechanisms to help local governments address air quality and climate change in their general plans. In addition, the proposed Project site is located within 0.33 miles of bus Routes 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. The Project would not conflict with implementation of this measure.
TR13: Parking Policies	Consistent. The proposed Project would create approximately 1,259 parking spaces. The proposed parking is sufficient for the proposed uses.
TR19: Medium and Heavy Duty Trucks	Not Applicable. The Project does not involve warehousing or industrial uses that would generate substantial truck trips. The Project would not conflict with the implementation of this measure.

TR22: Construction, Freight and Farming Equipment	Consistent. The Project would comply through implementation of the City of San José Downtown Strategy EIR and GP Policy 13.1. This Project requires construction equipment over 25 horsepower to meet the Tier 4 emissions standards for graders and scrapers, per Mitigation Measure AQ-1.
Energy and Climate Control Measures	
EN1: Decarbonize Electricity Generation	Consistent. The Project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. The proposed development would be constructed in compliance with the City’s Council Policy 6-32 and the City’s Green Building Ordinance.
EN2: Decrease Electricity Demand	
Buildings Control Measures	
BL1: Green Buildings	Consistent. The Project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. The proposed development would be constructed in compliance with the City’s Council Policy 6-32 and the City’s Green Building Ordinance.
L2: Decarbonize Buildings	
BL4: Urban Heat Island Mitigation	Consistent. The Project would demolish an existing roadway and 16 single-family homes to create two towers. The Project would include some open space and landscaping for passive recreational uses serving the Project.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	Consistent. The Project includes minor landscaping with native vegetation and trees.
Waste Management Control Measures	
WA1: Landfills	Consistent. The waste service provider for the Project would be required to meet the AB 341 and SB 939, 1374, and 1383 requirements that require waste service providers to divert and recycle waste. Per Cal Green requirements the Project would recycle construction waste.
WA3: Green Waste Diversion	
WA4: Recycling and Waste Reduction	
Water Control Measures	
WR2: Support Water Conservation	Consistent: The Project would implement water conservation measures and low flow fixtures as required by Title 24, CalGreen, and the City of San José’s Municipal Code Section 15-11 Water Efficient Landscaping Ordinance, which includes various specifications for plant types, water features, and irrigation design etc.
Source: BAAQMD, Clean Air Plan, 2017 and Kimley-Horn & Associates, 2021.	

The addition of 4,130 new jobs under the proposed Project would be within the ABAG growth projections for the City of approximately 554,875 jobs by 2040 and would not exceed the ABAG growth projections for the City. Therefore, population growth from the Project would be consistent with ABAG's projections for the City and with the City's General Plan. In addition, the City of San José is "housing-rich", and the increase of jobs would promote a jobs/housing ratio that is closer to 1 to 1. Population growth from the Project would be consistent with ABAG's projections for the City and with the City's General Plan.

The Project is consistent with applicable transportation, building, natural and working lands, and waste management control measures identified in Table 5 above and is consistent with applicable policies in the City's General Plan. Therefore, the Project would not result in new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

New Less Than Significant Unless Mitigation Incorporated. Construction Emissions

Project construction activities would generate short-term emissions of criteria air pollutants. The criteria pollutants of primary concern within the Project area include ozone-precursor pollutants (i.e., ROG and NO_x), PM₁₀, and PM_{2.5}. Construction-generated emissions are short term and temporary, lasting only while construction activities occur, but would be considered a significant air quality impact if the volume of pollutants generated exceeds the BAAQMD's thresholds of significance.

Construction results in the temporary generation of emissions during demolition, site grading, road paving, motor vehicle exhaust associated with construction equipment and worker trips, and the movement of construction equipment, especially on unpaved surfaces. Emissions of airborne particulate matter are largely dependent on the amount of ground disturbance associated with site preparation activities, as well as weather conditions and the appropriate application of water.

The Project 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. Demolition is expected to be approximately 3,365 tons of building and paving material. Site grading would require approximately 191,000 cubic yards of exported material.

Prior to the issuance of construction permits, the City would confirm that all applicable construction plans, specifications, and bid documents include requirements for the below listed MM AQ-1. The Project would be constructed over approximately 31 months starting in mid-2021.¹² Daily regional construction emissions are estimated by assuming construction occurs at the earliest feasible date (i.e., a conservative estimate of construction activities) and applying off-road, fugitive dust, and on-road emissions factors in CalEEMod. For the purposes of this analysis, construction is assumed to begin in an earlier year as a conservative approach. 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. Construction would occur in one phase with distinct activities/sub-phases (i.e., demolition, grading, paving, building construction). Emissions for each construction activity have been quantified based upon the phase duration and equipment types. The analysis of daily construction emissions has been prepared and is shown in Table 6: Construction-Related Emissions.

¹² 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.

Table 6: Construction-Related Emissions

Construction Year	Pollutant (maximum pounds per day) ¹					
	Reactive Organic Gases (ROG)	Nitrogen Oxide (NO _x)	Exhaust		Fugitive Dust	
			Coarse Particulate Matter (PM ₁₀)	Fine Particulate Matter (PM _{2.5})	Coarse Particulate Matter (PM ₁₀)	Fine Particulate Matter (PM _{2.5})
Unmitigated Emissions						
2021	5.11	67.48	2.05	1.88	18.21	9.97
2022	79.14	47.71	0.99	0.95	8.35	2.26
2023	78.61	39.16	0.83	0.79	8.35	2.26
Maximum	79.14	67.48	2.05	1.88	18.21	9.97
BAAQMD Significance Threshold ^{2,3}	54	54	82	54	N/A	N/A
Exceed BAAQMD Threshold?	Yes	Yes	No	No	N/A	N/A
Mitigated Emissions						
2021	3.61	43.34	0.21	0.21	7.86	4.28
2022	36.64	34.30	0.28	0.27	7.93	2.16
2023	36.23	27.05	0.26	0.22	7.93	2.16
Maximum	36.64	43.34	0.28	0.27	7.93	4.28
BAAQMD Significance Threshold ^{2,3}	54	54	82	54	N/A	N/A
Exceed BAAQMD Threshold?	No	No	No	No	N/A	N/A
1. Emissions were calculated using CalEEMod. Mitigated emissions include compliance with the BAAQMD's Basic Construction Mitigation Measures Recommended for All Projects, City Standard Permit Conditions, Mitigation Measure AQ-1 and GP Policy MS-13.1. These measures include the following: water exposed surfaces two times daily; cover haul trucks; clean track outs with wet powered vacuum street sweepers; limit speeds on unpaved roads to 15 miles per hour; complete paving as soon as possible after grading; limit idle times to 5 minutes; properly maintain mobile and other construction equipment; and post a publicly visible sign with contact information to register dust complaints and take corrective action within 48 hours. These measures were incorporated into CalEEMod mitigation module; therefore, the effects of standard conditions and mitigation are shown as mitigated scenario. Additionally, all construction equipment over 25 horsepower are required to meet CARB Tier 4 Final emissions standards per Mitigation Measure AQ-1. The Project is required to use low-VOC paint (50 g/L or less) (Mitigation Measure AQ-1).						
2. Bay Area Air Quality Management District, California Environmental Quality Act Air Quality Guidelines, updated May 2017.						
3. BMPs = Best Management Practices. The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds. Implementation of Basic Construction Mitigation measures are considered to mitigate fugitive dust emissions to be less than significant.						
4. Modeling was conducted for the project based on plans submitted to the City on April 9, 2020. As detailed in Section 3 of this document, the plans dated February 2021 resulted in similar building footprint but reduction in trip-generating land uses. Therefore, the emissions in the table are consistent with the emissions presented in the Technical Reports based on the April 9, 2020 site plan.						
Source: Refer to the CalEEMod outputs provided in Appendix D of the SEIR, <i>Air Quality Assessment</i>						

Fugitive Dust Emissions. Fugitive dust emissions are associated with land clearing, ground excavation, cut-and-fill operations, demolition, and truck travel on unpaved roadways. Dust emissions also vary substantially from day to day, depending on the level of activity, the specific operations, and weather conditions. Fugitive dust emissions may have a substantial, temporary impact on local air quality. In addition, fugitive dust may be a nuisance to those living and working in the Project vicinity. Uncontrolled dust from construction can become a nuisance and potential health hazard to those living and working nearby. The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds. These are similar to the City of San José Standard Permit Condition for air quality listed below.

Standard Permit Condition:

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Construction Equipment and Worker Vehicle Exhaust. Exhaust emission factors for typical diesel-powered heavy equipment are based on the CalEEMod program defaults. Variables factored into estimating the total construction emissions include: level of activity, length of construction period, number of pieces/types of equipment in use, site characteristics, weather conditions, number of construction personnel, and the amount of materials to be transported onsite or offsite. Exhaust emissions from construction activities include emissions associated with the transport of machinery and supplies to and from the Project site, emissions produced on site as the equipment is used, and emissions from trucks transporting materials and workers to and from the site. Emitted pollutants would include ROG, NO_x, PM₁₀, and PM_{2.5}. The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures, whether or not construction-related emissions exceed applicable significance thresholds (included as Standard Permit Conditions). Mitigation Measure AQ-1 would require the proposed Project ensure any off-road equipment operating on-site for more than two days and larger than 25 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. As part of Mitigation Measure AQ-1, prior to the issuance of any demolition permits, the Project applicant will submit a construction operations plan to the Director of Planning, Building and Code Enforcement, or Director's designee, which includes specifications of the equipment to be used during construction as confirmation this requirement is met. The modeling results in Table 6 demonstrate that the necessary reductions can be achieved with the use of CARB certified Tier 4 Final equipment.

ROG Emissions. In addition to gaseous and particulate emissions, the application of asphalt and surface coatings creates ROG emissions, which are O₃ precursors. In accordance with the methodology prescribed by the BAAQMD, the ROG emissions associated with paving have been quantified with CalEEMod.

The highest concentration of ROG emissions would be generated from architectural coating beginning in end of 2022 and lasting approximately 13 months. This phase includes the interior and exterior painting as well as striping of all paved parking areas and roadways. Paints would be required to comply with BAAQMD Regulation 8, Rule 3: Architectural Coating which provides specifications on painting practices and regulates the ROG content of paint. Additionally, the Project would be required to utilize low VOC paint (less than 50 g/L) as part of Mitigation Measure AQ-1.

Summary. As shown in Table 6, all criteria pollutant emissions would remain below their respective thresholds during construction. The Project emissions would not worsen ambient air quality, create additional violations of federal and state standards, or delay the Basin's goal for meeting attainment standards. Impacts would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in non-attainment under an applicable federal or state ambient air quality standard.

Although the Project would result in construction emissions below BAAQMD thresholds, the City's Standard Permit Condition would be implemented during construction including dust control procedures, and Mitigation Measure AQ-1 would further reduce emissions. The Project, therefore, would not result in a significant air quality impact due to construction dust emissions.

Operational Emissions – Criteria Air Pollutants

Operational emissions for mixed-use developments are typically generated from mobile sources (burning of fossil fuels in cars), energy sources (cooling, heating, and cooking), and area sources (landscape equipment and household products). Pollutants shows that the Project's maximum emissions would not exceed BAAQMD operational thresholds, as shown in Table 7: Maximum Daily Project Operational Emissions – Criteria Air Pollutants.

Table 7: Maximum Daily Project Operational Emissions – Criteria Air Pollutants

Emissions Source	Pollutant (maximum pounds per day)					
	Reactive Organic Gases (ROG)	Nitrogen Oxides (NO _x)	Exhaust		Fugitive Dust	
			Coarse Particulate Matter (PM ₁₀)	Fine Particulate Matter (PM _{2.5})	Coarse Particulate Matter (PM ₁₀)	Fine Particulate Matter (PM _{2.5})
Area	31.52	0.002	0.001	0.001	-	-
Energy	0.44	3.95	0.30	0.30	-	-
Mobile	9.53	28.86	0.24	0.22	29.20	7.78
Total Project Emissions²	41.48	32.82	0.48	0.46	29.20	7.78
<i>BAAQMD Significance Threshold³</i>	54	54	82	54	N/A	N/A
BAAQMD Threshold Exceeded?	No	No	No	No	N/A	N/A
<ol style="list-style-type: none"> 1. Bay Area Air Quality Management District, <i>California Environmental Quality Act Air Quality Guidelines</i>, 2017. 2. Modeling was conducted for the project based on plans submitted to the City on April 9, 2020. As detailed in Appendix D of the SEIR, the plans dated February 2021 resulted in fewer daily vehicle trips and a similar building footprint. Therefore, the emissions in the table are consistent with the emissions presented in the Technical Reports based on the April 9, 2020 site plan. 3. BAAQMD thresholds are for exhaust only and fugitive dust emissions are provided for informational purposes only. 						
Source: Refer to the CalEEMod outputs provided in Appendix D of the SEIR						

Mobile Sources. Mobile sources are emissions from motor vehicles, including tailpipe and evaporative emissions. Depending upon the pollutant being discussed, the potential air quality impact may be of either regional or local concern. For example, ROG, NO_x, PM₁₀, and PM_{2.5} are all pollutants of regional concern (NO_x and ROG react with sunlight to form O₃ [photochemical smog], and wind currents readily transport PM₁₀ and PM_{2.5}). However, CO tends to be a localized pollutant, dispersing rapidly at the source.

Project-generated vehicle emissions have been estimated using CalEEMod. Trip generation rates associated with the Project were based on the Project's Local Transportation Study (LTA), which is included as Appendix J of the SEIR. Based on the LTA, the Project would result in an average of approximately 7,520 total daily vehicle trips. Table 7, shows the net Project emissions generated by vehicle traffic associated with the Project would not exceed established BAAQMD regional thresholds.

Energy Source Emissions. Energy source emissions would be generated as a result of electricity and natural gas (non-hearth) usage associated with the Project. The primary use of electricity and natural gas by the Project would be for space heating and cooling, water heating, ventilation, lighting, appliances, and electronics. As shown in Table 7, energy source emissions from the Project would not exceed BAAQMD thresholds for ROG, NO_x, PM₁₀, and PM_{2.5}. Further energy analysis is available in Section 4.6.

Area Source Emissions Area source emissions would be generated due to an increased demand for consumer products, architectural coating, hearths, and landscaping. As shown Table 7, area source emissions from the Project would not exceed BAAQMD thresholds.

Total Operational Emissions. As indicated in Table 7, net Project operational emissions would not exceed BAAQMD thresholds. As noted above, the BAAQMD has set its CEQA significance threshold based on the trigger levels for the federal NSR Program and BAAQMD's Regulation 2, Rule 2 for new or modified sources. The NSR Program was created to ensure projects are consistent with attainment of health-based federal ambient air quality standards. The federal ambient air quality standards establish the levels of air quality necessary, with an adequate margin of safety, to protect the public health. Therefore, the Project would not violate any air quality standards or contribute substantially to an existing or projected air quality violation and no criteria pollutant health impacts would occur. Project operational emissions would be less than significant.

Cumulative Short-Term Emissions

The San Francisco Bay Area Air Basin (SFBAAB) is designated nonattainment for O₃, PM₁₀, and PM_{2.5} for State standards and nonattainment for O₃ and PM_{2.5} for Federal standards. As discussed above, the Project's construction-related emissions by themselves would not have the potential to exceed the BAAQMD significance thresholds for criteria pollutants. The BAAQMD developed the construction thresholds of significance based on the level above which a project's individual emissions would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. Therefore, a project that exceeds the BAAQMD thresholds would also be a cumulatively considerable contribution to a significant cumulative impact.

Project-related construction emissions would not be cumulatively considerable because they do not exceed BAAQMD project level thresholds. Since BAAQMD thresholds indicate whether an individual project's emissions have the potential to affect cumulative regional air quality, it can be expected that an individual project that exceeds these thresholds would result in a cumulative short term impact. Project level cumulative construction emissions would not exceed threshold because the Project would utilize

Tier 4 construction equipment (Mitigation Measure AQ-1). Furthermore, the BAAQMD requires Basic Construction Best Management Practices for all projects whether construction-related emissions exceed the thresholds of significance (included as Standard Permit Conditions). It is understood that other projects would also comply with the BAAQMD measures, in compliance with BAAQMD Regulations. Compliance with BAAQMD construction-related mitigation requirements are considered to reduce cumulative impacts at a Basin-wide level. As a result, construction emissions associated with the Project would not result in a cumulatively considerable contribution to significant cumulative air quality impacts.

Cumulative Long-Term Impacts

The BAAQMD has not established separate significance thresholds for cumulative operational emissions. As previously mentioned, the nature of air emissions is largely a cumulative impact. The Downtown Strategy 2040 FEIR concluded that the full buildout of the downtown area would result in significant unavoidable impact in operational emissions of criteria pollutants due to the scale of the Downtown Strategy project.

The BAAQMD developed the operational thresholds of significance based on the level above which a project's individual emissions would result in a cumulatively considerable contribution to the Basin's existing air quality conditions. Therefore, a project that exceeds the BAAQMD operational thresholds would also be a cumulatively considerable contribution to a significant cumulative impact.

As shown in Table 7, the Project's operational emissions would not exceed BAAQMD thresholds. As a result, operational emissions associated with the Project would not result in a cumulatively considerable contribution to significant cumulative air quality impacts.

Mitigation Measure:

Mitigation Measure AQ-1 Additional Construction Mitigation Measure

Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit 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 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 be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest). 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.

Summary. Per the Downtown Strategy 2040 EIR, General Plan Policy MS-13.1, Standard Permit Condition, and Mitigation Measure AQ-1 the proposed Project would be required to implement control measures that ensure that construction emissions do not exceed BAAQMD significance thresholds. Impacts would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard. Therefore, the proposed Project would not result in any new or more significant impacts than those previously identified in the Downtown Strategy 2040 EIR with the implementation of Mitigation Measure AQ-1.

c) Expose sensitive receptors to substantial pollutant concentrations?

Same Impact as Approved Project, Less Than Significant. Sensitive land uses are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. Sensitive receptors in the area include single-family residences adjoining the Project site.

Dust Generation

Construction activities on-site would temporarily generate dust and equipment exhaust that would affect nearby sensitive receptors. Implementation of City Standard Permit Conditions related to dust control measures, disclosed above, during all phases of construction would reduce dust and other particulate matter emissions to a less than significant level.

Toxic Air Contaminants

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known toxic air contaminants (TAC). Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The closest sensitive receptor to the Project is the on-site single-family home that would not be included in the site development (APN 264-31-0422). (see *Figure 4: Sensitive Receptors* in the Air Quality Technical Report). BAAQMD provides guidance for evaluating impacts from TACs in its CEQA Air Quality Guidelines document. As noted therein, an incremental cancer risk of greater than 10 cases per million at the Maximally Exposed Individual (MEI)

will result in a significant impact. The BAAQMD considers exposure to annual $PM_{2.5}$ concentrations that exceed $0.3 \mu\text{g}/\text{m}^3$ from a single source to be significant. The BAAQMD significance threshold for non-cancer hazards is 1.0 (See Table 4).

Stationary sources within a 1,000-foot radius of the Project site were identified using BAAQMD's Stationary Source Screening Analysis Tools and consultation with the BAAQMD. BAAQMD confirmed four sources exist within 1,000-feet of the Project site and are further evaluated in the Health Risk Assessment (HRA) prepared by Kimley-Horn 2021.

Construction-Related Diesel Particulate Matter

Project construction would generate diesel particulate matter (DPM) emissions from the use of off-road diesel equipment required for grading and excavation, paving, and other construction activities. For construction activity, DPM is the primary toxic air contaminant of concern. On-road diesel-powered haul trucks traveling to and from the construction area to deliver materials and equipment are less of a concern because they would not stay on the site for long durations. Diesel exhaust from construction equipment operating at the site poses a health risk to nearby sensitive receptors. The closest sensitive receptor are single-family residences adjoining the Project site.

The amount to which the receptors are exposed (a function of concentration and duration of exposure) is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). On-road diesel-powered haul trucks traveling to and from the construction area to deliver materials and equipment are less of a concern because they would not stay on the site for long durations.

Health-related risks associated with diesel-exhaust emissions are primarily linked to long-term exposure and the associated risk of contracting cancer. The use of diesel-powered construction equipment would be episodic and would occur in various phases throughout the project site. Additionally, construction activities would limit idling to no more than five minutes, which would further reduce nearby sensitive receptors' exposure to temporary and variable DPM emissions. The most intense year of construction is 2021, when site preparation would result in approximately 1.88 pounds per day of $PM_{2.5}$ exhaust. Emissions of DPM would be generated from different locations on the project site rather than in a single location because different types of construction activities (e.g., site preparation and building construction) would not occur at the same place at the same time.

In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary. Pollutants also continue to disperse at further distances, which reduces the cumulative effects. The analysis accounts for Tier 4 equipment (Mitigation Measure AQ-1) but the results cannot be directly compared to other projects because they are based on site and project specific variables, including the level and intensity of emissions, duration of emissions, size of the site, distance to receptors, meteorology, among others.

California Office of Environmental Health Hazard Assessment has not identified short-term health effects from DPM. Construction is temporary and would be transient throughout the site (i.e., move from location to location) and would not generate emissions in a fixed location for extended periods of time.

Construction activities would be subject to and would comply with California regulations limiting the idling of heavy-duty construction equipment to no more than five minutes to further reduce nearby sensitive receptors' exposure to temporary and variable DPM emissions. Nonetheless, construction health risks have been evaluated for the Project using the U.S. EPA recommended screening model AERSCREEN. AERSCREEN is the recommended screening model based on the AERMOD dispersion model. The model produces estimates of worst-case concentrations without the need for hourly meteorological data. According to the EPA Support Center for Regulatory Atmospheric Modeling (SCRAM) website, AERSCREEN is intended to produce concentration estimates that are equal to or greater than the estimates produced by AERMOD with a fully developed set of meteorological and terrain data¹³ Maximum (worst case) PM_{2.5} exhaust construction emissions over the entire construction period were used in AERSCREEN to approximate construction DPM emissions. Risk levels were calculated with the CARB Hotspots Analysis and Reporting Program (HARP) Risk Assessment Standalone Tool (RAST) and based on the California Office of Environmental Health Hazard Assessment (OEHHA) guidance document, Air Toxics Hot Spots Program Risk Assessment Guidelines (February 2015). Carcinogenic risk is based on exposure to the annual average concentration and are based on worst case conditions to provide a conservative analysis. The calculations include age sensitivity factors and start at the 3rd trimester and include the infant sensitivity factor.

Results of this assessment are summarized in Table 8: Construction Risk. Results of this assessment indicate that the maximum concentration of PM_{2.5} during construction would be 0.113 µg/m³ which is below the BAAQMD 0.3 µg/m³ significance threshold. The highest calculated carcinogenic risk from Project construction is 36.1 per million at the Maximally Exposed Individual (MEI), which is above the BAAQMD threshold of 10 in one million. The MEI during construction is the closest sensitive receptors to the Project site, which are residences adjacent to the site boundary. Non-cancer hazards for diesel PM would be below BAAQMD threshold, with a chronic hazard index computed at 0.022 and an acute hazard index of 0.45. Acute and chronic hazards would be below the BAAQMD significance threshold of 1.0.

Table 8: Construction Risk

Emissions Sources	Pollutant Concentration (µg/m ³)	Cancer Risk (per million)	Chronic Hazard	Acute Hazard
Unmitigated				
Construction	0.113	36.1	0.022	0.45
<i>BAAQMD Threshold</i>	<i>0.3</i>	<i>10</i>	<i>1.0</i>	<i>1.0</i>
Threshold Exceeded?	No	Yes	No	No
Mitigated				
Construction	0.019	6.2	0.004	0.08
<i>BAAQMD Threshold</i>	<i>0.3</i>	<i>10</i>	<i>1.0</i>	<i>1.0</i>
Threshold Exceeded?	No	No	No	No
1. Heavy-duty off-road construction equipment would meet CARB Tier 4 Final emissions standards in conformance with Mitigation Measure AQ-1. Refer to Appendix D of the SEIR				

¹³ U.S. Environmental Protection Agency, *Air Quality Dispersion Modeling- Screening Models*. <https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models>

It should be noted that the proposed Project would implement City Standard Permit Conditions and Mitigation Measure AQ-1 to ensure that construction emissions would not exceed BAAQMD thresholds. Additionally, General Plan GP Policy MS-13.1 requires construction equipment exhaust control measures as conditions of approval. As required by Mitigation Measure AQ-1, the Project will use CARB certified Tier 4 Final equipment, such that emissions do not exceed BAAQMD construction period significance thresholds. With implementation of Tier 4 equipment, the maximum concentration of PM_{2.5} during construction would be reduced to 0.019 µg/m³. Maximum cancer risk from Project construction would decrease to 6.2 per million. Additionally, acute and chronic hazards would be lowered to 0.004 and 0.08 respectively. Therefore, construction risk levels would be less than BAAQMD thresholds and impacts associated with construction activities would be less than significant.

Operational Health Risk

The proposed Project would not include uses that would generate diesel truck traffic or other TACs at the Project site. Therefore, no operational health risks due to the Project were modeled and no impacts would occur. In addition, as discussed in the Project Health Risk Assessment (Kimley-Horn 2021), stationary sources within a 1,000-foot-radius of the Project site were identified using BAAQMD's Stationary Source Screening Analysis Tools and consultation with the BAAQMD. Based on data from the BAAQMD, cumulative impacts related to residential cancer risk, PM_{2.5}, chronic hazard, and acute hazard would be less than cumulatively considerable and within acceptable limits as shown in Table 9: Cumulative On-Site Health Risk.

Table 9: Cumulative On-Site Health Risk

Emissions Sources	PM _{2.5} (µg/m ³)	Cancer Risk (per million)	Chronic Hazard	Acute Hazard
Highway Sources (I-280 and SR-87)	0.0099	8.75	0.0020	0.0195
Stationary Sources				
San José Redevelopment Agency (diesel fire pump)	0.000	0.356	0.000	0.0
Team San José (multiple sources)	0.015	1.944	0.003	0.0
San José Hilton & Towers (generator)	0.005	0.296	0.001	0.0
CPT 303 Almaden LLC (generator, fire pump)	0.005	0.544	0.001	0.0
Verizon Wireless (generator)	0.005	0.210	0.001	0.0
Cumulative Health Risk Values	0.0399	12.1	0.008	0.0195
<i>BAAQMD Cumulative Threshold</i>	<i>0.8</i>	<i>100</i>	<i>10</i>	<i>10</i>
Threshold Exceeded?	No	No	No	No

Carbon Monoxide Hotspots

The Basin is designated as attainment for carbon monoxide (CO). emissions and ambient concentrations of CO have decreased dramatically in the Basin with the introduction of the catalytic converter in 1975. No exceedance of the CAAQS or NAAQS for CO have been recorded at nearby monitoring stations since 1991. As a result, the BAAQMD screening criteria notes that CO impacts may be determined to be less than significant if a project is consistent with the applicable congestion management plan (CMP) and would not increase traffic volumes at local intersections to more than 24,000 vehicles per hour for

locations in heavily urbanized areas, where “urban canyons” formed by buildings tend to reduce air circulation. Based on the scope of the proposed Project (1,226,600 square foot office tower), traffic would increase along surrounding roadways during long-term operational activities. However, according to the Traffic Memorandum for the proposed Project, the Project would generate a net of approximately 7,520 daily trips. Existing Woz Way has approximately 7,000 ADT while Almaden Boulevard has approximately 20,170 existing ADT. Therefore, the proposed Project would not generate a significant number of vehicle trips on Almaden Boulevard and effects related to CO concentrations would be less than significant.

Parking Structure Hotspots

Carbon Monoxide concentrations are a function of vehicle idling time, meteorological conditions, and traffic flow. Therefore, parking structures (and particularly subterranean parking structures) tend to be of concern regarding CO hotspots, as they are enclosed spaces with frequent cars operating in cold start mode. The proposed Project would include approximately 1,259 parking spaces within the development parking garage. The proposed Project would be required to comply with the ventilation requirements of the International Mechanical Code (Section 404 [Enclosed Parking Garages]), which requires that mechanical ventilation systems for enclosed parking garages operate automatically by means of carbon monoxide detectors in conjunction with nitrogen dioxide detectors. Section 404.2 requires a minimum air flow rate of 0.05 cubic feet per second per square foot and the system shall be capable of producing a ventilation airflow rate of 0.75 cubic per second per square foot of floor plan area. No new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR in regard to parking structure CO hotspots would occur. Therefore, impacts would be less than significant, and no new or additional mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The proposed Project does not include any uses identified by the BAAQMD as being associated with odors.

Construction activity associated with the proposed Project may generate detectable odors from heavy-duty equipment exhaust. Construction-related odors would be short-term in nature and cease upon Project completion. Any impacts to existing adjacent land uses would be short-term and are considered less than significant.

Construction

According to the BAAQMD, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The Project does not include any uses identified by the BAAQMD as being associated with odors.

Construction activities associated with the Project may generate detectable odors from heavy duty equipment (i.e., diesel exhaust), as well as from architectural coatings and asphalt off-gassing. Odors generated from the referenced sources are common in the man-made environment and are not known to be substantially offensive to adjacent receptors. Any construction-related odors would be short-term

in nature and cease upon Project completion. As a result, impacts to existing adjacent land uses from construction-related odors would be short-term in duration and therefore would be less than significant.

Operational

BAAQMD has established odor screening thresholds for land uses that have the potential to generate substantial odor complaints, including wastewater treatment plants, landfills or transfer stations, composting facilities, confined animal facilities, food manufacturing, and chemical plants. BAAQMD's thresholds for odors are qualitative based on BAAQMD's Regulation 7, Odorous Substances. This rule places general limitations on odorous substances and specific emission limitations on certain odorous compounds. The proposed Project is a mix of office and commercial retail that is unlikely to be a facility that would be an odor source.

With respect to odor impacts from adjacent and nearby properties that could affect Project residents and visitors, land uses typically producing objectionable odors include agricultural uses, wastewater treatment facilities, waste-disposal facilities, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. None of these uses are located near the Project site. 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.

4.4 Biological Resources

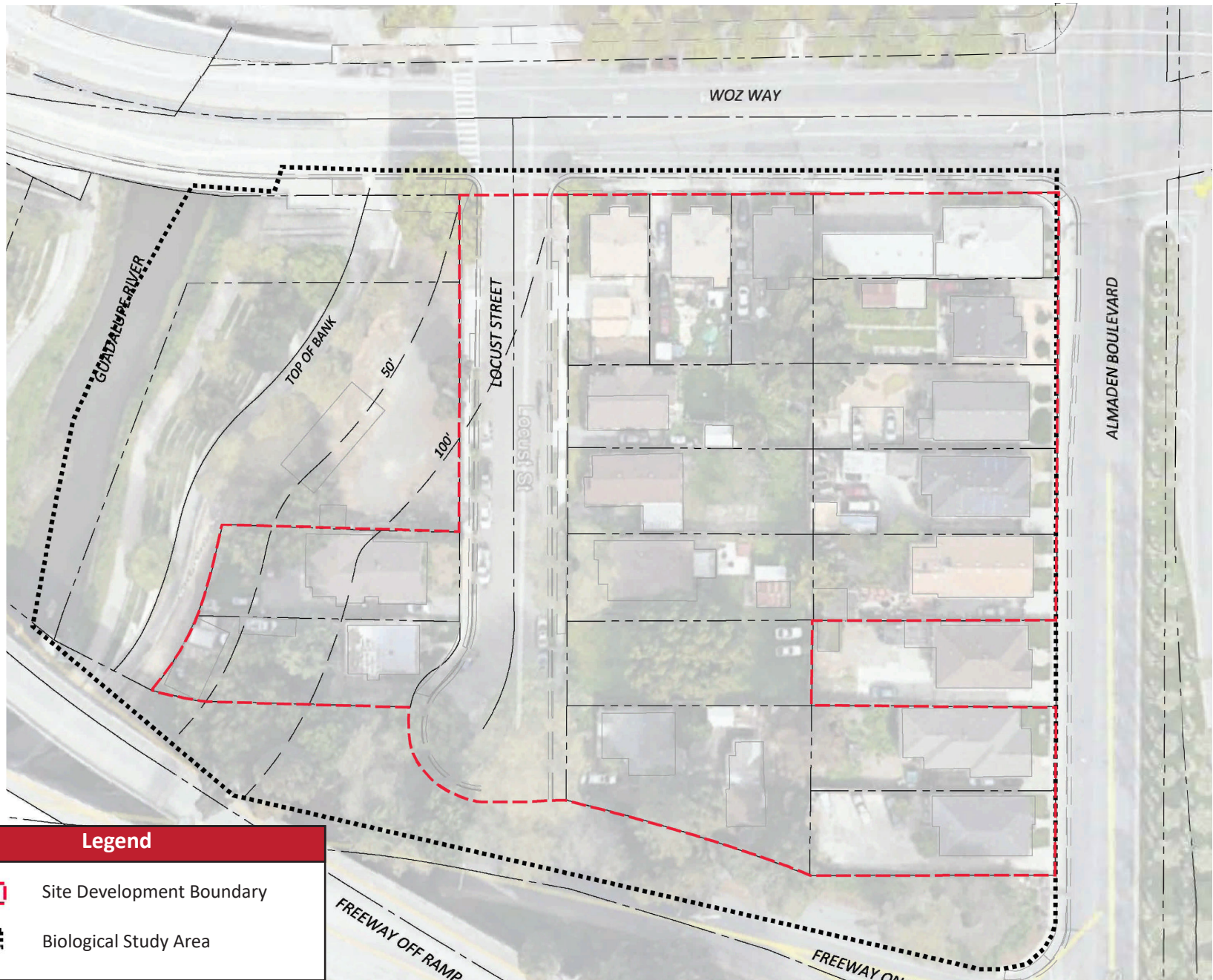
ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?		X				
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological					X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?					X	
e) Conflict with any local policies or ordinances protecting biological					X	



ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
	resources, such as a tree preservation policy or ordinance?					
	f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X	

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 report is summarized below in the discussion and is included as Appendix C of the SEIR.

Discussion

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 Project would be located along the Guadalupe River, which provides riparian habitat and is subject to a riparian setback requirement. Figure 11 shows the biological study area considered in the SEIR in relation to the Project site Implementation of the proposed Project could potentially result in a significant impact to biological resources. Figure 12 shows the Project site existing conditions in relation to a 35-foot and 100-foot setback. Figure 13 shows the proposed Project in relation to a 35-foot and 100-foot setback. The Project's impact on biological resources is evaluated in the SEIR. No further analysis is provided in this Initial Study



Legend	
	Site Development Boundary
	Biological Study Area

Source: Live Oak Associates Inc., 2020

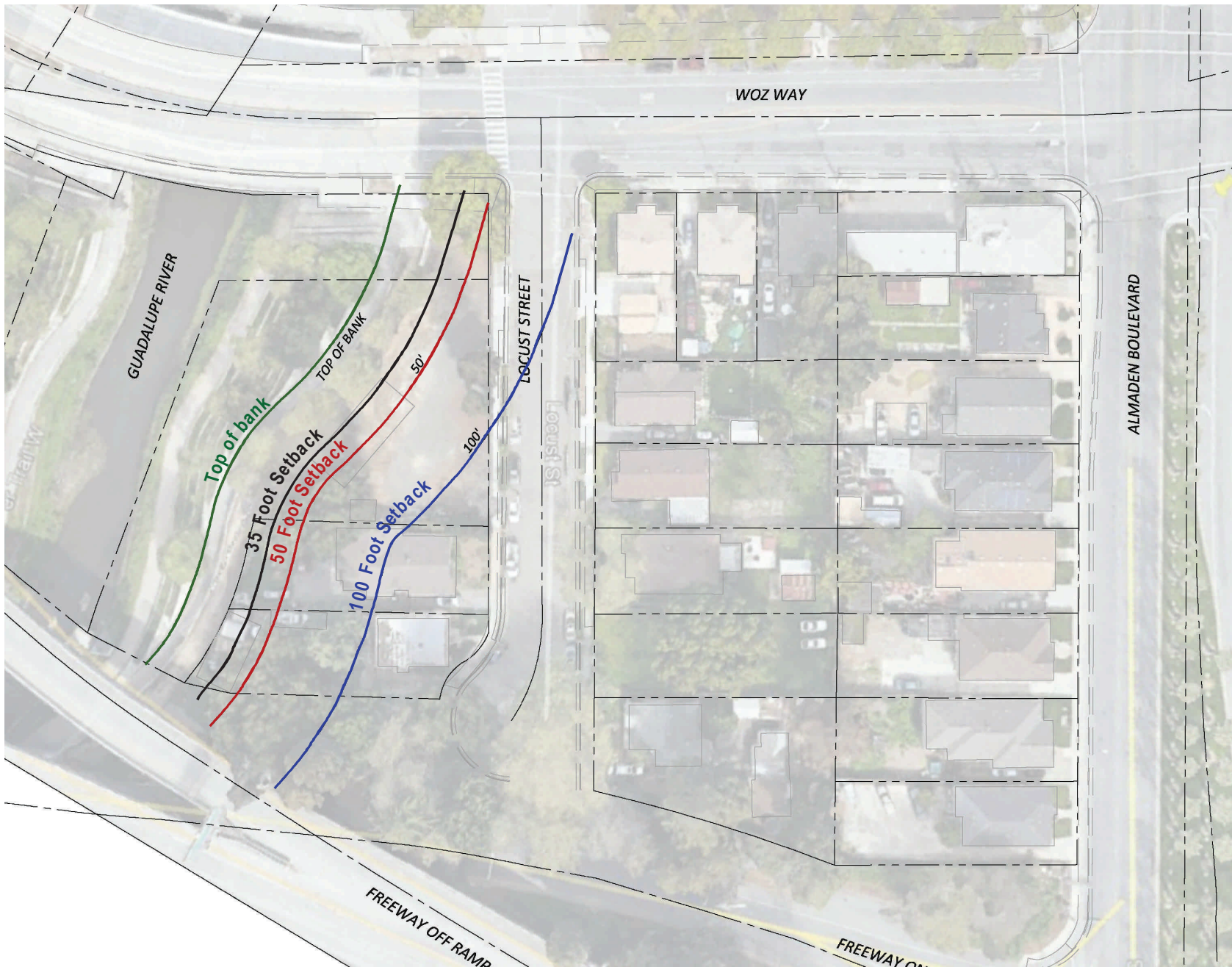
Figure 11: Biological Study Area

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: Live Oak Associates Inc., 2020

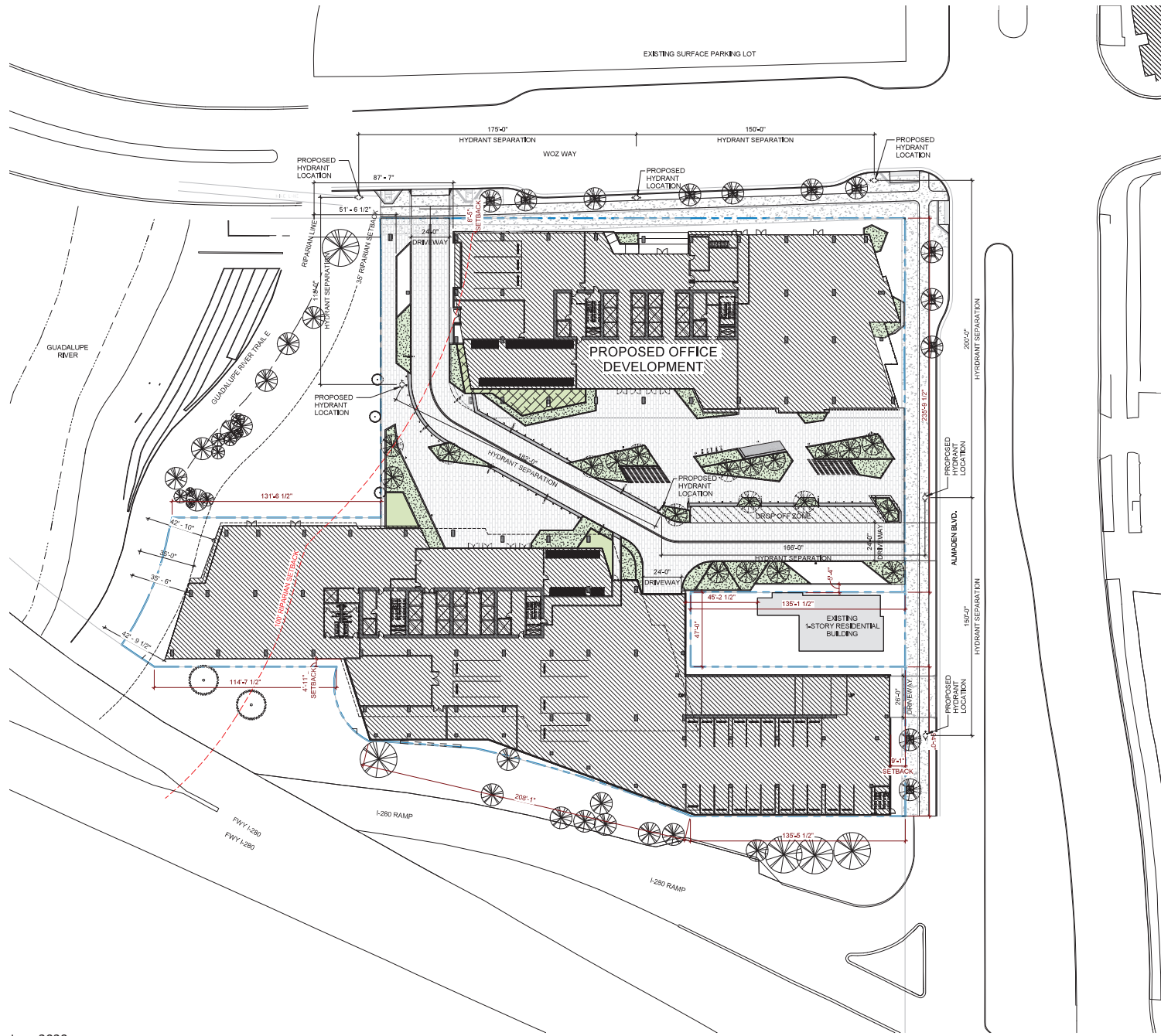
Figure 12: Riparian Setback Zone

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: Live Oak Associates Inc., 2020

Figure 13: Riparian Setback in Relation to the Project
Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.

4.5 Cultural Resources

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?		X				
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?					X	
c) Disturb any human remains, including those interred outside of dedicated cemeteries?					X	

A Historical Resource Technical Report has been prepared by MacRostie Historic Advisors (October 2019) to address potential impacts to historical resources associated with implementation of the proposed Project. The report is summarized below in the discussion and is included as Appendix G of the SEIR.

Discussion

Implementation of the proposed Project could potentially result in a significant impact to cultural resources. The Project's impact on cultural resources is evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.6 Energy

ENVIRONMENTAL IMPACTS Issues	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:					
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?				X	
b) Result in a substantial increase in demand upon energy resources in relation to projected supplies?				X	
c) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?				X	
d) Result in longer overall distances between jobs and housing				X	

Applicable Plans, Policies, and Regulations

Renewable Energy Standards

In 2002, California established its Renewable Portfolio Standard program¹⁴ with the goal of increasing the annual percentage of renewable energy in the state's electricity mix by the equivalent of at least 1 percent of sales, with an aggregate total of 20 percent by 2017. The California Public Utilities Commission subsequently accelerated that goal to 2010 for retail sellers of electricity (*Public Utilities Code* Section 399.15(b)(1)). Then-Governor Schwarzenegger signed Executive Order S-14-08 in 2008, increasing the target to 33 percent renewable energy by 2020. In September 2009, then-Governor Schwarzenegger continued California's commitment to the Renewable Portfolio Standard by signing Executive Order S-21-09, which directs the California Air Resources Board under its AB 32 authority to enact regulations to help the State meet its Renewable Portfolio Standard goal of 33 percent renewable energy by 2020. In

¹⁴ The Renewable Portfolio Standard is a flexible, market-driven policy to ensure that the public benefits of wind, solar, biomass, and geothermal energy continue to be realized as electricity markets become more competitive. The policy ensures that a minimum amount of renewable energy is included in the portfolio of electricity resources serving a state or country.

September 2010, the California Air Resources Board adopted its Renewable Electricity Standard regulations, which require all of the State's load-serving entities to meet this target. In October 2015, then-Governor Brown signed into legislation Senate Bill 350, which requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030. Signed in 2018, SB 100 revised the goal of the program to achieve the 50 percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045. Under the bill, the State cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

California 2007 Energy Action Plan Update

The 2007 Energy Action Plan II is the State's principal energy planning and policy document. The plan describes a coordinated implementation strategy to ensure that California's energy resources are adequate, affordable, technologically advanced, and environmentally sound. In accordance with this plan, the state and its electricity providers would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply to meet its energy needs.

California Building Codes

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the California Energy Commission) in June 1977 and are updated every three years (Title 24, Part 6, of the California Code of Regulations). Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods. On June 10, 2015, the California Energy Commission (CEC) adopted the 2016 Building Energy Efficiency Standards, which went into effect on January 1, 2017. On May 9, 2018, the CEC adopted the 2019 Building Energy Efficiency Standards, which will take effect on January 1, 2020.

The 2016 Standards improved upon the previous 2013 Standards for new construction of and additions and alterations to residential and nonresidential buildings. Under the 2016 Standards, residential buildings are 28 percent more energy efficient and nonresidential buildings are 5 percent more energy efficient than under the 2013 Standards. Buildings that are constructed in accordance with the 2013 Building Energy Efficiency Standards are 25 percent (residential) to 30 percent (nonresidential) more energy efficient than the prior 2008 standards as a result of better windows, insulation, lighting, ventilation systems, and other features.

The 2019 Standards will improve upon the 2016 Standards. Under the 2019 Title 24 standards, residential buildings are expected to be about 7 percent more energy efficient, and when the required rooftop solar is factored in for low-rise residential construction, residential buildings that meet 2019 Title 24 standards would use about 53 percent less energy than those built to meet current standards.

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water

efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The most recent update to the CALGreen Code was adopted in 2019 and went into effect January 1, 2020.

California Green Building Standards Code

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The most recent update to the CALGreen Code was adopted in 2019 and went into effect January 1, 2020.

2006 Appliance Efficiency Regulations

The California Energy Commission adopted Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608) on October 11, 2006. The regulations were approved by the California Office of Administrative Law on December 14, 2006. The regulations include standards for both Federally regulated appliances and non-Federally regulated appliances. While these regulations are now often viewed as “business-as-usual,” they exceed the standards imposed by all other states and they reduce GHG emissions by reducing energy demand.

California Utility Efficiency Programs (Senate Bill 1037 and Assembly Bill 2021)

SB 1037 and AB 2021 require electric utilities to meet their resource needs first with energy efficiency. California Utility Efficiency Programs have also set new targets for statewide annual energy demand reductions.

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 energy use and energy efficiency and applicable to the Project.

- Policy MS-1.1: Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
- Policy MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
- Policy MS-2.3: Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
- Action MS-2.8: Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of

operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers.

- Action MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
- Policy MS-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
- Policy MS-5.5: Maximize recycling and composting from all residents, businesses, and institutions in the City.
- Policy MS-6.5: Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
- Policy MS-6.8: Maximize reuse, recycling, and composting citywide.
- Policy MS-14.1: Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
- Policy MS-14.2: Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
- Policy MS-14.3: Consistent with the California Public Utilities Commission's California Long-Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
- Policy MS-14.4: Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy
- Policy MS-14.5: Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
- Action MS-14.6: Replace 100% of the City's traffic signals and streetlights with smart, zero-emission lighting by 2022.
- Action MS-15.9: Train City code enforcement and development review staff in state-of-the-art Heating, Ventilation, and Air Conditioning (HVAC) and insulation industry standards, best

practices, and resources to ensure buildings are constructed in compliance with those industry standards and best practices.

- Policy MS-17.2: Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system in areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
- Policy MS-18.2: Require new development outside of the City's Urban Service Area to incorporate measures to minimize water consumption.
- Policy MS-18.4: Retrofit existing development to improve water conservation.
- Policy MS-18.5: Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
- Policy MS-18.6: Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
- Policy MS-18.7: Use the 2008 Water Conservation Plan as the data source to determine San José's baseline water conservation savings level.
- Policy MS-19.1: Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
- Policy MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
- Action MS-19.10: Develop incentives to encourage the use of recycled water. Enact ordinances that ensure that new buildings in the vicinity of the SBWR pipeline are constructed in a manner suitable for connection to the recycled water system and that they use recycled water wherever appropriate.

- Policy IN-2.1: Utilize the City's Infrastructure Management System Program to identify the most efficient use of available resources to maintain its infrastructure and minimize the need to replace it.
- Policy IN-5.3: Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of to extend the lifespan of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
- Policy PR-6.4: Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
- Policy PR-6.5: Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought resistant vegetation and ground cover where appropriate.
- Action PR-6.9: Obtain applicable Leadership in Energy and Environmental Design (LEED) Certification (or its equivalent) for new and existing parks and recreation facilities, as dictated by applicable City policies.
- Policy VN-1.1: Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks, and retail services.
- Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
- Policy TR-1.4: Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
- Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
- Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

City of San José Private Sector Green Building Policy

Green Vision

The Green Vision includes the goal to reduce per capita energy consumption by at least 50 percent compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 level through 2040.

Sustainable City Strategy

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

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

- Transition to a renewable energy future
- Embrace our California climate
- Density our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

City of San José Smart Energy Plan

In March 2001, the City of San José adopted a Smart Energy Plan which includes discussions and implementation steps for the following strategies:

- Explore regional energy solutions together with neighboring communities.
- Collaborate with neighboring communities to identify regional criteria for appropriate locations for new large, clean plants in Silicon Valley that do not harm residential communities.
- Explore creative energy partnerships among cities, the State, and federal governments, and the private sector to help ensure reliable supplies and achieve conservation.
- Reduce the City's energy demand through vigorous conservation efforts to achieve at least a 10 percent savings and encourage community conservation.
- Expand the City's model program for energy-efficient buildings to encourage long-term permanent conservation.

- Actively encourage small clean power plants in San José that can be located in appropriate industrial areas and publicly-owned lands, not in residential neighborhoods.
- Set clear predictable standards for clean energy generation projects within the City's authority and streamline the City's review and approval of appropriate power projects.

City Energy Programs

The City also has several programs to further promote energy conservation among residents and businesses in the City.

Silicon Valley Energy Watch (SVEW) program:

The City of San José, PG&E, and Ecology Action are part of the Silicon Valley Energy Watch program. The program assists cities, non-profits, small businesses, community organizations, professionals, and residents in the County to take advantage of cost-saving, energy-efficient technologies. SVEW offers free energy audits, targeted retrofits, technical assistance, education, and training.

City of San José Green Building Policies:

In 2001, the San José City Council adopted a series of Green Building Policies to demonstrate the City's commitment to the environmental, economic, and social stewardship and to yield cost savings to city taxpayers through reduced operating costs, to provide healthy work environments for staff and visitors, and to contribute to the City's goals of protecting, conserving, and enhancing the region's environmental resources. The Green Building Policy goals include a series in the category of energy and atmosphere. Energy and atmosphere policy goals are as follows:

- *Minimum Energy Performance:* establish the minimum level of energy efficiency for the base building and systems.
- *Optimize Energy Performance:* achieve increasing levels of energy performance above the minimum standard to reduce environmental impacts associated with excessive energy use.
- *Building Commissioning:* verify and ensure that the entire building is designed, constructed, and calibrated to operate as intended.
- *Measurement and Verification:* provide for the ongoing accountability and optimization of building energy and water consumption performance over time.
- *Renewable Energy:* encourage and recognize increasing levels of self-supply through renewable technologies to reduce environmental impacts associated with fossil fuel energy use.
- *Green Power:* encourage the development and use of grid-source, renewable energy technologies on a net zero pollution basis.
- *Reduce Ozone Depletion:* support early compliance with the Montreal Protocol by eliminating the use of CFC-based refrigerants and reducing the use of HCFCs and halons. As part of its promotion of Green Building policies, the City encourages participation in City sponsored organized educational and training events covering green building topics to increase the use of green building techniques in municipal, commercial, and residential building development projects in the City and create greater awareness of these practices.

Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape

Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

In September 2019, San José City Council approved a building reach ordinance (No. 30311) that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and required electric vehicle-readiness and EV equipment installation. Additionally, in October 2019 City Council approved an ordinance (No. 30330) prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings. Cities may adopt amendments to the Green Building Standards which exceed the standards required by the State. These two ordinances apply to new construction as of January 1, 2020.

Existing Setting

Pacific Gas and Electric Company (PG&E) is San José's energy utility provider, furnishing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent.¹⁵

Discussion

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

Same Impact as Approved Project, Less Than Significant.

Construction

The energy consumption associated with construction of the proposed Project includes primarily diesel fuel consumption from on-road hauling trips and off-road construction diesel equipment, and gasoline consumption from on-road worker commute and vendor trips. Temporary electric power for as-necessary lighting and electronic equipment (such as computers inside temporary construction trailers, and heating, ventilation, and air conditioning) would be powered by a generator. The amount of electricity used during construction would be minimal; typical demand would stem from the use of electrically powered hand tools and several construction trailers by managerial staff during the hours of construction activities. The majority of the energy used during construction would be from petroleum. This analysis relies on the construction equipment list and operational characteristics, as stated in Section 4.3, Air Quality and Section 4.8, Greenhouse Gas Emissions, as well as, Appendix D and Appendix E of the SEIR. Table 10: Project Energy Consumption During Construction quantifies the construction energy consumption are provided for the Project, followed by an analysis of impacts based on those quantifications.

¹⁵ Pacific Gas and Electric, Exploring Clean Energy Solutions, https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page?WT.mc_id=Vanity_cleanenergy, accessed November 7, 2019.

Table 10: Project Energy Consumption During Construction

Source	Project Construction Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
Diesel Use	Gallons		
On-Road Construction Trips ¹	244,236	101,253,089	0.2412%
Off-Road Construction Equipment ²	80,788	101,253,089	0.0798%
Construction Diesel Total	325,024	101,253,089	0.3210%
Gasoline	Gallons		
On-Road Construction Trips ¹	103,292	610,142,526	0.0169%
1. On-road mobile source fuel use based on vehicle miles traveled (VMT) from CalEEMod and fleet-average fuel consumption in gallons per mile from EMFAC2017 in Santa Clara County. Electricity demand based on VMT and calculated average electric vehicle fuel economy for 2015 models (in kWh per mile) from the DOE Fuel Economy Guide. 2. Off-road mobile source fuel usage based on a fuel usage rate of 0.05 gallons of diesel per horsepower (hp)-hour from USEPA. Abbreviations: CalEEMod: California Emission Estimation Model; EMFAC: Emission Factor Model 2014; kWh: kilowatt-hour; Sources: AWWA, 1992; DOE 2016; USEPA 1996.			

In total, construction of the Project would consume approximately 325,024 gallons of diesel and 103,292 gallons of gasoline. The Project's fuel from the entire construction period would increase fuel use in the There are no unusual project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in the region or state. In addition, some incidental energy conservation would occur during construction through compliance with State requirements that equipment not in use for more than five minutes be turned off. Project construction equipment would also be required to comply with the latest EPA and CARB engine emissions standards. These engines use highly efficient combustion engines to minimize unnecessary fuel consumption. Additionally, the Project would utilize Tier 4 construction equipment, per Mitigation Measure AQ-1.

The CEQA Guidelines Appendix G and Appendix F criteria requires the Project's effects on local and regional energy supplies and on the requirements for additional capacity to be addressed. Based on the total Project's relatively low construction fuel use proportional to annual state and County use, the Project would not substantially affect existing energy fuel supplies or resources. New capacity or additional sources of construction fuel are not anticipated to be required. Fuel consumption is based on a conservative construction phasing and conservative estimates for annual construction fuel consumption. Longer phases would result in lower construction intensity and a lower annual fuel consumption, resulting in lower annual demand on energy supplies. Additionally, use of construction fuel would cease once the Project is fully developed. As such, Project construction would have a nominal effect on the local and regional energy supplies.

Furthermore, the Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations and programs would reduce energy loss from construction and demolition. Therefore, it is expected that construction fuel consumption associated with the Project would not be inefficient, wasteful, or unnecessary. Energy impacts during construction would be the same impact as approved project, less than significant.

Operational

The energy consumption associated with the Project would include building electricity, water, and natural gas usage, as well as fuel usage from on-road vehicles. Note that this energy resources analysis is consistent with the analysis presented in Section 4.3, Air Quality, and Section 4.8, Greenhouse Gases. Quantifications of operational energy consumption are provided for the Project in Table 11: Annual Energy Consumption During Operations below.

Table 11: Annual Energy Consumption During Operations

Source	Project Operational Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
Electricity Use	Megawatt Hour/Year (MWh/year)		
Area ¹	23,113	16,668,161	0.1387%
Natural Gas Use	Therms/year		
Area ¹	147,203	440,030,822	0.0335%
Diesel Use	Gallons/Year		
Mobile ²	78,053	101,253,089	0.0771%
Gasoline Use	Gallons/Year		
Mobile ²	600,947	610,142,526	0.0985%
Notes: 1. The electricity and natural gas usage are based on project-specific estimates and CalEEMod defaults. 2. Calculated based on the mobile source fuel use based on vehicle miles traveled (VMT) and fleet-average fuel consumption (in gallons per mile) from EMFAC2017 for operational year 2022. For electric vehicles, model year 2015 electric vehicle fuel economy is used from the DOE Fuel Economy Guide. Abbreviations: CalEEMod: California Emission Estimation Model; EMFAC2017: California Air Resources Board Emission Factor Model; kBTU: thousand British Thermal Units; kWh: kilowatt-hour			

Operation of uses implemented pursuant to the proposed Project would annually consume approximately 23,113 MWh of electricity, 147,203 therms of natural gas, 78,053 gallons of diesel, and 600,947 gallons of gasoline.

Pacific Gas and Electric (PG&E) provides electricity to the Project area. Electricity is currently used by the existing residences on the Project site. The Project site is expected to continue to be served by the existing PG&E electrical facilities. Total electricity demand in PG&E's service area is forecast to increase by approximately 12,000 GWh—or 12 billion kWh—between 2016 and 2028.¹⁶ The Project's anticipated electricity demand (approximately 23,113 MWh) would be nominal compared to overall demand in PG&E's service area. Therefore, the projected electrical demand would not significantly impact PG&E's level of service.

Regarding natural gas, Santa Clara County consumed 440,030,822 therms of natural gas in 2017. Therefore, the Project's operational energy consumption for space and water heating would represent 0.03 percent of the natural gas consumption in the County.

¹⁶ California Energy Commission, *California Energy Demand 2018-2030 Revised Forecast, Figure 49 Historical and Projected Baseline Consumption PG&E Planning Area*, April 2018.

In 2018, Californians consumed approximately 15,589,042,965 gallons of gasoline and approximately 3,107,823,655 gallons of diesel fuel. Santa Clara County annual gasoline fuel use in 2018 was 610,142,526 gallons and diesel fuel use was approximately 101,253,089 gallons. Expected Project operational use of gasoline and diesel would represent 0.10 percent of current gasoline use and 0.08 percent of current diesel use in the County.

It should also be noted that the Project design and materials would comply with the 2019 Building Energy Efficiency Standards, which take effect on January 1, 2020, and/or future 2019 Building Energy Efficiency Standards depending on when construction permits are issued. Prior to issuance of a building permit, the City of San José would review and verify that the Project plans demonstrate compliance with the current version of the Building and Energy Efficiency Standards. Title 24 standards require energy conservation features in new construction (e.g., high-efficiency lighting, high-efficiency heating, ventilating, and air-conditioning (HVAC) systems, thermal insulation, double-glazed windows, water conserving plumbing fixtures).

Although the proposed Project does not include on-site renewable energy resources, the proposed building would conform to the City's green building policy and measures. Additionally, the Project would also be required adhere to the provisions of CALGreen, which establishes planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The insulation and design code requirements would minimize wasteful energy consumption.

Total energy use requirements for construction and operations are shown in Table 11. Refer to the discussions above for the effects that the proposed Project would have on energy resources. Additionally, the Project does not take credit for cleaner energy used by San José Energy Company (SJEC). SJEC is a Community Choice Aggregator that provides competitively priced clean energy options to customers and reinvests revenues into the community.¹⁷ The Project's use of energy would not have a substantial adverse effect on statewide or regional energy resources relative to wasteful, inefficient, or unnecessary use of energy. Impacts would be the same as the approved project, less than significant.

b) Result in a substantial increase in demand upon energy resources in relation to projected supplies?

Same Impact as Approved Project, Less Than Significant. As stated above the Project would not exceed one percent of Santa Clara County energy use. Therefore, operational fuel and energy consumption would not place a substantial increase in demand upon energy resources. No new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be the same impact as the approved project, less than significant.

c) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Same Impact as Approved Project, Less Than Significant As stated above, the Project would conform to the City's green building policy and measures and complies with applicable measures from the City's General Plan. The proposed infill Project would reduce single-occupancy traffic trips and include green design measures per the City's green building policy and measures. Therefore, the Project would comply

¹⁷ City of San José, San José Clean Energy, 2020. Available at: <https://sanjosecleanenergy.org/about-sjec/>

with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be the same impact as the approved project, less than significant.

d) Result in longer overall distances between jobs and housing?

As discussed further in Section 4.14, Population and Housing, the City of San José has historically provided a higher than average proportion of housing in Santa Clara County. The current ratio of jobs to dwelling units in San José is estimated to be 0.8 to 1, making the city “housing rich”. The Project’s proposed retail and office uses would increase jobs and would promote a jobs/housing balance that is closer to 1 to 1. Providing more jobs in the City and achieving a jobs-housing balance would reduce distances between jobs and housing. In addition, 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. 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. Therefore, the proposed Project would result in no new or more significant impacts than those previously analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

4.7 Geology and Soils

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
a)	Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				X	
	i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X	
	ii) Strong seismic groundshaking?				X	
	iii) Seismic-related ground failure, including liquefaction?				X	
	iv) Landslides?				X	
b)	Result in substantial soil erosion or the loss of topsoil?				X	
c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X	
d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?				X	
e)	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal				X	

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
	systems where sewers are not available for the disposal of waste water?					
f)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X	

The following discussion includes information contained within the Preliminary Geotechnical Study prepared by Langan for the proposed Project. The Preliminary Geotechnical Study is provided in Appendix L of the SEIR.

Applicable Plans, Policies, and Regulations

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development and construction of buildings intended for human occupancy to avoid the hazard of surface fault rupture. The act categorizes faults as active (Historic and Holocene age), potentially active (Late Quaternary and Quaternary age), and inactive (pre-Quaternary age). The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault. This Act requires the State Geologist to establish regulatory zones (Earthquake Fault Zones) around the surface traces of mapped active faults, and to publish appropriate maps that depict these zones.

California Building Code

The California Building Code (CBC), Part 2 of Title 24 of the California Code of Regulations (CCR), is based on the International Building Code and prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code. Building permits for individual projects within the Plan Area will be reviewed to ensure compliance with the CBC.

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following policies applicable to all development projects in San José.

- Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
- Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
- Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
- Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
- Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
- Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.
- Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

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-10.3: 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.

Existing Setting

Soils

The Project site is in the Santa Clara Valley, which is flanked on the west by the Santa Cruz Mountains, on the east by the Diablo Range, and the San Francisco Bay to the north. The mountain ranges to the east and west consist of older Franciscan and related rocks and overlying sedimentary rocks ranging in age from the Cretaceous through Tertiary time. The valley's basin contains alluvial deposits derived from the Diablo Range and the Santa Cruz Mountains. Sediments in the site vicinity consist of Holocene age mainly continental deposits of unconsolidated to semi-consolidated alluvium, though includes some marine deposits near the coast.

The Project site lies at an elevation of approximately 80-95 feet above mean sea level and is predominantly flat. As discussed in the Preliminary Geotechnical Study for the Project, the site and site vicinity is underlain by alluvial deposits consisting of soft to very stiff clays with interbedded layers of loose to medium dense sands with varying amount of fine sands. The stiffness of the clay and relative density of the sand layers increase with depth. Generally, the upper 30 to 35 feet consists of medium stiff to stiff clay with interbedded loose to medium dense sand. Below these depths, the clays are stiff to very stiff and the sand layer are dense to very dense.

Groundwater

According to the Phase I, Groundwater was encountered in the Site vicinity at depths of about 10 to 15 feet below existing ground surface (bgs). Based on the historic groundwater map (California Department of Conservation, 2002); the historic high groundwater at the Site is approximately 20 feet bgs (Refer to Appendix H of the SEIR).

Seismicity and Seismic Hazards

The Project area is not located within the Alquist-Priolo Earthquake Fault Zone¹⁸ or the Santa Clara County Geologic Hazard Zone and no active faults have been mapped on the Project site. The City of San José is within one of the most seismically active areas in the United States, capable of generating an earthquake with a magnitude 6.7 or greater. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range. Development in the City is likely to be exposed to strong ground shaking within the useful lifetime of new development.

¹⁸ California, State of, Department of Conservation. Regulatory Maps.
<http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed September 5, 2019.

Liquefaction, Landslides, and Lateral Spreading

The Project site is in a designated Liquefaction Zone¹⁹. Liquefaction is defined as ground failure or loss of strength that causes otherwise solid soil to take on the characteristics of a liquid. This phenomenon is triggered by earthquakes or ground shaking that causes saturated or partially saturated soils to lose strength, potentially resulting in the soil's inability to support structures. Liquefaction can result in adverse impacts to human and building safety and is typically addressed at the building design stage of a project. Additionally, the potential for lateral spreading is low due to the distance between the Project site and Guadalupe River (adjacent to the west of the Project site). Saturated layers of sand below the groundwater table could potentially liquefy causing several inches of liquefaction-induced settlement below the existing ground surface. The excavation of basement levels would remove most of these layers; however, some liquefaction induced settlement could still occur beneath the excavation. The Preliminary Geotechnical Study for the Project estimates that liquefaction induced settlement beneath the basement would be less than one inch, however, settlement of a few inches could occur beneath the adjacent sidewalks and utilities during a major earthquake.

Discussion

- a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*
 - i. *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*

Same Impact as Approved Project, Less Than Significant. The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to address the hazard of surface faulting to structures for human occupancy. The Act's main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The Act requires the State Geologist to establish regulatory zones, known as "Alquist-Priolo (AP) Earthquake Fault Zones" around the surface traces of active faults and to issue appropriate maps.

If an active fault is found, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (typically 50 feet). According to the California Department of Conservation Alquist-Priolo mapping data, the Project site is not located within an Alquist-Priolo Earthquake Fault Zone²⁰. There are no known active or potentially active faults trending towards or through the Project site, however, the Project site lies within the region affected by the active San Andres Fault system, which influences faults including the Hayward and Calaveras faults. Several smaller faults including Evergreen, Quimby, Piercy, and Clayton faults, are also found in the Project vicinity, primarily along the base of the San José Foothills. Although a known fault is not mapped on or approximate to the Project site, the Project is located within a seismically active region. Thus, the possibility of significant fault rupture of the Project site is considered to be less than significant. Therefore, no new or more significant

¹⁹ California, State of, Department of Conservation. Earthquake Zones of Required Investigation San José West Quadrangle. Available at: http://gmw.conservacion.ca.gov/SHP/EZRIM/Maps/SAN_JOSE_WEST_EZRIM.pdf. Accessed September 5, 2019.

²⁰ California Department of Conservation, Regulatory Maps. Available at: <http://maps.conservacion.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed October 12, 2019.

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

ii. Strong seismic ground shaking?

Same Impact as Approved Project, Less Than Significant. Although a known fault is not mapped on the Project site, the proposed Project is located within a seismically active region and strong seismic ground shaking could occur. While there are no known active or potentially active faults trending towards or through the Project site, the Project site lies within the region affected by the active San Andres Fault system, which influences faults including the Hayward and Calaveras faults. Several smaller faults including Evergreen, Quimby, Piercy, and Clayton faults, are also found in the Project vicinity, primarily along the base of the San José Foothills. The proposed Project would be required to be in conformance with the California Building Code (CBC), City regulations, and other applicable standards. Conformance with standard engineering practices and design would reduce the effects of seismic ground shaking to a less than significant level. The Project would be built and maintained in accordance with a site-specific geotechnical report, as required by the Downtown Strategy 2040 FEIR and outlined in the Standard Permit Condition below.

Standard Permit Condition:

To avoid or minimize potential damage from seismic shaking, the Project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the Project site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The Project shall be designed to withstand soil hazards identified on the Project site and the Project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

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

iii. Seismic-related ground failure, including liquefaction?

Same Impact as Approved Project, Less Than Significant. The Project site is not located within a designated Alquist-Priolo Earthquake Fault Zone or Santa Clara County Fault Hazard Zone.²¹ Liquefaction generally occurs as “quicksand” type of ground failure caused by strong ground shaking. The primary factors influencing liquefaction potential include groundwater, soil type, relative density of the sandy soils, confining pressure, and the intensity and duration of ground shaking. As discussed in the Downtown Strategy 2040 FEIR, the Project site is in a State seismic hazard zone specific to liquefaction. All structures and foundations requiring building permits would be required to meet CBC requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Consistent with Action EC-4.11, the Project would comply with the recommendations from the Final Geotechnical Investigation which would address dewatering and liquefaction induced settlements and would be reviewed and approved by

²¹ County of Santa Clara. Geologic Hazards Zones, Map 20. 2012. Accessed at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed November 6, 2020.

the Department of Public Works as part of the building permit review process. Additionally, the Project applicant would be required to comply with the Standard Permit Conditions for dewatering which are further described in Section 4.10, Hydrology and Water Quality.

Adherence to the CBC and Standard Permit Conditions would ensure that seismic and liquefaction impact is less than significant. 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.

iv. Landslides?

Same Impact as Approved Project, Less Than Significant. Landslides are mass movements of the ground that include rock falls, relatively shallow slumping and sliding of soil, and deeper rotational or transitional movement of soil or rock. The Project site is relatively flat and is not located in an area mapped as earthquake-induced landslide hazard area as, shown in Figure 14. However, the proposed Project is located within a seismically active region and a low potential for impacts resulting from landslides could occur, thus the proposed Project would have a less than significant impact. 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.

b) Result in substantial soil erosion or the loss of topsoil?

Same Impact as Approved Project, Less Than Significant. Grading during the construction phase of the proposed Project would displace soils and temporarily increase the potential for soil to be subject to wind and water erosion. However, erosion and loss of topsoil can be controlled using standard construction practices. During construction, erosion control pans would be utilized to minimize soil erosion during construction. The Project would be required to implement Standard Permit Conditions to reduce potential erosion impacts during Project construction.

Standard Permit Conditions:

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

In addition to the Standard Permit Conditions described above, the Project would 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 Municipal Code (refer to Section 4.10 Hydrology and Water Quality). With adherence to the applicable practices and regulations, impacts would be considered less than significant. 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.

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

Same Impact as Approved Project, Less than Significant. Soil samples were collected as a part of the Phase I Investigation conducted for the Project site (Appendix H of the SEIR). The Preliminary Geotechnical

Study determined that the Project site and site vicinity is underlain by alluvial deposits consisting of soft to very stiff clays with interbedded layers of loose to medium dense sands with varying amounts of fines. The stiffness of the clay and relative density of the sand layers generally increase with depth. Generally, the upper 30 to 35 feet consists of medium stiff to stiff clay with interbedded loose to medium dense sand. Below these depths, the clays are stiff to very stiff and the sand layer are dense to very dense. The Project site is in area that is mapped as a liquefaction hazard zone by Santa Clara County Department of Planning and Development; however, the Project would be required to be in conformance with the CBC, City regulations, and other applicable standards.

The proposed Project would excavate to a depth of approximately 40 feet for the four levels of below grade parking. According to the Preliminary Geotechnical Study, groundwater was encountered in the site vicinity at depths of about 10 to 15 feet below existing ground surface (bgs), and as a result, dewatering would be required. Additionally, based on the historic groundwater map (California Department of Conservation, 2002); the historic high groundwater at the Site is approximately 20 feet bgs.

The Downtown Strategy 2020 requires the following measures as part of that project. As noted below, a project-specific, design-level geotechnical investigation is required for this Project, prior to issuance of any site-specific grading or building permit. As such, a design-level geotechnical investigation shall be submitted to, and approved by, the City of San José Public Works Department Geologist prior to issuance of building permits. The design-level geotechnical investigation shall also include an evaluation of the underlying sediments and determine the potential for settlements to occur as a result of dewatering. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required. The Downtown Strategy 2040 FEIR found that these measures would be sufficient to reduce all potential geologic impacts to a less than significant level. Since the Project would comply with all of these measures included in the Downtown Strategy 2040 project, the Project would have a less than significant impact.

Measures included in Downtown Strategy 2040 Project to Reduce and Avoid Impacts related to Geologic Hazards

- Consistent with 2040 General Plan policies, future projects will be required to complete a design-level geotechnical investigation to verify compliance with applicable regulations. The reports shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including measures for site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. Subsurface exploration, laboratory testing, and engineering analyses may be required as part of the investigations. The reports shall be submitted to the City of San José Public Works Department Geologist for review prior to issuance of any site-specific grading or building permit.
- Techniques that may be used to minimize hazards include: replacing problematic soils with properly conditioned/compacted fill and designing structures to withstand the forces exerted during shrink-swell cycles and settlements.
- Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement.

Measures included in Downtown Strategy 2040 Project to Reduce and Avoid Impacts related to Dewatering

- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

Measures included in Downtown Strategy 2040 Project to Reduce and Avoid Impacts related to Seismic Hazards

- The design-level geotechnical investigations (described above) shall identify site-specific ground failure hazards such as liquefaction and the appropriate techniques to minimize risks to people and structures. Over-excavation and re-compaction is a commonly used method to mitigate soil conditions susceptible to settlement.
- Future projects shall be designed and constructed in accordance with the most recent California Building Code, which contains the regulations that govern the construction of structures in California. Adherence to the California Building Code would ensure the proposed improvements resist minor earthquakes without damage and major earthquakes without collapse.

In conformance with the Downtown Strategy 2040 FEIR, the Project proposes to implement the above measure to reduce significant soil impacts to a less than significant level. Implementation of these measures would substantially reduce adverse effects of the proposed Project with soil conditions on the Project site. The Downtown Strategy 2040 FEIR found that with implementation of the standard measures listed above and implementation of 2040 General Plan policies and existing regulations, future development under the Downtown Strategy 2040 would not result in a significant impact related to geologic hazards. This conclusion is consistent with the analysis in the 2040 General Plan EIR, Four-Year Review, and Downtown Strategy 2000 EIR.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Same Impact as Approved Project, Less than Significant. The proposed Project would be required to be in conformance with the CBC, City regulations, and other applicable standards. Conformance with standard engineering practices and design criteria would reduce impacts related to expansive soil potential to a less than significant impact. 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.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Same Impact as Approved Project, No Impact. The proposed Project would not include the implementation of septic tanks or alternative wastewater disposal systems. 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.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

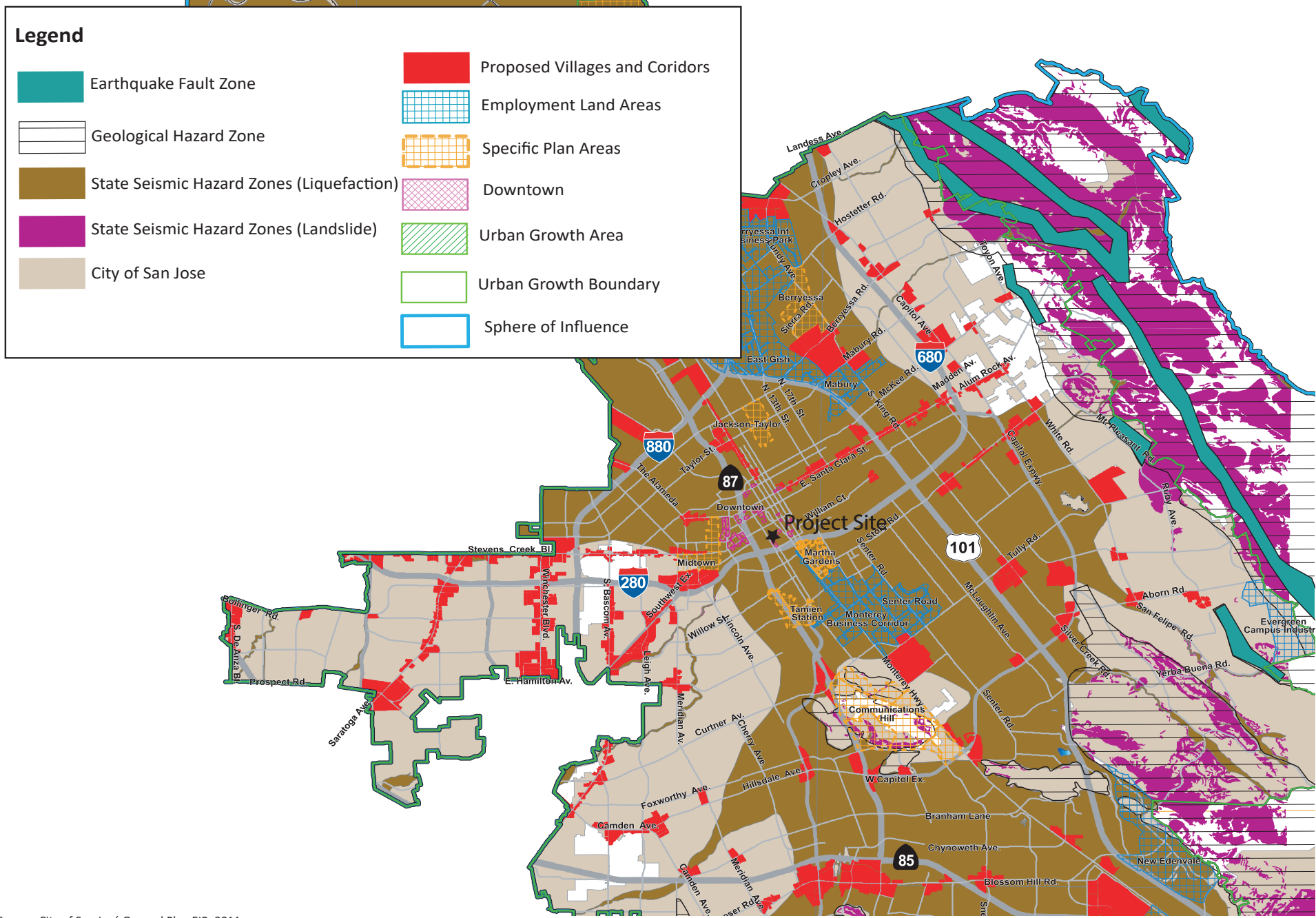
Same Impact as Approved Project, Less than Significant. The Project has been previously graded and developed and does not support or contain any unique geological feature. The Downtown area is situated on Holocene age alluvial deposits, which are underlain by Pleistocene age sediments at known depths. Holocene age soil is generally not considered sensitive for paleontological resources. However, in 2005, remains of mammoth were found along the Guadalupe River in San José within geological strata mapped as Holocene, indicating that Holocene materials in the Santa Clara Valley may have some level of sensitivity for paleontological resources. While the Project site is located within a high sensitivity area (in depth) for paleontological resources, as shown in Figure 15, subsurface testing and excavation in the Project area performed for the Downtown Strategy 2040 FEIR, including sites closer to the Guadalupe River than the Project site, has failed to yield any evidence of paleontological deposits. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials.

As the proposed Project proposes four-level of below-grade parking that requires excavation, which has the potential for encountering paleontological resources during construction. Construction activities may result in the accidental destruction and disturbance of paleontological resources and would result in significant impact to paleontological resources. The City would require the proposed Project to comply with all the applicable regulatory programs pertaining to unknown buried paleontological resources including the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

Because the proposed Project would comply with the applicable City policies and regulatory programs related to paleontological resources, implementation of the proposed Project including the Standard Permit Condition would result in no new or more significant impacts than those previously analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

Standard Permit Condition:

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



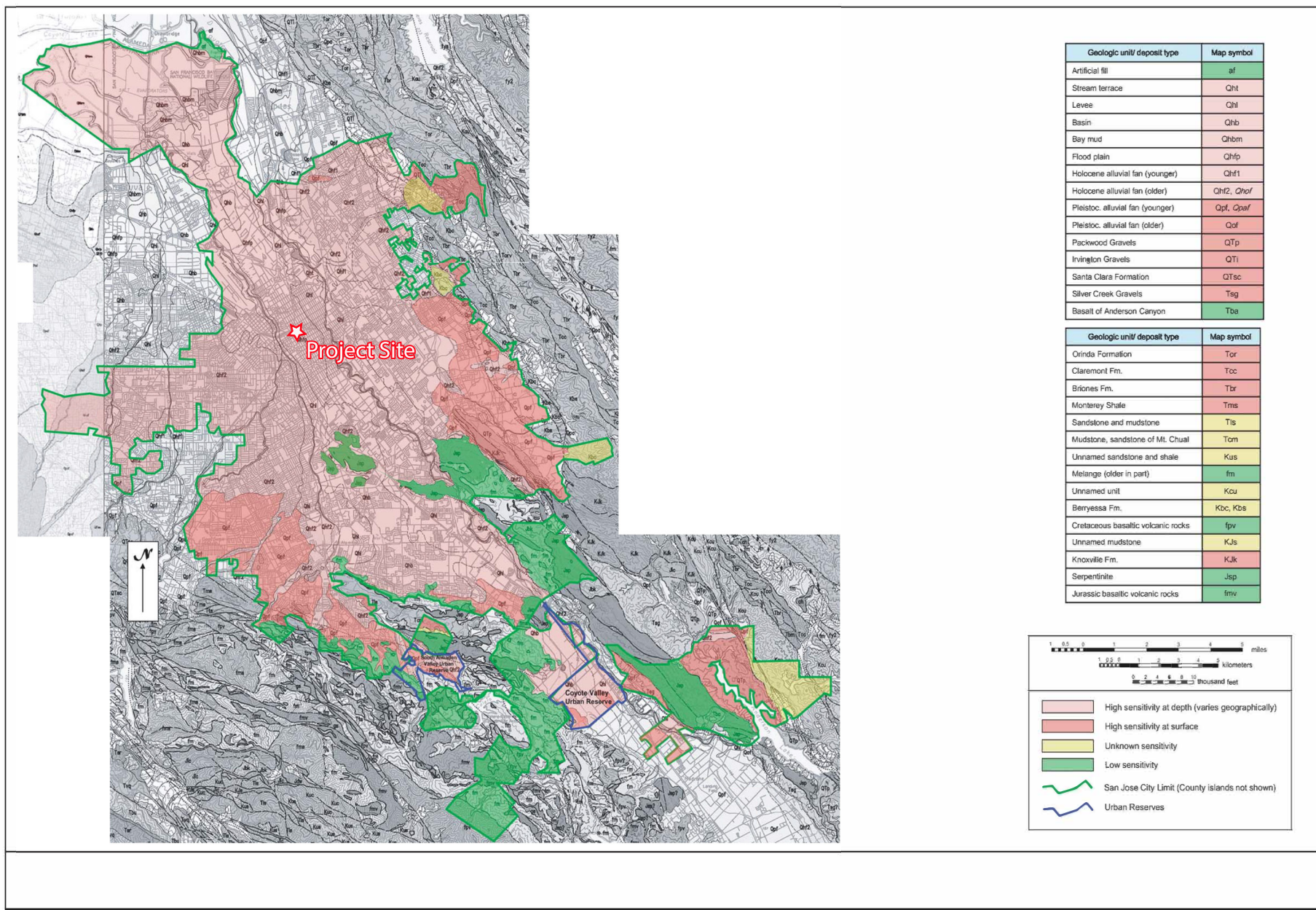
Source: City of San José General Plan EIR, 2011

Figure 14: Geological and Seismic Hazards

Woz Way Project



Not to scale



Source: City of San José General Plan EIR, 2011

Figure 15: Paleontological Sensitivity Area

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.

4.8 Greenhouse Gas Emissions

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?					X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?					X	

A Greenhouse Gas Assessment has been prepared by Kimley-Horn and Associates (February 2021) to address effects on climate change and greenhouse gas emissions that would be caused by implementation of the Project. The report is summarized below in the discussion and is included as Appendix E of the SEIR.

Applicable Plans, Policies, and Regulations

To date, no national standards have been established for nationwide GHG reduction targets, nor have any regulations or legislation been enacted specifically to address climate change and GHG emissions reduction at the project level. Various efforts have been promulgated at the federal level to improve fuel economy and energy efficiency to address climate change and its associated effects.

Energy Independence and Security Act of 2007

The Energy Independence and Security Act of 2007 (December 2007), among other key measures, requires the following, which would aid in the reduction of national GHG emissions:

- Increase the supply of alternative fuel sources by setting a mandatory Renewable Fuel Standard requiring fuel producers to use at least 36 billion gallons of biofuel in 2022.
- Set a target of 35 miles per gallon for the combined fleet of cars and light trucks by model year 2020, and direct the National Highway Traffic Safety Administration (NHTSA) to establish a fuel economy program for medium- and heavy-duty trucks and create a separate fuel economy standard for work trucks.

- Prescribe or revise standards affecting regional efficiency for heating and cooling products and procedures for new or amended standards, energy conservation, energy efficiency labeling for consumer electronic products, residential boiler efficiency, electric motor efficiency, and home appliances.

U.S. Environmental Protection Agency Endangerment Finding

The EPA's authority to regulate GHG emissions stems from the U.S. Supreme Court decision in *Massachusetts v. EPA* (2007). The Supreme Court ruled that GHGs meet the definition of air pollutants under the existing Clean Air Act and must be regulated if these gases could be reasonably anticipated to endanger public health or welfare. Responding to the Court's ruling, the EPA finalized an endangerment finding in December 2009. Based on scientific evidence, it was found that six GHGs constitute a threat to public health and welfare. Thus, it is the Supreme Court's interpretation of the existing Act and the EPA's assessment of the scientific evidence that form the basis for the EPA's regulatory actions.

Federal Vehicle Standards

In response to the U.S. Supreme Court ruling discussed above, Executive Order 13432 was issued in 2007 directing the EPA, the Department of Transportation, and the Department of Energy to establish regulations that reduce GHG emissions from motor vehicles, non-road vehicles, and non-road engines by 2008. In 2009, the NHTSA issued a final rule regulating fuel efficiency and GHG emissions from cars and light-duty trucks for model year 2011, and in 2010, the EPA and NHTSA issued a final rule regulating cars and light-duty trucks for model years 2012–2016.

In 2010, an Executive Memorandum was issued directing the Department of Transportation, Department of Energy, EPA, and NHTSA to establish additional standards regarding fuel efficiency and GHG reduction, clean fuels, and advanced vehicle infrastructure. In response to this directive, the EPA and NHTSA proposed stringent, coordinated federal GHG and fuel economy standards for model years 2017–2025 light-duty vehicles. The proposed standards projected to achieve 163 grams per mile of CO₂ in model year 2025, on an average industry fleet-wide basis, which is equivalent to 54.5 miles per gallon if this level were achieved solely through fuel efficiency. The final rule was adopted in 2012 for model years 2017–2021, and NHTSA intends to set standards for model years 2022–2025 in a future rulemaking. On January 12, 2017, the EPA finalized its decision to maintain the current GHG emissions standards for model years 2022–2025 cars and light trucks. It should be noted that the EPA is currently proposing to freeze the vehicle fuel efficiency standards at their planned 2020 level (37 mpg), canceling any future strengthening (currently 54.5 mpg by 2026).

In addition to the regulations applicable to cars and light-duty trucks described above, in 2011, the EPA and NHTSA announced fuel economy and GHG standards for medium- and heavy-duty trucks for model years 2014–2018. The standards for CO₂ emissions and fuel consumption are tailored to three main vehicle categories: combination tractors, heavy-duty pickup trucks and vans, and vocational vehicles. According to the EPA, this regulatory program will reduce GHG emissions and fuel consumption for the affected vehicles by 6 to 23 percent over the 2010 baseline.

In August 2016, the EPA and NHTSA announced the adoption of the phase two program related to the fuel economy and GHG standards for medium- and heavy-duty trucks. The phase two program will apply to vehicles with model year 2018 through 2027 for certain trailers, and model years 2021 through 2027 for semi-trucks, large pickup trucks, vans, and all types and sizes of buses and work trucks. The final

standards are expected to lower CO₂ emissions by approximately 1.1 billion metric tons and reduce oil consumption by up to 2 billion barrels over the lifetime of the vehicles sold under the program.

In 2018, President Trump and the EPA have stated their intent to halt various Federal regulatory activities to reduce GHG emission, including the phase two program. California and other states have stated their intent to challenge federal actions that would delay or eliminate GHG reduction measures and have committed to cooperating with other countries to implement global climate change initiatives. The timing and consequences of these types of Federal decisions and potential responses from California and other states are speculative at this time.

Clean Power Plan and New Source Performance Standards for Electric Generating Units

On October 23, 2015, the EPA published a final rule (effective December 22, 2015) establishing the carbon pollution emission guidelines for existing stationary sources: electric utility generating units (80 FR 64510–64660), also known as the Clean Power Plan. These guidelines prescribe how states must develop plans to reduce GHG emissions from existing fossil-fuel-fired electric generating units. The guidelines establish CO₂ emission performance rates representing the best system of emission reduction for two subcategories of existing fossil-fuel-fired electric generating units: (1) fossil-fuel-fired electric utility steam-generating units and (2) stationary combustion turbines. Concurrently, the EPA published a final rule (effective October 23, 2015) establishing standards of performance for GHG emissions from new, modified, and reconstructed stationary sources: electric utility generating units (80 FR 64661–65120). The rule prescribes CO₂ emission standards for newly constructed, modified, and reconstructed affected fossil-fuel-fired electric utility generating units. The U.S. Supreme Court stayed implementation of the Clean Power Plan pending resolution of several lawsuits. Additionally, in March 2017, President Trump directed the EPA Administrator to review the Clean Power Plan in order to determine whether it is consistent with current executive policies concerning GHG emissions, climate change, and energy.

Presidential Executive Order 13783

Presidential Executive Order 13783, Promoting Energy Independence and Economic Growth issued on March 28, 2017, orders all federal agencies to apply cost-benefit analyses to regulations of GHG emissions and evaluations of the social cost of CO₂, N₂O, and CH₄.

California Air Resources Board

The California Air Resources Board (CARB) is responsible for the coordination and oversight of State and local air pollution control programs in California. Various statewide and local initiatives to reduce California's contribution to GHG emissions have raised awareness about climate change and its potential for severe long-term adverse environmental, social, and economic effects. California is a significant emitter of CO₂e in the world and produced 440 million gross metric tons of CO₂e in 2015. In the state, the transportation sector is the largest emitter of GHGs, followed by industrial operations such as manufacturing and oil and gas extraction.

The State of California legislature has enacted a series of bills that constitute the most aggressive program to reduce GHGs of any state in the nation. Some legislation, such as the landmark AB 32 California Global Warming Solutions Act of 2006, was specifically enacted to address GHG emissions. Other legislation, such as Title 24 building efficiency standards and Title 20 appliance energy standards, were originally adopted for other purposes such as energy and water conservation, but also provide GHG reductions. This section describes the major legislation related to GHG emissions reduction.

Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006

AB 32 instructs the CARB to develop and enforce regulations for the reporting and verification of statewide GHG emissions. AB 32 also directed CARB to set a GHG emissions limit based on 1990 levels, to be achieved by 2020. It set a timeline for adopting a scoping plan for achieving GHG reductions in a technologically and economically feasible manner.

CARB Scoping Plan

CARB adopted the Scoping Plan to achieve the goals of AB 32. The Scoping Plan establishes an overall framework for the measures that would be adopted to reduce California's GHG emissions. CARB determined that achieving the 1990 emissions level would require a reduction of GHG emissions of approximately 29 percent below what would otherwise occur in 2020 in the absence of new laws and regulations (referred to as "business-as-usual"). The Scoping Plan evaluates opportunities for sector-specific reductions, integrates early actions and additional GHG reduction measures by both CARB and the state's Climate Action Team, identifies additional measures to be pursued as regulations, and outlines the adopted role of a cap-and-trade program. Additional development of these measures and adoption of the appropriate regulations occurred through the end of 2013. Key elements of the Scoping Plan include:

- Expanding and strengthening existing energy efficiency programs, as well as building and appliance standards.
- Achieving a statewide renewables energy mix of 33 percent by 2020.
- Developing a California cap-and-trade program that links with other programs to create a regional market system and caps sources contributing 85 percent of California's GHG emissions (adopted in 2011).
- Establishing targets for transportation-related GHG emissions for regions throughout California and pursuing policies and incentives to achieve those targets (several sustainable community strategies have been adopted).
- Adopting and implementing measures pursuant to existing state laws and policies, including California's clean car standards, heavy-duty truck measures, the Low Carbon Fuel Standard (amendments to the Pavley Standard adopted 2009; Advanced Clean Car standard adopted 2012), goods movement measures, and the Low Carbon Fuel Standard (adopted 2009).
- Creating targeted fees, including a public goods charge on water use, fees on gasses with high global warming potential, and a fee to fund the administrative costs of California's long-term commitment to AB 32 implementation.

In 2012, CARB released revised estimates of the expected 2020 emissions reductions. The revised analysis relied on emissions projections updated considering current economic forecasts that accounted for the economic downturn since 2008, reduction measures already approved and put in place relating to future fuel and energy demand, and other factors. This update reduced the projected 2020 emissions from 596 million metric tons of CO₂e (MMTCO₂e) to 545 MMTCO₂e. The reduction in forecasted 2020 emissions means that the revised business-as-usual reduction necessary to achieve AB 32's goal of reaching 1990 levels by 2020 is now 21.7 percent, down from 29 percent. CARB also provided a lower 2020 inventory forecast that incorporated state-led GHG emissions reduction measures already in place. When this lower

forecast is considered, the necessary reduction from business-as-usual needed to achieve the goals of AB 32 is approximately 16 percent.

CARB adopted the first major update to the Scoping Plan on May 22, 2014. The updated Scoping Plan summarizes the most recent science related to climate change, including anticipated impacts to California and the levels of GHG emissions reductions necessary to likely avoid risking irreparable damage. It identifies the actions California has already taken to reduce GHG emissions and focuses on areas where further reductions could be achieved to help meet the 2020 target established by AB 32.

In January 2017, CARB released the 2017 Climate Change Scoping Plan Update (Second Update) for public review and comment (CARB, 2017). The Second Update sets forth CARB's strategy for achieving the state's 2030 GHG target as established in Senate Bill (SB) 32 (discussed below). The Second Update was approved by CARB's Governing Board on December 14, 2017 (CARB, 2017).

Senate Bill 32 (California Global Warming Solutions Act of 2006: Emissions Limit)

Signed into law in September 2016, SB 32 codifies the 2030 GHG reduction target in Executive Order B-30-15 (40 percent below 1990 levels by 2030). The bill authorizes CARB to adopt an interim GHG emissions level target to be achieved by 2030. CARB also must adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective GHG reductions.

With SB 32, the Legislature passed companion legislation, AB 197, which provides additional direction for developing the Scoping Plan. On December 14, 2017, CARB adopted a second update to the Scoping Plan (CARB, 2017b). The 2017 Scoping Plan details how the State will reduce GHG emissions to meet the 2030 target set by Executive Order B-30-15 and codified by SB 32. Other objectives listed in the 2017 Scoping Plan are to provide direct GHG emissions reductions; support climate investment in disadvantaged communities; and support the Clean Power Plan and other Federal actions.

Senate Bill 375 – Sustainable Communities and Climate Protection Act of 2008

Signed into law on September 30, 2008, SB 375 provides a process to coordinate land use planning, regional transportation plans, and funding priorities to help California meet the GHG reduction goals established by AB 32. SB 375 requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing GHG emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies. The applicable sustainable community strategy in the Bay Area is Plan Bay Area 2040.

Assembly Bill 1493 (Pavley Regulations and Fuel Efficiency Standards)

AB 1493, enacted on July 22, 2002, required CARB to develop and adopt regulations that reduce GHGs emitted by passenger vehicles and light duty trucks. Implementation of the regulation was delayed by lawsuits filed by automakers and by the EPA's denial of an implementation waiver. The EPA subsequently granted the requested waiver in 2009, which was upheld by the U.S. District Court for the District of Columbia in 2011. The regulations establish one set of emission standards for model years 2009–2016 and a second set of emissions standards for model years 2017 to 2025. By 2025, when all rules will be fully implemented, new automobiles will emit 34 percent fewer CO₂e emissions and 75 percent fewer smog-forming emissions.

Senate Bill 1368 (Emission Performance Standards)

SB 1368 is the companion bill of AB 32, which directs the California Public Utilities Commission (CPUC) to adopt a performance standard for GHG emissions for the future power purchases of California utilities. SB 1368 limits carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than 5 years from resources that exceed the emissions of a relatively clean, combined cycle natural gas power plant. The new law effectively prevents California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the state. The CPUC adopted the regulations required by SB 1368 on August 29, 2007. The regulations implementing SB 1368 establish a standard for baseload generation owned by, or under long-term contract to publicly owned utilities, for 1,100 pounds of CO₂ per megawatt-hour.

SB 1078 and SBX1-2 (Renewable Electricity Standards)

SB 1078 required California to generate 20 percent of its electricity from renewable energy by 2017. This goal was accelerated with SB 107, which changed the due date to 2010 instead of 2017. On November 17, 2008, Executive Order S-14-08 established a Renewable Portfolio Standard target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Executive Order S-21-09 also directed CARB to adopt a regulation by July 31, 2010, requiring the state's load serving entities to meet a 33 percent renewable energy target by 2020. CARB approved the Renewable Electricity Standard on September 23, 2010 by Resolution 10-23. SB X1-2 codified the 33 percent by 2020 goal.

SB 350 (Clean Energy and Pollution Reduction Act of 2015)

Signed into law on October 7, 2015, SB 350 implements the goals of Executive Order B-30-15. The objectives of SB 350 are to increase the procurement of electricity from renewable sources from 33 percent to 50 percent (with interim targets of 40 percent by 2024, and 45 percent by 2027) and to double the energy efficiency savings in electricity and natural gas end uses of retail customers through energy efficiency and conservation. SB 350 also reorganizes the Independent System Operator to develop more regional electricity transmission markets and improve accessibility in these markets, which will facilitate the growth of renewable energy markets in the western United States.

AB 398 (Market-Based Compliance Mechanisms)

Signed on July 25, 2017, AB 398 extended the duration of the Cap-and-Trade program from 2020 to 2030. AB 398 required CARB to update the Scoping Plan and for all GHG rules and regulations adopted by the State. It also designated CARB as the statewide regulatory body responsible for ensuring that California meets its statewide carbon pollution reduction targets, while retaining local air districts' responsibility and authority to curb toxic air contaminants and criteria pollutants from local sources that severely impact public health. AB 398 also decreased free carbon allowances over 40 percent by 2030 and prioritized Cap-and-Trade spending to various programs including reducing diesel emissions in impacted communities.

SB 150 (Regional Transportation Plans)

Signed on October 10, 2017, SB 150 aligns local and regional GHG reduction targets with State targets (i.e., 40 percent below their 1990 levels by 2030). SB 150 creates a process to include communities in discussions on how to monitor their regions' progress on meeting these goals. The bill also requires the CARB to regularly report on that progress, as well as on the successes and the challenges regions experience associated with achieving their targets. SB 150 provides for accounting of climate change efforts and GHG reductions and identify effective reduction strategies.

SB 100 (California Renewables Portfolio Standard Program: Emissions of Greenhouse Gases)

Signed into Law in September 2018, SB 100 increased California's renewable electricity portfolio from 50 to 60 percent by 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045.

Executive Orders Related to GHG Emissions

California's Executive Branch has taken several actions to reduce GHGs using executive orders. Although not regulatory, they set the state's tone and guide the actions of state agencies.

Executive Order S-3-05. Executive Order S-3-05 was issued on June 1, 2005, which established the following GHG emissions reduction targets:

- By 2010, reduce greenhouse gas emissions to 2000 levels.
- By 2020, reduce greenhouse gas emissions to 1990 levels.
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

The 2050 reduction goal represents what some scientists believe is necessary to reach levels that will stabilize the climate. The 2020 goal was established to be a mid-term target. Because this is an executive order, the goals are not legally enforceable for local governments or the private sector.

Executive Order S-01-07 Issued on January 18, 2007, Executive Order S-01-07 mandates that a statewide goal shall be established to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020. The executive order established a Low Carbon Fuel Standard (LCFS) and directed the Secretary for Environmental Protection to coordinate the actions of the California Energy Commission, CARB, the University of California, and other agencies to develop and propose protocols for measuring the "life-cycle carbon intensity" of transportation fuels. CARB adopted the LCFS on April 23, 2009

Executive Order S-13-08. Issued on November 14, 2008, Executive Order S-13-08 facilitated the California Natural Resources Agency development of the 2009 California Climate Adaptation Strategy. Objectives include analyzing risks of climate change in California, identifying and exploring strategies to adapt to climate change, and specifying a direction for future research.

Executive Order S-14-08. Issued on November 17, 2008, Executive Order S-14-08 expands the state's Renewable Energy Standard to 33 percent renewable power by 2020. Additionally, Executive Order S-21-09 (signed on September 15, 2009) directs CARB to adopt regulations requiring 33 percent of electricity sold in the state come from renewable energy by 2020. CARB adopted the Renewable Electricity Standard on September 23, 2010, which requires 33 percent renewable energy by 2020 for most publicly owned electricity retailers.

Executive Order S-21-09. Issued on July 17, 2009, Executive Order S-21-09 directs CARB to adopt regulations to increase California's RPS to 33 percent by 2020. This builds upon SB 1078 (2002), which established the California RPS program, requiring 20 percent renewable energy by 2017, and SB 107 (2006), which advanced the 20 percent deadline to 2010, a goal which was expanded to 33 percent by 2020 in the 2005 Energy Action Plan II.

Executive Order B-30-15. Issued on April 29, 2015, Executive Order B-30-15 established a California GHG reduction target of 40 percent below 1990 levels by 2030 and directs CARB to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of CO₂e (MMTCO₂e). The 2030 target acts as an interim goal on the way to achieving reductions of 80 percent below 1990 levels by 2050, a goal set by Executive Order S-3-05. The executive order also requires the state's climate adaptation plan to be updated every three years and for the state to continue its climate change research program, among other provisions. With the enactment of SB 32 in 2016, the Legislature codified the goal of reducing GHG emissions by 2030 to 40 percent below 1990 levels.

Executive Order B-55-18. Issued on September 10, 2018, Executive Order B-55-18 establishes a goal to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter. This goal is in addition to the existing statewide targets of reducing GHG emissions. The executive order requires CARB to work with relevant state agencies to develop a framework for implementing this goal. It also requires CARB to update the Scoping Plan to identify and recommend measures to achieve carbon neutrality. The executive order also requires state agencies to develop sequestration targets in the Natural and Working Lands Climate Change Implementation Plan.

California Regulations and Building Codes

California has a long history of adopting regulations to improve energy efficiency in new and remodeled buildings. These regulations have kept California's energy consumption relatively flat, even with rapid population growth.

Title 20 Appliance Efficiency Regulations The appliance efficiency regulations (California Code of Regulations [CCR] Title 20, Sections 1601-1608) include standards for new appliances. Twenty-three categories of appliances are included in the scope of these regulations. These standards include minimum levels of operating efficiency, and other cost-effective measures, to promote the use of energy- and water-efficient appliances.

Title 24 Building Energy Efficiency Standards. California's Energy Efficiency Standards for Residential and Nonresidential Buildings (CCR Title 24, Part 6), was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient technologies and methods. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions. The 2016 Building Energy Efficiency Standards approved on January 19, 2016 went into effect on January 1, 2017. The 2019 Building Energy Efficiency Standards were adopted on May 9, 2018 and will take effect on January 1, 2020. Under the 2019 standards, residential dwellings will be required to use approximately 53 percent less energy and nonresidential buildings will be required to use approximately 30 percent less energy than buildings under the 2016 standards.

Title 24 California Green Building Standards Code. The California Green Building Standards Code (CCR Title 24, Part 11 code) commonly referred to as CALGreen, is a statewide mandatory construction code developed and adopted by the California Building Standards Commission and the Department of Housing and Community Development. The CALGreen standards require new residential and nonresidential buildings to comply with mandatory measures under the topics of planning and design, energy efficiency, water efficiency/conservation, material conservation and resource efficiency, and environmental quality. CALGreen also provides voluntary tiers and measures that local governments may adopt that encourage

or require additional measures in the five green building topics. The most recent update to the 2016 CALGreen Code, went into effect January 1, 2017. Updates to the 2016 CALGreen Code will take effect on January 1, 2020 (2019 CALGreen). The 2019 CALGreen standards will continue to improve upon the existing standards for new construction of, and additions and alterations to, residential and nonresidential buildings. The new 2019 CALGreen standards require residential buildings are required to be solar ready through solar panels (refer to Section 110.10 in the 2019 Building Energy Efficiency Standards for more details).

BAAQMD CEQA Guidelines and 2017 Bay Area Clean Air Plan

The BAAQMD is the regional agency with jurisdiction over the nine-county region located in the Basin. The Association of Bay Area Governments (ABAG), Metropolitan Transportation Commission (MTC), county transportation agencies, cities and counties, and various nongovernmental organizations also join in the efforts to improve air quality through a variety of programs. These programs include the adoption of regulations and policies, as well as implementation of extensive education and public outreach programs.

Under CEQA, the BAAQMD is a commenting responsible agency on air quality within its jurisdiction or impacting its jurisdiction. The BAAQMD reviews projects to ensure that they would: (1) support the primary goals of the latest Air Quality Plan; (2) include applicable control measures from the Air Quality Plan; and (3) not disrupt or hinder implementation of any Air Quality Plan control measures.

BAAQMD recently adopted new CEQA Guidelines (June 2010, Updated May 2017). The new guidelines supersede the previously adopted 2010 CEQA Guidelines and include new and updated thresholds for analyzing air quality impacts, including a threshold for GHG emissions. Under these thresholds, if a project would result in an operational-related GHG emission of 1,100 metric tons (MT) (or 4.6 MT per service population per year²²) of carbon dioxide equivalents (CO₂e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs.²³

Given the Project would not be constructed and operational prior to December 31st, 2020, the City has developed updated GHG efficiency targets reflecting statewide goals beyond 2020. GHG emissions resulting from operation of the Project at maximum build out have been compared to an efficiency metric threshold consistent with state goals detailed in SB 32 EO B-30-15 and EO S-3-05 to reduce GHG emissions by 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050, respectively. Although BAAQMD has not published a quantified threshold for 2030 yet, the City of San José has established a 2030 GHG emissions intensity target of 2.94 metric tons (MT) of CO₂ equivalent per service population per year (MTCO₂e/sp/yr) in their 2030 Greenhouse Gas Reduction Strategy (August 2020).

Santa Clara County Climate Action Plan 2009

The Santa Clara County Climate Action Plan (CAP) focuses on County operations, facilities and employee actions that will reduce not only GHG emissions but also energy and water consumption, solid waste and fuel consumption. These are areas of opportunity for the County to make a difference, set a good example, and in many cases, save money. The GHG emission reduction goals require a change from

²² Service Population (SP) is an efficiency-based measure used by BAAQMD to estimate the development potential of a general or area plan. Service Population is determined by adding the number of residents to the number of jobs estimated for a given point in time

²³ Bay Area Air Quality Management District, *CEQA Guidelines*, May 2011

“business as usual” to attain them. The goals were to stop increasing the amount of emissions by 2010, decrease emissions by 10 percent every 5 years from 2010 – 2050, and reach an 80 percent reduction by 2050. The CAP is being issued in the context of legislative and regulatory action at the federal and state level. California’s climate change goals are set forth in AB 32, the Global Warming Solutions Act of 2006. This legislation requires a reduction of California GHG emissions to 1990 levels by 2020. In December 2008, CARB approved the Climate Change Scoping Plan Document required by AB 32. The Scoping Plan Document, which provides a roadmap for California to reduce its GHG emissions, recognizes the importance of development and implementation of Climate Action Plans by California cities and counties. Executive Order S-03-05 goes even further by requiring statewide reductions in GHG emissions to 80 percent below 1990 by the year 2050.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City’s Greenhouse Gas (GHG) Reduction Strategy to help reduce GHG emissions. The GHG Reduction Strategy identifies a series of GHG emissions reduction measures to be implemented by development projects that would allow the City to achieve its GHG reduction goals. The City of San José approved a Supplemental Program EIR for the Envision 2040 General Plan to include and update the greenhouse gas emissions analysis in December 2015. Multiple policies and actions in the Envision San José 2040 General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City’s Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and the recent standards for “qualified plans” as set forth by BAAQMD.

The General Plan includes the following GHG reduction policies, which are applicable to the Project. These policies are also described within the City’s GHG Reduction Strategy.

- Policy MS-1.1: Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
- Policy MS-1.4: Foster awareness of San José’s business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
- Policy MS-2.6: Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
- Policy MS-2.11: Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use

through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).

- Policy MS-5.5: Maximize recycling and composting from all residents, businesses, and institutions in the City.
- Policy MS-5.6: Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
- Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
- Policy MS-21.2: Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
- Policy TR-1.16: Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

City of San José Municipal Code

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

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

City of San José Greenhouse Gas Reduction Strategy

The City of San José adopted a Greenhouse Gas Reduction Strategy on November 1, 2011, to be consistent with the implementation requirements of AB 32. A Supplemental EIR for the Greenhouse Gas Reduction Strategy was adopted on December 15, 2015. AB 32 requires the State of California as a whole to reduce GHG emissions to 1990 levels by the year 2020. The Greenhouse Gas Reduction Strategy seeks to reduce GHG emissions within the City through a number of sustainable actions, including minimizing car travel, building site locations that optimize solar installation potential either for heating water or for electricity generation, planting trees to help mitigate heat island effects, and providing access to safe, pedestrian friendly sidewalks, trails and bike paths, as well as mass transit.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

Compliance with the mandatory measures and voluntary measures required by the City would ensure an individual project's consistency with the GHG Reduction Strategy. Implementation of the proposed General Plan through 2020 would not constitute a cumulatively considerable contribution to global climate change.

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

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

Climate Smart San José

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

Reach Building Code

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

Existing Setting

The study area for climate change and the analysis of greenhouse gas (GHG) emissions is broad because climate change is influenced by world-wide emissions and their global effects. However, the study area is also limited by the CEQA Guidelines [Section 15064(d)], which directs lead agencies to consider an "indirect physical change" only if that change is a reasonably foreseeable impact that may be caused by the project. This analysis limits discussion to those physical changes to the environment that are not speculative and are reasonably foreseeable.

Certain gases in the earth's atmosphere classified as GHGs, play a critical role in determining the earth's surface temperature. Solar radiation enters the earth's atmosphere from space. A portion of the radiation is absorbed by the earth's surface and a smaller portion of this radiation is reflected toward space. This absorbed radiation is then emitted from the earth as low-frequency infrared radiation. The frequencies

at which bodies emit radiation are proportional to temperature. Because the earth has a much lower temperature than the sun, it emits lower-frequency radiation. Most solar radiation passes through GHGs; however, infrared radiation is absorbed by these gases. As a result, radiation that otherwise would have escaped back into space is instead “trapped,” resulting in a warming of the atmosphere. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate on earth.

The primary GHGs contributing to the greenhouse effect are carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O). Fluorinated gases also make up a small fraction of the GHGs that contribute to climate change. Examples of fluorinated gases include chlorofluorocarbons (CFCs), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆), and nitrogen trifluoride (NF₃); however, it is noted that these gases are not associated with typical land use development. Human-caused emissions of GHGs exceeding natural ambient concentrations are believed to be responsible for intensifying the greenhouse effect and leading to a trend of unnatural warming of the Earth’s climate, known as global climate change or global warming.

GHGs are global pollutants, unlike criteria air pollutants and toxic air contaminants (TACs), which are pollutants of regional and local concern. Whereas pollutants with localized air quality effects have relatively short atmospheric lifetimes (approximately one day), GHGs have long atmospheric lifetimes (one to several thousand years). GHGs persist in the atmosphere for long enough time periods to be dispersed around the globe. Although the exact lifetime of a GHG molecule is dependent on multiple variables and cannot be pinpointed, more CO₂ is emitted into the atmosphere than is sequestered by ocean uptake, vegetation, or other forms of carbon sequestration. Of the total annual human-caused CO₂ emissions, approximately 55 percent is sequestered through ocean and land uptakes every year, averaged over the last 50 years, whereas the remaining 45 percent of human-caused CO₂ emissions remains stored in the atmosphere (Intergovernmental Panel on Climate Change, 2013).

Discussion

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment??

Same Impact as Approved Project, Less Than Significant. The proposed Project would have construction and operational greenhouse gas emissions.

Short-Term Construction Greenhouse Gas Emissions

Construction of the Project would result in direct emissions of CO₂, N₂O, and CH₄ from the operation of construction equipment and the transport of materials and construction workers to and from the Project site. BAAQMD does not have a threshold for construction GHG emissions, which are one-time, short-term emissions and therefore would not significantly contribute to long-term cumulative GHG emissions impacts of the proposed Project. However, the BAAQMD advises that construction GHG should be disclosed and a determination on the significance of construction GHG emissions in relation to meeting AB 32 GHG reduction goals should be made. Total GHG emissions generated during all phases of construction were combined and are presented in Table 12: Construction Greenhouse Gas Emissions. The CalEEMod outputs are contained within the Appendix E of the SEIR.

Table 12: Construction Greenhouse Gas Emissions

Construction Year	MTCO ₂ e ¹
2021	1,359.25
2022	1,850.27
2023	997.39
Total	4,206.91
<i>Amortized</i>	<i>140.23</i>
<p>1. Due to rounding, total MTCO₂e may be marginally different from CalEEMod output. MTCO₂e = metric tons of carbon dioxide equivalent.</p> <p>2. Modeling was conducted for the project based on plans submitted to the City on April 9, 2020. As detailed in Section 3 of this document, the plans dated February 2021 resulted in a similar in building footprint. Therefore, the emissions in the table are consistent with the emissions presented in the Technical Reports based on the April 9, 2020 site plan.</p> <p>Source: CalEEMod version 2016.3.2. Refer to Appendix E for model outputs.</p>	

As shown in Table 12, Project construction-related activities would generate approximately 4,207 MTCO₂e of GHG emissions over the course of construction. One-time, short-term construction GHG emissions are typically summed and amortized over the Project's lifetime (assumed to be 30 years).²⁴ It is reasonable to look at a 30-year time frame for buildings since this is a typical interval before a new building requires the first major renovation.²⁵ The amortized Project emissions would be approximately 140 MTCO₂e per year. Once construction is complete, the generation of construction related GHG emissions would cease.

Long-Term Operational Greenhouse Gas Emissions

Operational or long-term emissions would occur over the Project's life. GHG emissions would result from direct emissions such as Project generated vehicular traffic, on-site combustion of natural gas, and operation of any landscaping equipment. Operational GHG emissions would also result from indirect sources, such as off-site generation of electrical power over the life of the Project, the energy required to convey water to, and wastewater from the Project site, the emissions associated with solid waste generated from the Project site, and any fugitive refrigerants from air conditioning or refrigerators. Table 13: Operational Greenhouse Gas Emissions summarizes the total GHG emissions associated with the Project.

Table 13: Operational Greenhouse Gas Emissions

Category	MTCO ₂ e ¹
Area Source	0.05
Energy	2,609.30
Mobile	5,009.35

²⁴ The project lifetime is based on the standard 30-year assumption of the South Coast Air Quality Management District (South Coast Air Quality Management District, *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #13*, August 26, 2009).

²⁵ International Energy Agency, *Energy Efficiency Requirements in Building Codes, Energy Efficiency Policies for New Buildings*, March 2008.

Category	MTCO ₂ e ¹
Waste	301.33
Water and Wastewater	362.50
Total Project²	8,282.53
Population ³	4,176
Project MTCO₂e/ SP/year	1.99
Threshold	2.94 MTCO₂e/SP/YR
Exceeds Threshold?	No
<p>1. Emissions were calculated using CalEEMod version 2016.3.2.</p> <p>2. Emissions may not total due to rounding.</p> <p>3. Modeling was conducted for the Project based on plans submitted to the City on April 9, 2020. As detailed in Appendix D of the SEIR, the plans dated February 2021 resulted in fewer daily vehicle trips and a similar building footprint. The associated area source, energy, waste, water, and wastewater would be similar due to similar building footprint. While the February 2021 site plan has a slightly smaller combined office and retail land use than the April 2020 plans, there could be an increase in GHG emissions due to the gross building size increase. The April 9, 2020 site plan resulted in a larger service population (approximately 46 additional people) compared to the February 2021 site plan. However, even with a smaller service population and slightly increased operational GHG emissions, the Project would remain under the City's threshold. In order to be consistent with the other air quality, traffic and greenhouse gas data presented in this document, the April 9, 2020 data is presented in the Initial Study. Refer to Appendix D of the SEIR for a supplemental memorandum detailing the differences in greenhouse gas emissions from the April 2020 plans and the February 2021 plans. The Project operational GHG emissions is calculated by dividing the total Project emissions by the Project's service population.</p> <p>Source: CalEEMod version 2016.3.2. Refer to Appendix E of the SEIR for model outputs.</p>	

Below is a description of the primary sources of operational emissions:

Area Sources. Area source emissions occur from hearths (i.e. natural gas fireplaces), architectural coatings, landscaping equipment, and consumer products. Landscaping is anticipated to occur throughout the Project site. Additionally, the primary emissions from architectural coatings are volatile organic compounds, which are relatively insignificant as direct GHG emissions. The Project is primarily office and therefore would result in only 0.05 MTCO₂e/yr (refer to Table 13).

Energy Consumption. Energy consumption consists of emissions from Project consumption of electricity and natural gas. The Project would result in approximately 2,609 MTCO₂e/yr from energy consumption (refer to Table 13).

Mobile Sources. Mobile sources from the Project were calculated with CalEEMod based on the trip generation from the Project Traffic Study. As shown in Table 13, the mobile source emissions from the Project would be approximately 5,009 MTCO₂e/yr.

Solid Waste. Solid waste releases GHG emissions in the form of methane when these materials decompose. The Project would result in approximately 301 MTCO₂e/yr from solid waste (refer to Table 13).

Water and Wastewater. GHG emissions from water demand would occur from electricity consumption associated with water conveyance and treatment. Existing water efficiency regulations require the project to limit the use of turf. The Project would result in approximately 363 MTCO₂e/yr from water and wastewater conveyance and treatment (refer to Table 13).

Table 13 shows that operational emissions of the proposed Project would generate approximately 8,283 MTCO₂e per year. However, the City of San José threshold for operational GHG emissions is 2.94 MTCO₂e/sp/yr for 2030. The Project would result in 1.99 MTCO₂e/sp/yr and therefore is below the 2030 threshold.

It should be noted that the operational emissions identified in Table 13 above, incorporate adjustments for Project energy consumption based on the 2019 Title 24 Part 6 (Building Energy Efficiency Standards). These standards are required by the State and all projects must comply with 2019 Title 24. The standards also require updated thermal envelope standards (preventing heat transfer from the interior to exterior and vice versa), residential and nonresidential ventilation requirements, and nonresidential lighting requirements that would cut residential energy use by more than 50 percent (with solar) and nonresidential energy use by 30 percent. The standards also encourage demand responsive technologies including battery storage and heat pump water heaters and improve the building's thermal envelope through high performance attics, walls and windows to improve comfort and energy savings (California Energy Commission, March 2018). The Project would also comply with the appliance energy efficiency standards in Title 20 of the California Code of Regulations. The Title 20 standards include minimum levels of operating efficiency, and other cost-effective measures, to promote the use of energy- and water-efficient appliances. The Project would be constructed according to the standards for high-efficiency water fixtures for indoor plumbing and water efficient irrigation systems required in 2019 Title 24, Part 11 (CALGreen).

At the state and global level, improvements in technology, policy, and social behavior can also influence and reduce operational emissions generated by a project. The state is currently on a pathway to achieving the Renewable Portfolio Standards goal of 33 percent renewables by 2020 and 60 percent renewables by 2030 per SB 100. Despite these goals, the majority of the Project's emissions would still be from mobile and energy sources. Future mobile source emissions are greatly dependent on changes in vehicle technology, fuels, and social behavior, which can be influenced by policies to varying degrees. Taking known future policies into account, CARB estimates that over 90 percent of future vehicles in Santa Clara County would still run on gasoline even with increased electric vehicle mode share (California Air Resources Board, 2017). This is assumed to also be applicable to the San José vehicle fleet, absent data that may suggest otherwise. Due to these external factors, average emissions from transportation in 2050 would mostly still generate GHG emissions, but the quantity is uncertain considering potential changes in technology and policy over the next 30 years.

Most Project emissions (approximately 92 percent) would occur from mobile and energy sources. As noted above, energy and mobile sources are targeted by statewide measures such as low carbon fuels, cleaner vehicles, strategies to promote sustainable communities and improved transportation choices that result in reducing VMT, continued implementation of the Renewable Portfolio Standard (the target is now set at 60 percent renewables by 2030), and extension of the Cap and Trade program (requires reductions from industrial sources, energy generation, and fossil fuels). Additionally, the Project is an infill project located in a downtown environment near transit stops. The Project proposes Transportation Demand Measures (TDM) to reduce the need for parking on-site, as identified in the Local Transportation Analysis (LTA), Appendix J, which could include the following:

- Commute trip reduction marketing/education;
- Managed carpool service;

- VTA Transit Program for residents and employees;
- Employee parking “cash-out” for certain employees;
- Subsidized or discounted transit passes for some employees; and
- Telecommuting and alternative work schedules and ride-sharing programs.

These TDM Programs would also help reduce Vehicle Miles Traveled (VMT) and mobile GHG emissions. Appendix E, the Greenhouse Gas Emissions Assessment, assumed a vehicle trip reduction consistent with the LTA’s assumptions Project operations with implementation of the TDM program²⁶. With continued implementation of various statewide measures, the Project’s operational energy and mobile source emissions would continue to decline in the future.

Project operational emissions are shown in Table 13. Impacts are less than significant. Project-related GHG emissions would not result in a cumulatively considerable contribution to the significant cumulative impact of climate change. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be less than significant, and no new or additional mitigation is required.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Same Impact as Approved Project, Less Than Significant. The proposed Project is located in the City of San José in Santa Clara County. The Project must comply with City, regional, and Statewide greenhouse gas policies and regulation. It is expected that the proposed Project would contribute marginally to regional GHG emissions, both through construction and operational emissions.

City of San José

As discussed above, the City of San José does not have a stand-alone Climate Action Plan, but the General Plan includes policies and actions to reduce the generation of GHG emissions within the City.

The proposed Project is consistent with the General Plan Policies IP-1 and LU-10, conforms to the City’s Green Building Measures (General Plan Goals MS-1, MS-14), and is consistent with goals in the City’s GHG Reduction Strategy such as providing jobs near transit, providing pedestrian and bicycle site design measures, and implementing a TDM program. The GHG Reduction Strategy lists mandatory criteria that development projects must satisfy in order to be consistent with City goals and policies. The General Plan Amendment proposed for the Project would bring the site into consistency with the DC– *Downtown Primary Commercial* zoning district. Bicycle parking would be provided consistent with San José requirements, though the final quantity would be determined at the development permit stage.

The Project would be subject to compliance with all building codes in effect at the time of construction, which include energy conservation measures mandated by California Building Standards Code Title 24 – Energy Efficiency Standards. Because Title 24 standards require energy conservation features in new construction (e.g., high- efficiency lighting, high-efficiency heating, ventilating, and air-conditioning (HVAC) systems, thermal insulation, double-glazed windows, water conserving plumbing fixtures), they indirectly regulate and reduce GHG emissions.

²⁶ The Final TDM Plan is pending coordination between the City and Applicant, and shall be finalized prior to approval of the Project.

The Project is an infill project located in the downtown area. In addition, the proposed Project site, is located within 0.33 miles of bus routes, and 0.25 miles north-east of the Children's Discovery Museum light rail station. The Project includes a high employee density per acre. As part of the TDM program the Project could require employers to discourage single-occupancy vehicle trips and encourage alternative modes of transportation such as carpooling, taking transit, walking, and biking. Employees would be encouraged to work flexible work schedules, receive transit subsidies, and have vanpool and rideshare options available.

The Project demonstrates consistency with the General Plan goals, measures, and emission reduction targets, and would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce GHG emissions, including Title 24, AB 32, and SB 32. Therefore, no new or more significant impact than those analyzed in Downtown Strategy 2040 FEIR would occur and no new mitigation is required.

CARB Scoping Plan

The California State Legislature adopted AB 32 in 2006. AB 32 focuses on reducing GHGs (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) to 1990 levels by the year 2020. Pursuant to the requirements in AB 32, the ARB adopted the Climate Change Scoping Plan (Scoping Plan) in 2008, which outlines actions recommended to obtain that goal. The Scoping Plan provides a range of GHG reduction actions that include direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, market-based mechanisms such as the cap-and-trade program, and an AB 32 implementation fee to fund the program.

The latest CARB Climate Change Scoping Plan (2017) outlines the state's strategy to reduce state's GHG emissions to return to 40 percent below 1990 levels by 2030 pursuant to SB 32. The CARB Scoping Plan is applicable to state agencies and is not directly applicable to cities/counties and individual projects. Nonetheless, the Scoping Plan has been the primary tool that is used to develop performance-based and efficiency-based CEQA criteria and GHG reduction targets for climate action planning efforts.

The 2017 Scoping Plan Update identifies additional GHG reduction measures necessary to achieve the 2030 target. These measures build upon those identified in the First Update to the Climate Change Scoping Plan (2013). Although a number of these measures are currently established as policies and measures, some measures have not yet been formally proposed or adopted. It is expected that these measures or similar actions to reduce GHG emissions would be adopted as required to achieve statewide GHG emissions targets.

As shown in Table 14, the Project is consistent with most of the strategies, while others are not applicable to the Project.

Table 14: Project Consistency with Applicable CARB Scoping Plan Measures

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
Transportation	California Cap-and-Trade Program Linked to Western Climate Initiative	Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism October 20, 2015 (CCR 95800)	Consistent. The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers. However, the regulation indirectly affects people who use the products and services produced by these industrial sources when increased cost of products or services (such as electricity and fuel) are transferred to the consumers. The Cap-and-Trade Program covers the GHG emissions associated with electricity consumed in California, whether generated in-state or imported. Accordingly, GHG emissions associated with CEQA projects' electricity usage are covered by the Cap-and-Trade Program. The Cap-and-Trade Program also covers fuel suppliers (natural gas and propane fuel providers and transportation fuel providers) to address emissions from such fuels and from combustion of other fossil fuels not directly covered at large sources in the Program's first compliance period.
	California Light-Duty Vehicle Greenhouse Gas Standards	Pavley I 2005 Regulations to Control GHG Emissions from Motor Vehicles	Consistent. This measure applies to all new vehicles starting with model year 2012. The Project would not conflict with its implementation as it would apply to all new passenger vehicles purchased in California. Passenger vehicles, model year 2012 and later, associated with construction and operation of the Project would be required to comply with the Pavley emissions standards.
		2012 LEV III Amendments to the California Greenhouse Gas and Criteria Pollutant Exhaust and Evaporative Emission Standards	Consistent. The LEV III amendments provide reductions from new vehicles sold in California between 2017 and 2025. Passenger vehicles associated with the site would comply with LEV III standards.
	Low Carbon Fuel Standard	2009 readopted in 2015. Regulations to Achieve Greenhouse Gas Emission Reductions Subarticle 7. Low Carbon Fuel Standard CCR 95480	Consistent. This measure applies to transportation fuels utilized by vehicles in California. The Project would not conflict with implementation of this measure. Motor vehicles associated with construction and operation of the Project would utilize low carbon transportation fuels as required under this measure.
	Regional Transportation-Related Greenhouse Gas Targets	SB 375. Cal. Public Resources Code §§	Consistent. The Project would provide infill development in the region that maximizes the use of land in the Downtown Core Area. The Project would have less than significant

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
		21155, 21155.1, 21155.2, 21159.28	impacts to GHG emissions and is consistent with the growth projections in the Downtown Strategy 2040.
	Goods Movement	Goods Movement Action Plan January 2007	Not applicable. The Project does not propose any changes to maritime, rail, or intermodal facilities or forms of transportation.
	Medium/Heavy-Duty Vehicle	2010 Amendments to the Truck and Bus Regulation, the Drayage Truck Regulation and the Tractor-Trailer Greenhouse Gas Regulation	Consistent. This measure applies to medium and heavy-duty vehicles that operate in the state. The Project would not conflict with implementation of this measure. Medium and heavy-duty vehicles associated with construction and operation of the Project would be required to comply with the requirements of this regulation.
	High Speed Rail	Funded under SB 862	Not applicable. This is a statewide measure that cannot be implemented by a Project Applicant or Lead Agency.
Electricity and Natural Gas	Energy Efficiency	Title 20 Appliance Efficiency Regulation	Consistent. The Project would not conflict with implementation of this measure. The Project would comply with the latest energy efficiency standards including the City's Council Policy 6-32 and the City's Green Building Ordinance.
		Title 24 Part 6 Energy Efficiency Standards for Residential and Non-Residential Building	
		Title 24 Part 11 California Green Building Code Standards	
	Renewable Portfolio Standard/Renewable Electricity Standard.	2010 Regulation to Implement the Renewable Electricity Standard (33% 2020)	Consistent. The Project would obtain electricity from the electric utility, PG&E. PG&E obtained 33 percent of its power supply from renewable sources in 2018. Therefore, the utility would provide power when needed on site that is composed of a greater percentage of renewable sources.
		SB 350 Clean Energy and Pollution Reduction Act of 2015 (50% 2030)	
	Million Solar Roofs Program	Tax incentive program	Not Applicable. This measure is to increase solar throughout California, which is being done by various electricity providers and existing solar programs. The Project includes two towers and would not include solar on the building.
Water	Water	Title 24 Part 11 California Green Building Code Standards	Consistent. The Project would comply with the California Green Building Standards Code, which requires a 20 percent reduction in indoor water use. Additionally, the Project would also comply with the City's Water-
		SBX 7-7—The Water Conservation Act of 2009	

Scoping Plan Sector	Scoping Plan Measure	Implementing Regulations	Project Consistency
		Model Water Efficient Landscape Ordinance	Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code).
Green Buildings	Green Building Strategy	Title 24 Part 11 California Green Building Code Standards	Consistent. The State goal is to increase the use of green building practices. The Project would implement required green building strategies through existing regulation that requires the Project to comply with various CALGreen requirements and the City's Green Building Ordinance.
Industry	Industrial Emissions	2010 CARB Mandatory Reporting Regulation	Not applicable. The Project does not include industrial land uses.
Recycling and Waste Management	Recycling and Waste	Title 24 Part 11 California Green Building Code Standards	Consistent. The Project would not conflict with implementation of these measures. The Project is required to achieve the recycling mandates via compliance with the CALGreen code.
		AB 341 Statewide 75 Percent Diversion Goal	
Forests	Sustainable Forests	Cap and Trade Offset Projects	Not applicable. The Project site is an existing residential community located in an urban area. No forested lands exist on-site.
High Global Warming Potential	High Global Warming Potential Gases	CARB Refrigerant Management Program CCR 95380	Not applicable. The regulations are applicable to refrigerants used by large air conditioning systems and large commercial and industrial refrigerators and cold storage system. The Project is not expected to use large systems subject to the refrigerant management regulations adopted by CARB.
Agriculture	Agriculture	Cap and Trade Offset Projects for Livestock and Rice Cultivation	Not applicable. The Project site is an infill site. No grazing, feedlot or other agricultural activities that generate manure currently exist on-site or are proposed to be implemented by the Project.
Source: California Air Resources Board (CARB), <i>California's 2017 Climate Change Scoping Plan</i> , 2017b and CARB, <i>Climate Change Scoping Plan</i> , December 2008.			

As noted above, the Project would emit approximately 7,760 MTCO₂e per year, directly from on-site activities and indirectly from off-site motor vehicles. Also, as demonstrated in Table 14, the Project would not conflict with the CARB Scoping Plan. GHG emissions caused by long-term operation of the proposed would be less than significant.

The Project would require a number of the City's Permit Standard Conditions be enforced for construction. For example, construction measures include enforcing idling time restrictions on construction vehicles, requiring construction vehicles to operate Tier 4 engines or equivalent, use of added exhaust muffling and filtering devices, replant vegetation in disturbed areas as quickly as possible, and posting a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints. As indicated above, GHG reductions are also achieved as a result of State of California energy and water

efficiency requirements for new non-residential developments. These efficiency improvements correspond to reductions in secondary GHG emissions. For example, in California, most of the electricity that powers homes is derived from natural gas combustion. Therefore, compliance with Title 24 is energy saving measure that reduces GHG emissions from the power generation facilities by reducing load demand.

The Project would be required to comply with existing regulations, including applicable measures from the City's General Plan, or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards). As such, the Project would not conflict with any other state-level regulations pertaining to GHGs. As demonstrated in Table 14 above, the Project would not conflict with the CARB Scoping Plan. GHG emissions caused by long-term operation of the Project would be less than cumulatively considerable.

Plan Bay Area

The Project would be consistent with the overall goals of Plan Bay Area 2040 to provide healthy and safe communities and climate protection with an overall goal to reduce VMT. The General Plan Amendment would facilitate the development of the site with an office and commercial uses, consistent with the provisions of the San José Zoning Code. Accordingly, an office and retail project would reduce VMT thereby achieving consistency with Plan Bay Area 2040. The Project would reduce VMT by locating a high intensity office development in a transit rich area of downtown San José. This location, combined with the City's excess housing relative to jobs, reduces VMT otherwise associated with work trips to more remote employment centers. Thus, implementation of the Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, and this impact would be less than significant. Therefore, the proposed Project would result in no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR, and no new or additional mitigation is required.

4.9 Hazards and Hazardous Materials

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

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
	risk of loss, injury or death involving wildland fires?					

The following discussion is based on the information contained within the Phase I Environmental Site Assessment (ESA) in January 2020. The Phase I results are provided in Appendix H of the SEIR.

Applicable Plans, Policies, and Regulations

Hazardous waste generators and users in the City are required to comply with regulations enforced by several federal, state, and county agencies. The regulations are designed to reduce the risk associated with human exposure to hazardous materials and minimize adverse environmental effects. The San José Fire Department coordinates with the Santa Clara County Hazardous Materials Compliance Division to implement the Santa Clara County Hazardous Materials Management Plan and to ensure that commercial and residential activities involving classified hazardous substances are properly handled.

Government Code Section 65962.5 (Cortese List)

The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the state, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. Government Code Section 65962.5 requires the California Environmental Protection Agency (Cal/EPA) to develop at least annually an updated Cortese List. The Cortese List includes lists maintained by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).

California Department of Forestry and Fire Protection (CAL FIRE)

The California Department of Forestry and Fire Protection (CAL FIRE) has mapped fire threat potential throughout California. CAL FIRE ranks fire threats based on the availability of fuel and the likelihood of an area burning (based on topography, fire history, and climate). The rankings include no fire threat, moderate, high, and very high fire threats.

Federal Aviation Regulations Part 77 Federal Aviation Regulations, Part 77

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

Comprehensive Land Use Plan

In accordance with the California State Aeronautics Act, the Santa Clara County ALUC adopted a Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San José International Airport. The CLUP

establishes provisions for the regulation of land use, safety, and noise within the airport's Airport Influence Area (AIA) to minimize the public's exposure to safety hazards and excessive noise. All areas within the AIA should be regarded as potentially subject to aircraft over-flights and are subject to land use compatibility policies in the CLUP. 108 The CLUP also establishes a Height Restriction Area, based on the FAA Part 77 imaginary surfaces and safety zones with appropriate land use types and density limitations for each zone. The ALUC determined that the 2040 General Plan is consistent with the CLUP.

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following hazardous material policies applicable to the Project:

- Policy EC-6.2: Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities
- Policy EC-6.4: Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
- Policy EC-6.5: The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
- Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
- Policy EC-6.7: Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
- Action EC-6.8: The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
- Action EC-6.9: Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by September 2011. The City will only approve new development with sensitive populations near sites containing

hazardous materials such as toxic gases when feasible mitigation is included in the projects.

- Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
- Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
- Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.
- Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
- Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.
- Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
- Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
- Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
- Policy TR-14.1: Foster compatible land uses within the identified Airport Influence Area overlays for Mineta San José International and Reid-Hillview airports.

- Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
- Policy TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and ReidHillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
- Policy TR-14.4: Require avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Existing Setting

The Proposed Project site is located within an urbanized area of Downtown San José surrounded by residential and commercial uses. The 3.08-acre Project site is currently occupied by 17 single-family residences. According to the Phase I Investigation, the Site has been occupied with single-family residential housing and garages since the 1950’s. According to Sanborn Fire Insurance maps (Sanborn Maps) shown in Appendix H, prior uses in the vicinity of the Project site include San José Soap Works, which was located east of the Project site from sometime prior to 1884 until the 1950’s, and an automotive body and paint shop which was identified at the southeast corner of Balbach Street and Vine Street in the 1950’s, but is no longer present. San José

In the 1950 and 1956 Sanborn Maps reviewed as a part of the Phase I ESA, a machine shop is located to the west of 315 Reed Street and in the 1966 Sanborn Map. The machine shop is now a Sculpture Manufacturing use. This building was along the bank of the Guadalupe Creek. As shown in later aerial photographs, it appears that this area was demolished to make room for the Highway 280 and off- ramps to Highway 87. Further, Locust Street was shortened between the years of 1968 to 1974 and reconfigured as a Cul-de-Sac. The former 315 Reed Street property (which contained the machine shop) was located south of the Project site and is not part of the Project site.

The Phase I ESA found no surface water present at the Project site and no reported wells on-site or in the immediate vicinity and concluded that there is no evidence of a recognized environmental condition (REC) in connection with the Project site.

On-Site Sources of Contamination

A records search of the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board’s Geotracker database, and Department of Toxic Substances Control’s Envirostor database found no records of the Project site pertaining to underground storage tanks (USTs), toxic releases, or site cleanup requirements.

Off-Site Sources of Contamination

The nearest Leaking Underground Storage Tank (LUST) cleanup site located at 488 Almaden Avenue is approximately 397 feet northeast of the Project site. This site currently operates as an office tower

occupied by Price Waterhouse Coopers. The potential contaminant and of concern on this site was diesel and potential media of concern was soil. The UST removal and soil sampling was completed in September 2000. The case has been closed as of February 2001.

Airports

The Norman Y. Mineta San José International Airport is located approximately 2.3 miles north of the Project site. Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace” (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport’s runways or which would otherwise stand at least 200 feet in height above ground. For the Project site, any structure exceeding 85 feet in height above ground would require submittal to the FAA for airspace safety review.

Wildland Fire Hazards

The downtown Project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires.²⁷

Discussion

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

Same Impact as Approved Project, Less Than Significant. The proposed Project site is currently built up and occupied by existing residential units. The proposed Project would be an office and retail development. The proposed facility would be expected to use limited hazardous materials and substances which would be limited to cleaners, paints, solvents; fertilizers and pesticides for site landscaping. Operations of the office and retail uses would include the use and storage of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies, solvents, paints, and fertilizers that would be transported, used, and stored onsite would not generate substantial hazardous emissions or chemical releases that would affect surrounding uses. All materials and substances would be subject to applicable health and safety requirements. Compliance with applicable federal, local, and state requirements would ensure no significant hazards to the public or the environment are created through the transport, use, or disposal of hazardous material. 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.

- b) *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

Same Impact as Approved Project, Less Than Significant. The proposed Project is not anticipated to result in a release of hazardous materials into the environment. The proposed Project would be expected to use limited hazardous materials and substances which would be limited to cleaners, paints, solvents, and fertilizers and pesticides for landscaping. All materials and substances would be subject to applicable health and safety requirements. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling shall be conducted prior to the demolition of on-site buildings

²⁷ California Department of Forestry and Fire Protection. FHSZ Viewer. Available at <https://egis.fire.ca.gov/FHSZ/>. Accessed September 5, 2019.

to determine the presence of asbestos-containing materials and/or lead-based paint. The Project proposes to implement the following Standard Permit Conditions to reduce impacts to a less than significant level:

Standard Permit Conditions

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

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

Same Impact as Approved Project, Less Than Significant. The closest school, Notre Dame High School, is located approximately 0.3 miles east of the Project site on 569 S. 2nd Street. As discussed above, the office development would be expected to use limited hazardous materials and substances. However, these materials comprise standard construction materials; the materials would be handled more than one-quarter mile (0.25 mi) from the closest school; and would be transported, used, and stored subject to applicable health and safety requirements. Further, the project would not be expected to emit or handle acutely hazardous materials. 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.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Same Impact as Approved Project, Less Than Significant. The proposed Project site is not listed on any applicable regulatory agencies databases. No records of the Project site were found pertaining to UST's, toxic releases, or site clean-up requirements. 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. The nearest Leaking Underground Storage Tank (LUST) cleanup site located at 488 Almaden Avenue is approximately 397 feet northeast of the Project site but has been remediated. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be less than significant, and no new or additional mitigation is required.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

Same Impact as Approved Project, Less Than Significant. The Project site is located approximately 2.3 miles south of Mineta San José International Airport, the closest major airport. The Project site is located approximately 3.8 miles west of the Reid Hillview Airport, the closest minor airport. The Project site is located within the Airport Influence Area (AIA) defined by the Santa Clara County Airport Land Use Commission's San José International Airport Comprehensive Land Use Plan (CLUP). The Project site is not located within any of the CLUP Safety Zones.

While the project site is not located within a CLUP-defined Safety Zone, the project is, however, located within the Norman Y. Mineta San José International AIA which is a composite of the areas surrounding the airport that are affected by noise, height, and safety considerations. The project would be required to follow all applicable General Plan policies (including General Plan Policies TR-14.2 and TR-14.3), regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport. Additionally, the project would be subject to the following Standard Permit Condition.

Pursuant to federal regulations (FAR Part 77), the proposed 297-foot high building must be submitted to the FAA for airspace safety review and issued a "Determination of No Hazard" prior to City development permit approval, with any conditions set forth by the FAA incorporated into the City permit as a required condition of approval. Compliance with FAR Part 77 and the following standard City permit conditions will ensure that the Project would not adversely impact airspace safety: Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be less than significant, and no new or additional mitigation is required.

Standard Permit Condition:

- **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot. 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.

Implementation of the Standard Permit Condition above would ensure that the project does not result in a safety hazard or excessive noise exposure due to activities of the Norman Y. Mineta San José International Airport. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur. Impacts would be less than significant, and no new or additional mitigation is required.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

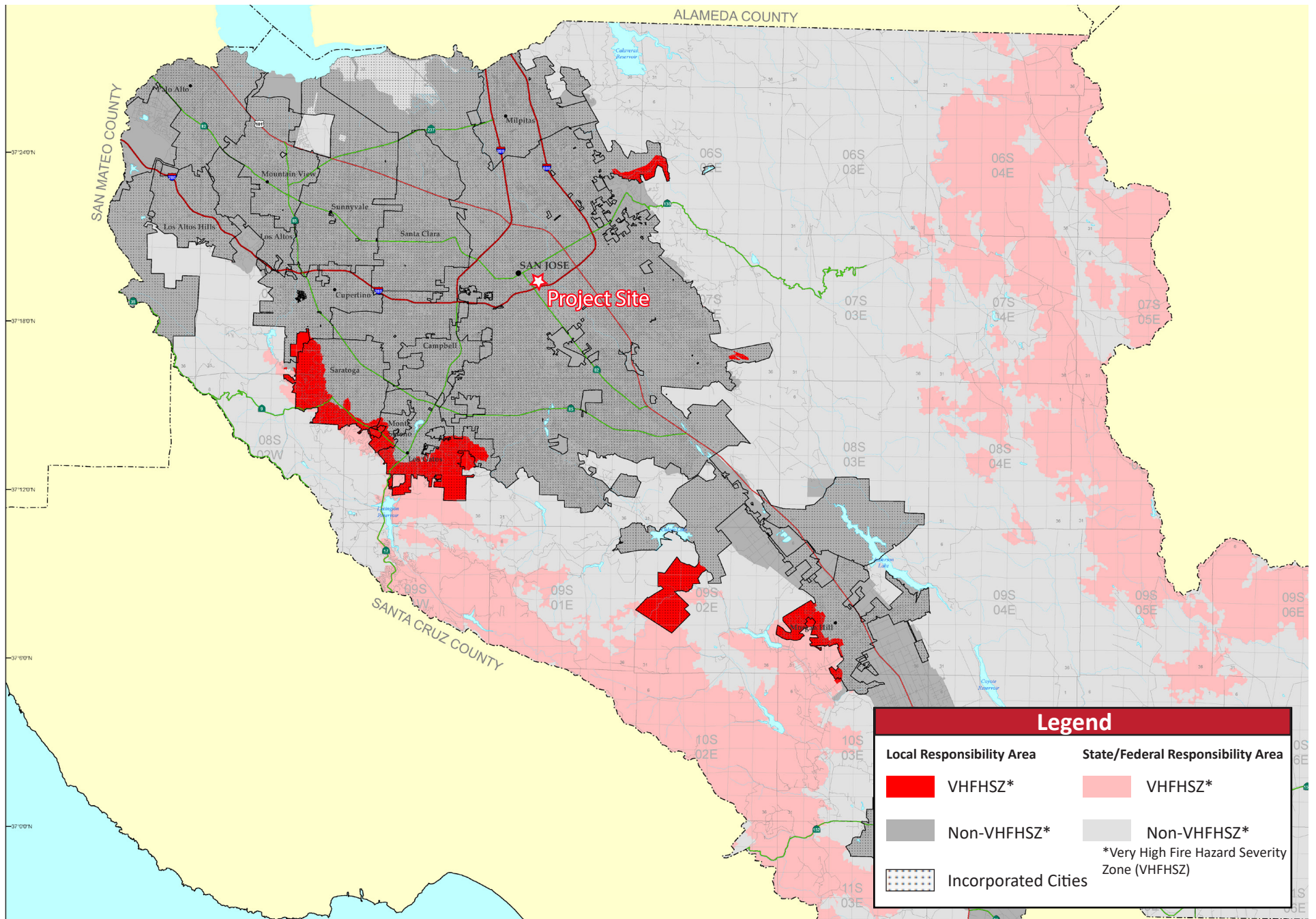
Same Impact as Approved Project, Less Than Significant. Implementation of the Project would not impair or physically interfere with an adopted emergency response or evacuation plan. The City of San José Emergency Operations Plan (EOP) was prepared by the City describing the City's response to emergency situations associated with natural disasters, technological incidents and nuclear defense operations. The EOP outlines the overall organizational and operational concepts in relation to response and recovery and includes the roles and responsibilities of the various committees and agencies during an emergency; and the activation and execution procedures of the emergency response system.

Compliance with the EOP, would ensure that implementation of the Project would result in a less-than-significant impact with respect to interference with an adopted emergency response plan or emergency evacuation plan. No revisions to the EOP would be required as a result of the proposed Project. Primary access to all major roads would be maintained during construction of the proposed Project. 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.

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

Same Impact as Approved Project, Less Than Significant. CAL FIRE identifies Fire Hazard Severity Zones (FHSZ) and designates State of Local Responsibility Areas within the state of California. New developments located in 'Very High' Fire Hazard Severity Zones are required to comply with exterior wildfire design and construction codes as well as vegetation clearance and other wildland fire safety practices for structures. The Project is zoned as a "Non-Very High Fire Hazard Safety Zone" on the Very High Hazard Severity Zones in Local Responsibility Area (LRA) Map dated October 2008 and "LRA Incorporated" on the Fire Hazard Severity Zones in LRA Map dated October 2007, as shown in Figure 16.

The City's General Plan EIR contains development Wildland and Urban Fire policies specific to development within "Very High" hazard zones or near urban/wildlife interfaces. The proposed Project is not located in a "Very High" zone and would not conflict with the wildland fire hazard policies identified in the General Plan EIR, as shown in Figure 17. The Project site is located in the Downtown area and it is not a wildland interface area or directly adjacent to a wildland interface area; however, exposure of people or structures to a significant risk of loss, injury or death involving wildland fires could occur, though the risk, given the Project location and corresponding FHSZ and General Plan hazard zones, is very low. 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.



Source: CAL FIRE Hazard Severity Zones, 2008

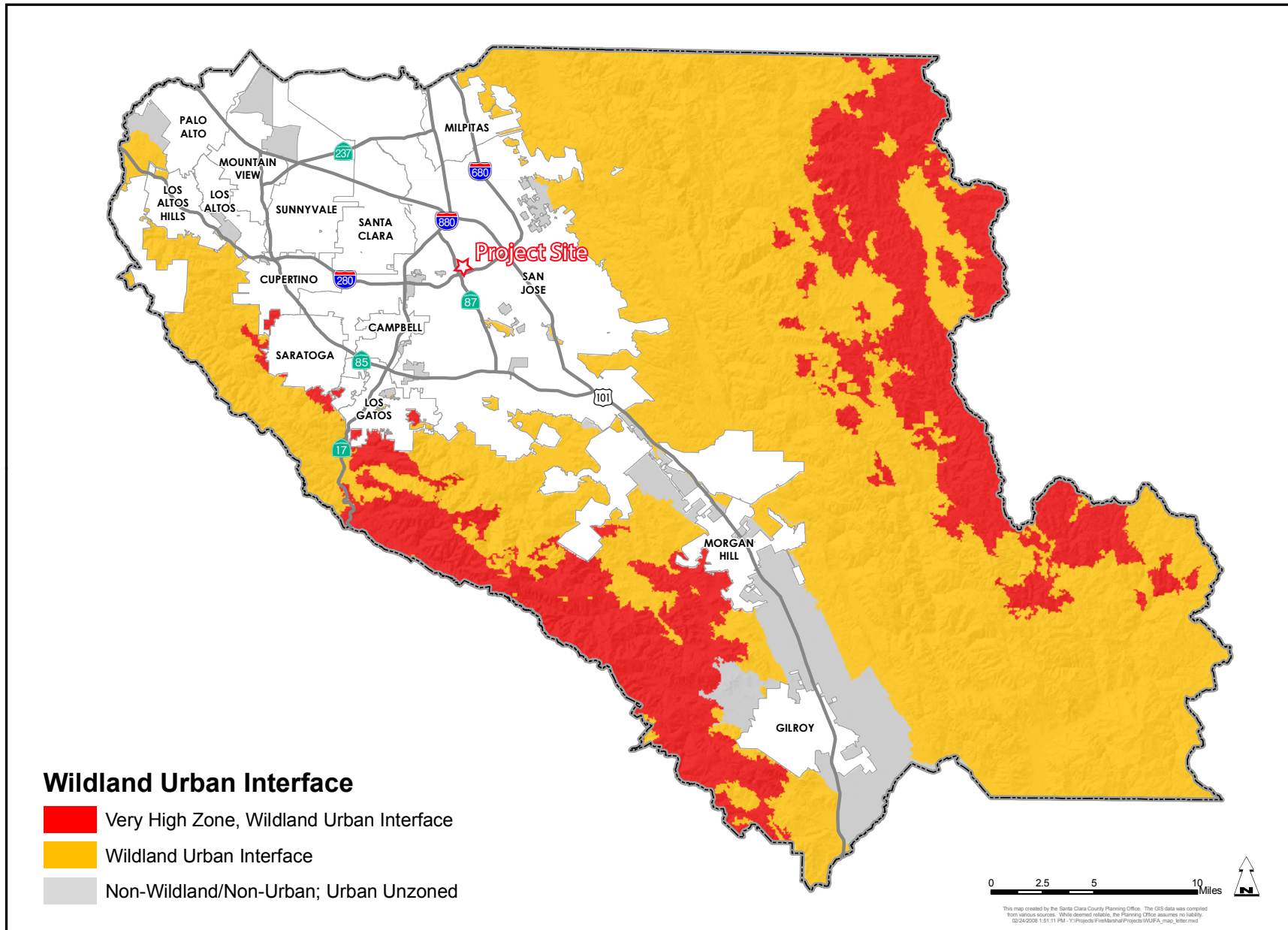
Figure 16: Fire Hazard Severity Zone Map

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Source: County of Santa Clara Department of Planning and Development, 2009

Figure 17: Santa Clara County Wildland Urban Interface Fire Area

Woz Way Project



Not to scale

4.10 Hydrology and Water Quality

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?					X	
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?					X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:					X	
i. Result in substantial erosion or siltation on- or off-site?					X	
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?					X	
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?					X	
iv. Impede or redirect flows?						
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?					X	

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?					X	

Applicable Plans, Policies, and Regulations

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).

National Flood Insurance Program

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

Statewide Construction General Permit

The SWRCB has implemented a NPDES Construction General Permit (CGP) for the state. Projects disturbing one acre or more of soil must obtain permit coverage under the CGP by filing a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the SWRCB prior to commencement of construction. The CGP, which became effective July 1, 2010, includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring. The Project disturbs less than one acre of soil and, therefore, would not require permit coverage under the CGP.

City of San José Grading Ordinance

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

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008]. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide stormwater permits with a regional permit for 77 Bay Area municipalities including the City of San José. Under the provisions of the MRP, redevelopment projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment.

The MRP allows certain types of smart growth, high density, and transit-oriented development to use alternative means of treatment depending on specific criteria. Qualifying projects may apply for reduction credits based on location and density criteria that allow non-LID treatment for a portion of the project's runoff, but only after the applicant demonstrates why LID is infeasible for the Project. The LID reduction credits are intended to allow Smart Growth projects greater flexibility in meeting stormwater treatment requirements, based on the inherent environmental benefits of Smart Growth and potential technical challenges of implementing LID treatment exclusively on high-density sites in urban areas.

Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post-Construction Hydromodification Management

The MRP mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control, and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

The City of San José's Post-Construction Urban Runoff Management Policy (Council Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 6-29 requires all new development and redevelopment project to implement post-construction BMPs and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects. Development projects that create and/or replace one acre or more of impervious surface and are located in a sub-watershed or catchment that is less than 65 percent impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations. The Project is 0.42 acres in size. Therefore, the Project will not be required to comply with the hydromodification requirements of Council Policy 8-14.

The City's General Plan includes the following water quality policies applicable to the proposed Project:

- Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.
- Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- Policy ER-9.5: Protect groundwater recharge areas, particularly creeks and riparian corridors.
- Policy ER-9.6: Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
- Policy EC-5.1: The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
- Policy EC-5.7: Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
- Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from Project sites.
- Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
- Policy IN-1.1: Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.

Policy IN-3.4: Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:

- Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
- Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems.
- Ensure adequate funding and timely completion of the most critically needed sewer capacity projects.
- Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.

Policy IN-3.7: Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties

Policy IN-3.8: In designing improvements to creeks and rivers, protect adjacent properties from flooding consistent with the best available information and standards from the Federal Emergency Management Agency (FEMA) and the California Department of Water Resources (DWR). Incorporate restoration of natural habitat into improvements where feasible.

Policy IN-3.9: Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

Existing Setting

Storm Drainage

The proposed Project is located in an urban area with connection to City water and sewer. Stormwater runoff from the Project site and surrounding area is collected by storm drains and discharged into the Guadalupe River.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. The Guadalupe River is located to the immediate west of the Project site. Runoff from the site discharge to the Guadalupe River, ultimately flows into the San Francisco Bay. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals.

Flood Zone

The Flood Insurance Rate Map shows the Project site to be in Zone X²⁸, an area of minimal flood hazard. Zone X is an area outside the 100-year flood plain. There are no City floodplain requirements for Flood Zone X.

Dams

The Project site is located within the Anderson Dam at Anderson Reservoir and Lenihan Dam at Lexington reservoir fair weather dam failure inundation hazard zones.^{29 30} The San José Downtown Strategy 2040 FEIR details several regulatory inspection programs and local hazard planning mitigation planning applicable to the Project site that would prevent this Project from exposing people or structures to significant risk as a result of dam failure inundation.

Groundwater

According to the Phase I ESA, groundwater beneath the site is estimated to be between 10 and 15 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Same Impact as Approved Project, Less Than Significant. The proposed Project would be required to comply with the C.3 Provision “New Development and Redevelopment” of the Municipal Regional Stormwater Permit (MRP) (NPDES Permit No. CAS612008) which aims to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address soluble and insoluble runoff pollutant discharges and prevent increases in runoff from projects. The provision requires regulated projects to include LID practices, such as pollutant source control and measures and stormwater treatment features aimed to maintain or restore the site’s natural hydrological functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

Standard Permit Conditions would be required to be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include the following:

Standard Permit Conditions:

- Install burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains
- Suspend earthmoving or other dust-producing activities during periods of high winds
- Water all exposed or disturbed soil surfaces at least twice daily to control dust as necessary
- Water or cover stockpiles of soil or other materials that can be blown by the wind

²⁸ Federal Emergency Management Agency, FEMA Flood Map Service Center. Available at <https://msc.fema.gov/portal/search#searchresultsanchor>. Accessed on September 5, 2019.

²⁹ Santa Clara Valley Water District. “Anderson Dam Flood Inundation Maps.” Accessed December 18, 2019. <https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>.

³⁰ Santa Clara Valley Water District. “Lexington Dam Flood Inundation Maps.” Accessed December 18, 2019. <https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf>.

- Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks
- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers)
- Replant vegetation in disturbed areas as quickly as possible
- Fill with rock all unpaved entrances to the site to remove mud from tires prior to entering City streets, install a tire wash system if requested by the City
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Therefore, with implementation of the above Standard Permit Conditions, the proposed Project would not result in new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR and no new or additional mitigation is required.

As discussed in Section 4.7, Geology and Soils, the project applicant would be required to prepare and implement a SWPPP for the Project. The SWPPP would include BMPs to be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby bodies of water, including the Guadalupe River. Specific BMPs for the construction phase would be identified during completion of the SWPPP following agency review. However, typical BMPs to be implemented could include the following:

- Stockpiling and disposing of demolition debris, concrete, and soil properly;
- Installation of a stabilized construction entrance/exit and stabilization of disturbed areas;
- Implementing erosion controls;
- Properly managing construction materials;
- Proper protections for fueling and maintenance of equipment and vehicles; and
- Managing waste, aggressively controlling litter, and implementing sediment controls.

During construction, there is the potential for an increase in trash and debris to be deposited on-site. The SWPPP and BMPs would contain trash control measures such as, catch basin inserts, and good housekeeping practices such as sweeping and the use of trash bins.

Further, the Downtown Strategy 2040 identifies the following measures related to construction dewatering, which would ensure any water quality effects from dewatering are less than significant.

Required Downtown Strategy 2040 FEIR Measures:

Construction General Permit Requirements. Prior to initiating grading activities, the project applicant will file a Notice of Intent (NOI) with the SWRCB and prepare a SWPPP prior to commencement of construction. The project's SWPPP shall include measures for soil stabilization, sediment and erosion control, non-stormwater management, and waste management to be implemented during all demolition, site excavation, grading, and construction activities. All measures shall be included in the project's SWPPP and printed on all construction documents, contracts, and project plans. The following construction BMPs may be included in the SWPPP:

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

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

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

Dewatering. The proposed Project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.³¹

While the Project site is developed with existing residential uses and roadway, the Project would result in additional impervious surface area as compared to existing conditions. This would result in increased potential for stormwater runoff.

The City has developed policies that implement Provisions C.3, consistent with the Municipal Regional Permit. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

³¹ This measure is identified in the Downtown Strategy 2000 EIR

The Project qualifies for 100 percent LID treatment reduction credits under the Special Projects provisions for small infill development. Special Projects are smart growth projects (e.g., small urban infill, high density, or transit-oriented development) that can receive LID treatment reduction credits and use specific types of non-LID treatment, but only after the use of on-site and off-site LID treatment is evaluated. The Special Projects determination is ultimately subject to the City's review and approval. The Project is Category C – High Density Project. To qualify, the Project must be located in the downtown core area, replace an impervious area greater than 0.5 acres, include no surface parking, have at least 85 percent of the entire Project site covered, and have a Floor Area Ratio of 2:1.

The proposed treatment facility would be numerically sized and would have consistent capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements. The Project would not include surface parking, thereby reducing the potential for pollutants from motor vehicles from entering the storm drainage system. The stormwater treatment measures shall be included in the Erosion Control Plan for the proposed Project. Adherence to these measures would ensure that the proposed Project conforms to Provisions C.3 of the MRP and City Policies 6-29 and 8-14. Therefore, the water quality impact of the proposed Project would be less than significant. 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.

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

Same Impact as Approved Project, Less Than Significant. The Project site is located within the Santa Clara Valley Groundwater Basin which spans from Diablo Mountains in the east, Santa Cruz Mountains in the west, and the San Francisco bay in the north.

However, the Project site is not located within a natural or facility groundwater recharge area. Therefore, the proposed Project would not significantly impact local groundwater recharge. 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.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i. Result in substantial erosion or siltation on- or off-site?

Same Impact as Approved Project, Less Than Significant. The Project site does not include any streams or rivers, which would potentially be altered by the proposed Project. The proposed Project would filter runoff through planters, and discharge to the existing storm drain on Woz Way and the 18-inch storm drain main proposed to be constructed in Almaden Boulevard as a part of the Project. Because the Project site does not include a river or stream and would direct stormwater flows to the storm drain system, impacts resulting in erosion or siltation would be minimized. 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.

- ii. *Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?*

Same Impact as Approved Project, Less Than Significant. The proposed Project is located in the downtown area of San José and would not significantly alter exiting drainage patterns or significantly increase the amount of runoff water because the downtown area is highly urbanized. The project would replace already urbanized uses with a new urban use making future development unlikely to alter the drainage pattern such that substantial flooding or erosions would occur in the receiving water bodies. Furthermore, the proposed Project would convey on-site stormwater flows to pipes designed to have adequate capacity to contain the 10-year rainfall intensity storm. Therefore, no new or more significant impacts that those analyzed in the Downtown Strategy 2040 FEIR would occur and new or additional mitigation is required.

- iii. *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

Same Impact as Approved Project, Less Than Significant. The Downtown Strategy 2040 FEIR concluded that with the proposed changes in land use, buildout of the Downtown Strategy 2040 plan (e.g. development of parks and open spaces) would result in a net decrease in impermeable surfaces. While the Project would result in a net increase of impervious surface area on the Project site, the proposed Project would implement stormwater BMPs that facilitate the infiltration of water into the ground surface, reduce the rate and volume of runoff to the storm drain system, and minimize pollution in runoff.³²

As discussed in the Downtown Strategy 2040 FEIR, and in accordance with 2040 General Plan policies, development projects within the Downtown Strategy 2040 area are required to design and construct storm drain systems meeting the City's 10-year storm event design standard, including specific off-site upgrades to accommodate runoff from individual development sites. The Downtown Strategy 2040 FEIR concluded that the capacity of the storm drain system would be expanded as redevelopment proceeds in the area and consequently, compliance with the MRP and associated City policies would reduce the overall rate and volume of runoff entering the storm drain system from development sites, including the Project site, thereby reducing the potential impact on the storm drainage system. Therefore, the stormwater facilities proposed as a part of the Project, including the 18-inch storm drain main along Almaden Boulevard, would not result in additional impacts beyond those considered in the Downtown Strategy 2040 FEIR. Thus, the proposed Project would not require the construction or expansion of stormwater facilities beyond those that were evaluated in the Downtown Strategy 2040 FEIR.

The proposed Project must comply with the C.3 Provision of the MRP which provides specific design requirements for capacity including volume control design, flow hydraulic design, and combination flow and volume design. As required by the C.3 Provision of the MRP, a Storm Water Management Plan (SWMP) with building plans would be reviewed and approved by the City of San José Public Works Department, Environmental Programs Division.

³² City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

Compliance with the C.3 Provisions MRP would reduce the possible impacts related to the stormwater drainage system to less than significant level. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigations are required.

iv. Impede or redirect flows?

Same Impact as Approved Project, Less Than Significant. The proposed Project would the proposed Project would convey on-site stormwater flows to pipes designed to have adequate capacity to contain the 10-year rainfall intensity storm. Offsite infrastructure improvements would include construction of an 18-inch storm drain main along Almaden Boulevard. Further, the proposed treatment facility would be numerically sized and would have consistent capacity to treat runoff entering the storm drainage system consistent with the NPDES requirements. As discussed above, the proposed Project must comply with the C.3 Provision of the MRP which provides specific design requirements for capacity including volume control design, flow hydraulic design, and combination flow and volume design. As required by the C.3 Provision of the MRP, a SWMP with building plans would be reviewed and approved by the City of San José Public Works Department, Environmental Programs Division. Therefore, compliance with the Project's SWMP would minimize potential impacts related to the impediment or redirection of flows. Therefore, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigations are required.

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

Same Impact as Approved Project, Less Than Significant. The Project site is located in an unstudied area of undetermined flood hazard (Flood Zone X) according to the FEMA Flood Insurance Rate Map (FIRM) for Santa Clara County, California and Incorporated Areas. Flood Zone X is designated as an area of minimal flood hazard. Therefore, the Project site is not within a designated FEMA 100-year floodplain, and there are not City floodplain requirements for Zone X, and there are no city flood plain requirements for Zone X.

In addition, the Project is located outside of the tsunami area mapped by the Association of Bay Area Governments. Furthermore, the City's General Plan concludes that the City of San José would avoid substantial effects from a possible seiche due to the location of salt restoration areas proximate to the San Francisco Bay. These salt ponds would minimize the effects of a potential seiche, limiting the impacts from a seiche within the areas proposed for development within the Downtown Strategy 2040 FEIR, including the Project site. The Project site is relatively flat so the potential for risk release of pollutants due to Project inundation is unlikely. Therefore, due to the geographic location of the Project, minimal impacts are likely to occur due to flood hazard, tsunami, or seiche zones. Thus, a less than significant impact would occur and no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or addition mitigation is required.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Same Impact as Approved Project, Less Than Significant. Water quality impacts other than those described in response 5.9(a) above are not anticipated with implementation of the proposed Project. The Project is over one acre and therefore is required to obtain an NPDES General Permit for Construction activities and would be required to design and install Low Impact Development (LID) controls to treat

post-construction stormwater runoff from the Project site. The construction of the proposed Project would also be required to comply with Santa Clara County's water quality guidelines and the City's Grading Ordinance or water quality guidelines to protect water quality through the use of erosion and sediment controls. With the compliance of the NPDES General Permit for Construction and with Santa Clara County's water quality guidelines and the city's Grading Ordinance or water quality guidelines to protect water quality the proposed Project would not conflict or obstruct a water quality control plan or a sustainable groundwater management plan. 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.

4.11 Land Use and Planning

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

Applicable Plans, Policies, and Regulations

County of Santa Clara Airport Land Use Commission and Comprehensive Land Use Plan

The Santa Clara County Airport Land Use Commission (ALUC), under State of California mandate¹³⁴, has adopted a Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San José International Airport. The CLUP contains policies applicable to new development or redevelopment of existing land uses within the Airport Influence Area (AIA). These policies address compatibility between airports and future nearby land uses by focusing on noise, over-flight safety, and airspace protection concerns for the airport over a 20-year horizon. Noise contours indicate general areas of likely community response to noise generated by aircraft activity and serve as the basis for land use compatibility determinations. Airport safety zones are established to minimize the number of people exposed to potential aircraft accidents in the vicinity of an airport by imposing density and use limitations within these zones. The CLUP also establishes a Height Restriction Area, based on federal regulations.

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 land use and applicable to the Project.

Policy LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing

the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

Policy LU-1.9: Preserve existing Public/Quasi-Public lands in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use.

Policy LU-2.2: Include within the Envision General Plan Land Use / Transportation Diagram significant job and housing growth capacity within the following identified Growth Areas:

Downtown – The City's Downtown Strategy plans for ambitious job and housing growth capacity in the Downtown area to reinforce its role as San José's civic, cultural and symbolic center and to support key infrastructure investments, including the planned BART and High-Speed Rail systems.

Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, Public/Quasi-Public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.

Policy LU-3.4: Facilitate development of retail and service establishments in Downtown and support regional- and local-serving businesses to further primary objectives of this Plan.

Policy LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize impacts of parking upon a vibrant pedestrian and transit-oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

The Envision San José 2040 General Plan includes 12 major strategies. Major Strategy #9 – Destination Downtown is specific to land use and applicable to the Project. Major Strategy #9 calls for the support of continued growth in the Downtown to support the Plan's urban design/placemaking goals. Downtown is defined as:

- A vibrant urban center for living, working, entertaining
- The only location in the South Bay that actively promotes high-rise development
- A distinctive work environment for large and small companies
- Center to the City's arts, entertainment, culinary and sporting activities
- An eclectic mix of historic architecture side by side to award-winning contemporary urban design

The Plan's policies support how Downtown is a unique urban destination, a cultural center for Silicon Valley, and a growing employment and residential center.

Downtown Strategy 2040 Plan

The Downtown Strategy 2040 was approved by City Council on December 18, 2018. Downtown Strategy 2040 provides a long-range conceptual program for revitalizing Downtown through higher density infill development. Downtown Strategy 2040 covers the Downtown Core, which is generally bounded by Taylor Street and Coleman Avenue to the north, Fourth Street to the east, I-280 to the south, and Stockton Avenue and the railroad tracks to the west. The “Guiding Principles” of Strategy 2040 are to:

- Make the Greater Downtown a memorable urban place to live, work, shop and play;
- Promote the identity of Downtown San José as the Capital of Silicon Valley;
- Create a walkable, pedestrian-friendly Greater Downtown; and
- Promote and prioritize development that serves the needs of the entire City and Valley.

As part of the Downtown Strategy 2040 process, the City prepared and adopted several planning documents to guide redevelopment and improvements in the Downtown Core, including Downtown Design Guidelines (2004), Downtown Signage Master Plan (2002), Downtown Streetscape Master Plan (2003), Downtown Lighting Master Plan (2003), and Downtown Parking Management Plan (2001, 2007).

The Downtown Strategy 2040 also adopted several policies from the 2040 General Plan for the purpose of avoiding or mitigating land use impacts, specifically those related to airports. The following policies are specific to land use around airports and applicable to the Project.

- Policy TR-14.1: Foster compatible land uses within the identified Airport Influence Area overlays for Mineta San José International and Reid-Hillview airports.
- Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
- Policy TR-14.3: For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
- Policy TR-14.4: Require aviation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Existing Setting

The Project site is located in an urban area with a mix of uses including commercial, office, and residential uses. The 3.08-acre Project site is currently occupied by 17 single-family residences. The Project site is in an area of transitional land uses from a surface parking lot to the north, single-story single-family homes and commercial uses to the east, I-280 to the south, and Guadalupe River Park to the immediate west. The Guadalupe River Trail and river are located along the western boundary of the Project site.

Existing General Plan Land Use Designation and Zoning District

The Project site is designated as Public/Quasi-Public by the General Plan and is located within the boundaries of Downtown San José.

The Project site is zoned Downtown Primary Commercial (DC). The Downtown DC Zoning District allows for commercial, office, restaurant, and residential uses within the zoning district.

Discussion

a) Physically divide an established community?

Same Impact as Approved Project, Less Than Significant. An example of a project that has the potential to divide an established community includes the construction of a new freeway or highway through an established neighborhood. The proposed Project would demolish 16 of the 17 existing residential units, located on the Project site and result in the construction of the 20-story office towers. Although, the proposed Project would result in the removal of 16 single-family homes, the remaining single-family home would maintain connections to the roadway network and would not be divided from the rest of the surrounding land uses. Further, while the GPA would allow for the remaining single-family home to be developed consistent with the Downtown (DT) land use designation in the future, any such development would not divide an established community because the surrounding Project site would be developed with an office project. This impact would be the same impact as the approved project, less than significant. 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.

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

Same Impact as Approved Project, Less Than Significant. Implementation of the proposed Project would require a GPA, which would change the land use designation from Public/Quasi-Public to the Downtown (DT) land use designation for the 3.08-acre total Project site, which includes all 18 parcels. The Downtown (DT) General Plan land use designation allows a FAR of up to 30 for non-residential use and heights up to 30 stories (maximum height of 289.50 feet). The Project has a FAR of 10.4 and is a total of 20-stories (maximum height of 297 feet). Consistent with the requirements for projects with the Downtown land use designation, the Project would include ground floor retail, provide a strong pedestrian environment on the ground floors, and includes quality architectural design as the Project is subject to the City's Site Development Review process. Additionally, changing the Project's land use designation would not constitute a spot designation because the Downtown (DT) designation is consistent with sites along the Project's northern and eastern property lines. Therefore, the proposed Project would comply with the proposed General Plan Downtown (DT) land use designation.

The Project site is located within the "Airport Influence Area" defined by the Santa Clara County Airport Land Use Commission's San José International Airport Comprehensive Land Use Plan (CLUP). However, the Project site is not located in any of the CLUP safety zones. In compliance with General Plan policies TR-14.1 through TR-14.4, the Project has been referred to the ALUC for a CLUP consistency determination with CLUP policies related to land use, height, safety, and noise policies identified in the CLUP.

The Project site is located within the SCVHP study area and would be subject to all applicable Habitat Plan fees. The Project would observe a 35-foot development-free riparian setback as is the minimum setback

allowed, with an exception, by the SCVHP.³³ The Project would comply with all required measures of the SCVHP and the HCP policies identified in the Downtown Strategy 2040 FEIR. The proposed Project is subject to the City's Tree Ordinance, which would require that a permit is obtained for the removal of any tree covered under the 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 which would ensure that the Project is designed in a manner that promotes the preservation of the Guadalupe River. As part of the Project's entitlement review, the Project would be required to conform to the City's grading requirements, which require that the Project site be graded properly and include properly designed storm drainage systems that would drain properly, minimizing erosion and impacts to adjacent properties, including the Guadalupe River. Further, adherence to City policies 6-29 and 8-14 would reduce impacts to water quality of the Guadalupe River because compliance with these policies would include the implementation of post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) that would ensure that the Project minimizes and properly treats stormwater runoff.

The General Plan contains specific land use and design policies to shape the character of the City, as well as to create consistency in some urban design guidelines. This is intended to achieve better performance standards in land use applications and land use compatibility, in addition to improved quality of life standards such as walkable communities, energy efficient buildings, recreation, and conservation of the City's natural resources. The Project is generally consistent with the applicable land use policies regarding architectural and site design guidelines; the provision of ground floor retail, pedestrian and bicycle facilities; energy efficiency; habitat conservation; transportation; and compatibility with existing development and future development plans for the area. The General Plan policies identified as applicable to the Project are listed below in Table 15: General Plan Consistency Analysis.

Table 15: General Plan Consistency Analysis

General Plan Policy	Project Consistency
Policy CD-1.1: Require the highest standard of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land use.	The Project would comply with applicable City Design Guidelines. The Project design is reviewed by City staff as part of the planning permit review process. Therefore, the proposed Project is consistent with Policy CD-1.1.
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.	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. The Project proposes a 35-foot setback from the Guadalupe River. The SCVHP provides a framework for allowable exceptions to these

³³ 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. 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.

General Plan Policy	Project Consistency
	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.
Policy LU-1.9: Preserve existing Public/Quasi-Public lands in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use.	The proposed Project would result in the conversion of Public/Quasi-Public designated property and 16 residential units into a two-tower office development, which includes 1,226,600 square feet of office space and 10,107 square feet of retail space. Policy LU-1.9 preserves Public/Quasi-Public land uses. However, it is ultimately a policy decision as to whether the project is consistent with LU-1.9. The City has latitude in making this determination. Further, the policy emphasizes preserving sites suitable for Private Community Gathering Facilities. The subject site is not suitable for a private community gathering facility because it contains residential homes. Therefore, the Project would be consistent with Policy LU-1.9.
Policy LU-2.2: Include within the Envision General Plan Land Use / Transportation Diagram significant job and housing growth capacity within the following identified Growth Areas: Downtown – The City’s Downtown Strategy plans for ambitious job and housing growth capacity in the Downtown area to reinforce its role as San José’s civic, cultural and symbolic center and to support key infrastructure investments, including the planned BART and High-Speed Rail systems.	The proposed Project would include 1,226,600 square feet of office space near transportation services, within the Downtown area. Therefore, the Project is consistent with Policy LU-2.2.
Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, Public/Quasi-Public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.	The proposed Project would include 1,226,600 square feet of office space and 10,107 square feet of retail space within the Downtown area. The Project would result in approximately 4,130 new jobs within the City of San José. The proposed Project also includes pedestrian oriented entrances on Almaden Boulevard and Woz Way. Therefore, the Project is consistent with Policy LU-3.1.
Policy LU-3.4: Facilitate development of retail and service establishments in downtown and support regional- and local- serving businesses to further primary objectives of this Plan.	The Project would include 10,107 square feet of ground floor retail, within the downtown core and put new office and housing in proximity to existing retail and services. Therefore, the Project is consistent with Policy LU-3.4.

General Plan Policy	Project Consistency
<p>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.</p>	<p>The Project would demolish 16 structures, including 5 homes found eligible as a Candidate City Landmark District. As discussed in Section 4.5, the Project would have the potential to impact historic resources and is evaluated in the SEIR. The Project would adhere to all applicable design guidelines to create a high-quality design, compatible with the proposed commercial developments surrounding the Project site.</p>
<p>Policy LU-14.2: Give high priority to the preservation of historic structures that contribute to an informal cluster or a Conservation Area; have a special value in the community; are a good fit for preservation within a new project; have a compelling design and/or an important designer; etc.</p>	<p>As discussed in Section 4.5, the Project would have the potential to impact historic resources and is evaluated in the SEIR. The SEIR evaluates Alternatives that might preserve the structures. The Project would demolish 16 structures on-site and would be required to adhere to Mitigation Measure CUL-1, which entails documentation of the Candidate City Landmark District prior to demolition.</p>
<p>Policy LU-14.3: Design new development, alterations, and rehabilitation/remodels in Conservation Areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.</p>	<p>The Project site is not within a designated Conservation Area. Regardless, the Project has been designed to respect the density and scale of the planned surrounding commercial developments, as well as the landscape of the Guadalupe River Park.</p>
<p>Policy LU-14.4: 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.</p>	<p>As discussed in Section 4.5, the Project would have the potential to impact historic resources and is evaluated in the SEIR. The SEIR evaluates Alternatives that might preserve or relocate the structures.</p>

As summarized above, the proposed Project would be generally consistent with applicable land use policies regarding providing architectural and site design, ground floor retail, pedestrian and bicycle facilities, energy efficiency, habitat conservation, transportation, and compatibility with existing development and future development plans for the area.

The Project site is in the DC – Downtown Primary Commercial Zoning District. The district allows for commercial, office, restaurant, and residential uses within zoning designation. According to the zoning designation:

- No setbacks are required;
- Height is subject to FAA regulations and a determination of No Hazard;
- Residential parking is one space per unit, unless a transportation demand management (TDM) plan is submitted (which is included);

- No commercial parking is required, and two off-street loading spaces are required for multi-family buildings over 200 units; and
- The City requires one bicycle parking per four units.

The Project would have a FAR of 10.4 and, as designed, the Project would comply with the DC – Downtown Primary Commercial Zoning District. Through implementation of mitigation measures described in Section 4.4, development would not result in new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR and no new or additional mitigation is required.

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

The Project would construct two 20-story office buildings with ground floor retail at a maximum height of 297 feet. To determine the specific shading of the proposed development on the surrounding land uses, a shade and shadow analysis was completed for the Project. Shade and shadow analyses are typically prepared for March 21, June 21, September 21, and December 21. This provides an analysis of each season as well as the longest and shortest days of the year, covering the full spectrum of possible shade and shadow issues. Consistent with standard practices, Figure 18 provides data for 9:00 a.m., noon, and 3:00 p.m. for March 19, June 20, September 22, and December 21 under existing conditions.

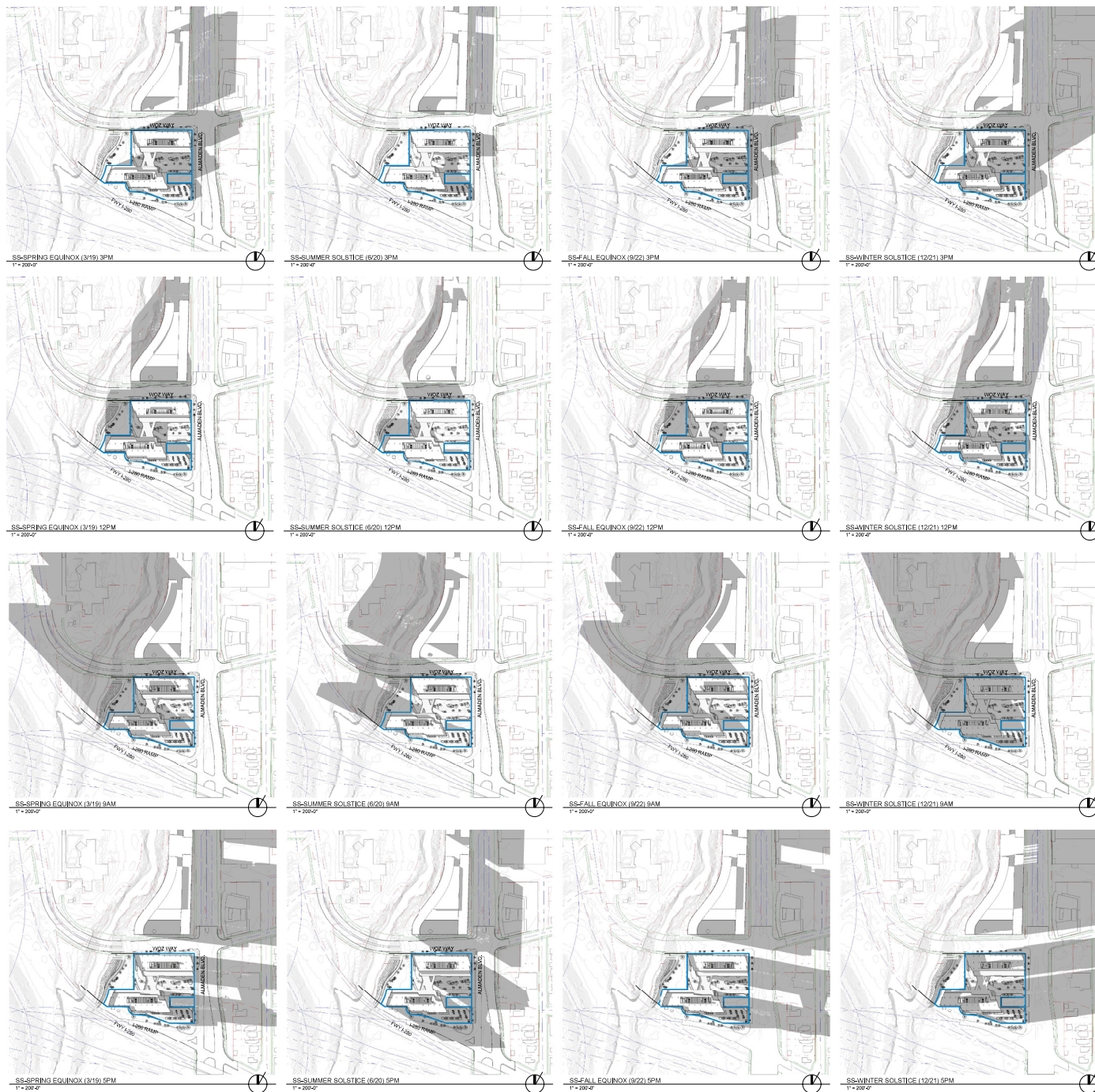
As indicated in the Downtown Strategy 2040 FEIR, the City identifies significant shade and shadow impacts as occurring when a building or other structure located in the downtown area substantially reduces natural sunlight on public open spaces, measured on winter solstice when the sun is lowest in the sky (December 21st); the spring equinox, when day and night are approximately equal in length (March 21st); and summer solstice when the sun is at its highest point in the sky (June 21st). A significant shade and shadow impact would occur if 10 percent or greater shadow would be cast onto any of the six major open space areas in the Downtown San José area (St James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, McEnery Park).

The Guadalupe River Park, which is located adjacent to the proposed Project, is approximately 250 acres.³⁴ As shown in Figure 18 and Figure 19, the largest shadow cast on the Guadalupe River Park by the Project would occur during the winter solstice (December 21) at approximately 9 a.m. Figure 19 shows that on the winter solstice, the shadow cast at 9 a.m. would not exceed the 10 percent threshold.³⁵ 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.

³⁴ City of San José. Facility Directory Table List. . Available at:

<https://www.sanjoseca.gov/Home/Components/FacilityDirectory/FacilityDirectory/2985/>. Accessed November 4, 2020.

³⁵ The shadow cast on December 21 at 9 a.m. would cover approximately 15 acres, which is less than 25 acres (10 percent of the 250-acre Guadalupe River Park). This estimate is conservative and, as shown in Figure 18, includes the Children's Discovery Museum, which is not a part of the Guadalupe River Park.



Source: C2K Architecture, 2020

Figure 18: Shade and Shadow

Woz Way Project



Not to scale

Kimley»Horn
Expect More. Experience Better.



Woz Way Project

4.12 Mineral Resources

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

Applicable Plans, Policies, and Regulations

Surface Mining and Reclamation Act

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

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

Existing Setting

Mineral resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation's mercury over the past century. According to the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by

the Union Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits which are of regional significance as a source of construction aggregate materials. The Project is not located within the Communications Hill area.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

Discussion

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

Same Impact as Approved Project, Less Than Significant. The General Plan identifies the area around Communication Hill as the only area in the City containing mineral deposits of regional significance by the State Mining and Geology Board under SMARA. The proposed Project site is located more than 3 miles north of Communication Hill. The proposed Project is not located in an area known to contain regionally significant mineral resources and would not result in the loss of the availability of a known mineral resource of regional value. 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.

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

Same Impact as Approved Project, Less Than Significant. The Project site is not located in an area that has been identified by the City of San José as a locally important mineral resource recovery site. 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.

4.13 Noise

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

A Noise Assessment has been prepared by Kimley-Horn and Associates (February 2021) to address noise impacts that would be caused by implementation of the Project. The report is summarized below in the discussion and is included as Appendix I of the SEIR.

Discussion

As proposed, the Project would demolish the existing 16 single-family residential structures and construct two 20-story office towers. Due to the size and duration of Project construction, the historic receptors on-site could be exposed to a potentially significant vibratory impact. The Project's impact on noise and vibration is evaluated in the SEIR. No further analysis is provided in this Initial Study.

4.14 Population and Housing

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

Applicable Plans, Policies, and Regulations

The Downtown Strategy 2040 FEIR found there were no significant impacts to population, employment, and housing and therefore did not examine the issues in the EIR.

California Government Code Sections 65580–65589

California Government Code Sections 65580–65589.8 include provisions related to the requirements for housing elements of local government general plans. Among these requirements, some of the necessary elements include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goals, the statute calls for local jurisdictions to plan for, and allow the construction of, a share of the region’s projected housing needs.

Regional Transportation Plan/Sustainable Community Strategy

The Regional Transportation Plan (RTP)/ Sustainable Community Strategy (SCS) for the Bay Area region was adopted on July 18, 2013. This regional plan sets integrated development, housing and transportation goals with the aim of reducing greenhouse gas (GHG) emissions.

Affordable Housing Programs

The City of San José has demonstrated a commitment to ensuring that affordable housing is available to moderate, low, and very-low income households by adopting an Inclusionary Housing Ordinance (IHO) and a Housing Impact Fee (AHIF) resolution (collectively, the Affordable Housing Programs). The Inclusionary Ordinance requires that 15 percent of all new market-rate developments of 20 or more units include an affordable housing component. The Housing Impact Fee requires that developers of new market-rate rental housing pay \$17-per-square foot to fund additional affordable housing projects in the City.

Municipal Code

The City's Municipal Code, Chapter 5.08, Inclusionary Housing Requirements, provides specific requirements for on-site inclusionary housing for new residential developments. This requires that 15 percent of the total dwelling units in the residential development shall be made available for purchase at an affordable housing cost to those households earning no more than 110 percent of the area median income. These units cannot be sold to those earning more than 120 percent of the area median income. Rental developments are required to provide 9 percent of the total dwelling units in the residential development at an affordable rental housing cost to moderate income households, and 6 percent of the total dwelling units in the residential development shall be made available for rent at an affordable housing cost to very low income households.

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following housing policies applicable to the Project:

- Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.
- Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.

Existing Setting

The population of the City of San José is approximately 1,042,900 persons as of January 1, 2018.³⁶ In 2012, the estimated residents per household in San José was 2.85³⁷. According to the General Plan FEIR, the City estimates approximately 138,442 additional households in San José by 2035 to a total of 429,350 households. The unemployment rate for the City of as of July 2019 was 2.9 percent.³⁸

To meet the current and projected housing needs in the City, the General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2035 and 382,000 new jobs within San José and 10,360 new dwelling units and 48,500 jobs in the General Plan Land Use designation area.

Discussion

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

³⁶ California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2018. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/>. Accessed August 29, 2019.

³⁷ City of San José. Table DP-1: Profile of General Population and Housing Characteristics: 2010. Geographic Area: San José City Council District 3. February 23, 2012.

³⁸ State of California Employment Development Department. Available at: <http://www.labormarketinfo.edd.ca.gov/data/labor-force-and-unemployment-for-cities-and-census-areas.html>, accessed August 29, 2019.

Same Impact as Approved Project, Less Than Significant. Implementation of the proposed Project would require a GPA which would change the land use designation from Public/Quasi-Public to the Downtown land use designation for the 3.08-acre total Project site, which includes all 18 parcels.

The term “jobs/housing balance” refers to the ratio of employed residents to jobs in a given community or area. It is used to indicate the general distance between residences and employment locations. A well-balanced ratio (close to 1 to 1) can minimize commute distances and the number of vehicle miles traveled (VMT)³⁹. As described throughout this EIR, VMT is linked to a variety of environmental impacts (i.e., traffic flows, air quality, energy consumption, etc.).

Communities with more than 1.5 jobs per dwelling unit are considered “jobs rich” and those with fewer than 1.5 jobs per dwelling unit are considered “housing rich.” The City of San José has historically provided a higher than average proportion of housing in Santa Clara County. The ratio as of December 2018 of jobs to housing units in San José is estimated to be 0.8 to 1, making the city “housing rich”.⁴⁰ The concentration of housing in San José and employment in other jurisdictions has created a well-established commute pattern (southeast to northwest). It has become apparent that the physical relationship between jobs and housing significantly contributes to several of the primary environmental impacts of concern in the Bay Area, particularly air pollution and the excessive consumption of energy resulting from an inefficient sprawling land-use pattern.

The proposed Project site is currently occupied with 17 single family residences. In 2012, the estimated residents per household in San José was 2.85⁴¹. The City of San José estimates 250 square feet per employee for retail use and 300 square feet per employee for office use⁴². Table 16: Proposed Population Growth provides the calculations for population and employment growth for the proposed Project.

Table 16: Proposed Population Growth

Component	Proposed Project
Directly Induced Population Growth	0
Retail Employment Growth	Approximately 41 jobs
Office Employment Growth	Approximately 4,089 jobs
<i>Net Employment Growth</i>	<i>Approximately 4,130 jobs</i>
<i>Net Population Growth</i>	<i>Approximately 2,665 households</i>

The proposed Project would not result in directly induced population growth because, generally, only housing developments directly induce population growth. However, there is a potential the proposed

³⁹ Paradoxically, a balanced ratio of jobs and housing could result in increased VMT by dispersing vehicle travel in such a way as to facilitate a greater overall utilization of existing roadways, while concentrating jobs in a single location may force more commuters to divert from congested roadways to alternative modes of transportation, such as the regional transit system.

⁴⁰ City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

⁴¹ City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

⁴² City of San José. San José Market Overview and Employment Lands Analysis. January 2016.

Project could result in an indirect induced population growth from employment opportunities. The proposed Project would result in a net employment growth of approximately 4,130 jobs. The City assumes 1.55 employees per household.⁴³ Given the creation of 4,130 job opportunities, the Project could potentially result in approximately 2,665 additional households, as shown in Table 16. As such, the overall employment growth of 4,130 jobs could potentially cause indirect population growth.

The City of San José is “housing-rich,” and the increase of jobs would promote a jobs/housing balance that is closer to 1 to 1. In addition, the proposed Project site is located approximately one-third (0.33) mile from bus Routes 23, 81, 168, 201, and 323, and one-quarter (0.25) mile 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. While the proposed Project could potentially increase population, 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. While the proposed Project was not anticipated in the General Plan or the Downtown Strategy, the Downtown Strategy EIR found that future development under the Downtown Strategy 2040 would make a substantial contribution to the significant unavoidable impact related to the jobs/housing imbalance, as identified in the 2040 General Plan EIR. Therefore, the proposed Project would result in no new or more significant impacts than those previously analyzed, and no mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. The Project site is currently occupied with 17 single family dwellings. Implementation of the proposed Project would result in the demolition of 16 single family residential units. In 2012, the estimated residents per household in San José was 2.85.⁴⁴ Accordingly, it is estimated that 46 residents previously occupied the 16 homes to be removed as part of the project. However, these homes have all been purchased by the applicant and per the terms of the property sale/acquisition will have been abandoned prior to completion of the acquisition process. As such no residents were evicted nor would they any residents be displaced by the Project.

The Downtown Strategy 2040 FEIR considered the displacement of residents within the planning area. Specifically, the Downtown Strategy 2040 FEIR determined that approximately 12,548 residents in the Downtown area could be displaced by buildout of the Downtown Strategy 2040. The Downtown Strategy 2040 FEIR determined that implementation of the Downtown Strategy 2040 would not result in a net increase in planned dwelling units citywide and the Downtown Strategy 2040 would result in a net increase in dwelling units in the Downtown area, such that denser replacement housing in the downtown planning area would replace any displaced residential units caused by buildout. The Downtown Strategy 2040 FEIR therefore concluded that buildout would not necessitate the construction of replacement housing elsewhere.⁴⁵ Although the Project site was not evaluated as a part of the anticipated residential

⁴³ City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

⁴⁴ City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

⁴⁵ City of San José. Downtown Strategy 2040 Integrated Final EIR, Page 247.

displacements within the Downtown Strategy 2040 FEIR, the Project would not displace residents. Therefore, the Project would not necessitate the construction of replacement housing elsewhere.

No new residential units would be constructed as a result of the proposed Project. The removal of the 16 residences would not displace a substantial number of people, because the Downtown Strategy 2040 FEIR anticipated an increase in the total number of residential units from 10,360 to 14,360 and the City would have sufficient capacity of residential units to accommodate the approximate 46 residents that previously occupied the site development.⁴⁶ The proposed Project is located in the Downtown area, and as such, the City of San José has sufficient residential units planned for in the Downtown area. The Project, therefore, would not necessitate the construction of replacement housing elsewhere.

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.

⁴⁶ City of San José. Downtown Strategy 2040 Integrated Final EIR, Page 247.

4.15 Public Services

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project result in:						
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					X	
i) Fire protection?					X	
ii) Police protection?					X	
iii) Schools?					X	
iv) Parks?					X	
v) Other public facilities?					X	

Applicable Plans, Policies, and Regulations

Police Services

All law enforcement agencies within California are organized and operate in accordance with the applicable provisions of the California Penal Code. This code sets forth the authority, rules of conduct, and training for police officers.

Fire Protection

The California Fire Code contains regulations relating to construction and maintenance of buildings and the use of premises. Fire hazards are addressed mainly through the application of the State Fire Code that addresses access, including roads, and vegetation removal in high fire hazard areas, fire hydrants, automatic sprinkler systems, fire alarm systems, fire and explosion hazards safety, and many other general and specialized fire safety requirements for new and existing buildings and premises.

California Occupational Safety and Health Administration

In accordance with California Code of Regulations Title 8 Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Equipment" the California Occupational Safety and Health Administration (Cal/OSHA) has established minimum standards for fire suppression and emergency medical services. The standards include, but are not limited to, guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all fire-fighting and emergency medical equipment.

California Health and Safety Code

State fire regulations are set forth in Sections 13000 et seq. of the California Health and Safety Code. This includes regulations for building standards (as also set forth in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training.

Schools

Senate Bill 50

SB 50 (1998), which is funded by Proposition 1A, limits the power of cities and counties to require mitigation of developers as a condition of approving new development and provides instead for a standardized fee. SB 50 generally provides for a 50/50 state and local school facilities match. SB 50 also provides for three levels of statutory impact fees. The application level depends on whether state funding is available; whether the school district is eligible for state funding; and whether the school district meets certain additional criteria involving bonding capacity, year-round schools, and the percentage of moveable classrooms in use.

California Government Code sections 65995-65998 sets forth provisions to implement SB 50. Specifically, in accordance with Section 65995(h), the payment of statutory fees is "deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization...on the provision of adequate school facilities." The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Pursuant to Government Code section 65995(i), "A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable."

California Education Code Section 17620(a)(1) states that the governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities.

California Government Code, Section 65995(b), and Education Code Section 17620

SB 50 amended California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage

assessment for development to be increased every two years, according to inflation adjustments. On January 27, 2016, the State Allocation Board (SAB) approved increasing the allowable amount of statutory school facilities fees (Level I School Fees) from \$3.36 to \$3.39 per square foot of assessable space for residential development of 500 square feet or more, and from \$0.54 to \$0.55 per square foot of chargeable covered and enclosed space for commercial/industrial development (State Allocation Board, 2016). School districts may levy high fees if they apply to the SAB and meet certain conditions.

[City of San José Envision San José 2040 General Plan](#)

The City's Envision San José 2040 General Plan includes the following public services policies applicable to the Project:

- Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
- Policy ES-2.2: Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
- Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:
1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
- Policy ES-3.3: Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.
- Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
- Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-2.6: Locate all new residential development over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Existing Setting

Fire Protection Services

Fire protection services in the City are provided by the San José Fire Department. The City has 34 fire stations.⁴⁷ The four fire stations within approximately 1.5 miles or less from the Project site: Station No. 30, at 454 Auzerais Avenue, is approximately 0.3-mile west of the Project site; Station No. 3, located at 98 Martha Street, is approximately 0.6 mile southeast of the Project site; Station No. 1, at 225 North Market Street, is approximately 0.9-mile northeast of the Project site and Station No. 8, located at 802 East Santa Clara Street, about 1.4 miles northeast of the Project site.

Police Protection

Police protection services are provided to the Project site by the San José Police Department (SJPd). Headquarters are located at 201 West Mission Street, approximately 1.8 miles north of the Project site.

Schools

The proposed Project is located within the San José Unified School District (SJUSD). Students in the Project area attend Gardner Elementary School, Hoover Middle School, and Lincoln High School.⁴⁸

Parks

The development, operation, and maintenance of all City park facilities is maintained by the City's Department of Parks, Recreation, and Neighborhood Services. The Project site is adjacent to Guadalupe River Park to the west. The next closest park, Parque De Los Pobladores, a 0.2-acre triangular-shaped park between South Market Street and South 1st Street is located approximately 0.3-mile to the east of the Project site. The closest Regional Park is Lake Cunningham Regional Park located 4.4 miles east of the proposed Project site.

Other Public Facilities, Libraries

The San José Public Library System consists of one main library and 23 branch libraries. The nearest libraries to the Project site are Biblioteca Latinoamericana Branch Library, located at 921 South First Street, approximately 0.5 mile southeast of the Project site and Dr. Martin Luther King, Jr. Library, located at 150 East San Fernando Street, approximately 0.7-mile northeast of the Project site.⁴⁹

Discussion

- a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant*

⁴⁷ San José Fire Department. Stations. Available at: <http://www.sanjoseca.gov/index.aspx?NID=755>. Accessed on August 29, 2019.

⁴⁸ San José USD. School Site Locator. Available at: <http://apps.schoolsitelocator.com/?districtcode=25499#>. Accessed on September 5, 2019.

⁴⁹ City of San José Public Library. Available at: <https://www.sjpl.org/locations-map-search>. Accessed on September 5, 2019.

environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

i. Fire protection?

Same Impact as Approved Project, Less Than Significant. The Project site is located within the service area of the San José Fire Department (SJFD). SJFD had 17,343 fires and other incidents in the City in 2018. The average travel time in 2018 was 14 minutes and 39 seconds for fire and other and a bit over nine minutes for medical.⁵⁰ Consistent with the Downtown Strategy 2040 FEIR, the proposed Project would also contribute to increased demand for fire protection services. Although the SJFD is not currently meeting response time objectives, it is anticipated that planned construction and/or relocation of stations as described in the General Plan would improve response times. Further, traffic signal preemption would continue to be implemented as necessary to provide adequate response times within and surrounding the downtown area (GP Policy ES-3.13). Implementation of the General Plan policies would help ensure that the SJFD meets and maintain the City's response time objectives over the long-term.

The proposed towers would be constructed to current fire and building code standards, including adequate emergency vehicle access and features that would reduce potential fire hazards. According to current SJFD protocols, fires in structures that are four stories or taller in height would require responses from more than one fire station. Further, the project would be reviewed by the SJFD to ensure applicable Fire Code standards to reduce potential fire hazards are included in the project design when construction permits are issued, including sprinklers and smoke detectors. Even though development of the Project site may incrementally increase the demand for fire protection services, it would not increase to a substantial level considering the Project site's urbanized location.

For these reasons, 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.

i. Police protection?

Same Impact as Approved Project, Less Than Significant. Police protection services would be provided by the City of San José Police Department (SJPD). Although a new office development or mixed-use office development would be constructed on the Project site, the Project would be in an urbanized area and would not result in a substantial increase in demand on police services. It is not anticipated to increase response times to the Project site or Project area. The Project does not propose or require new or physically altered police protection facilities. The Project would be constructed in accordance with the current building codes and City policies to avoid unsafe building conditions and promote public safety, consistent with the General Plan Policy ES-3.9.

Implementation of the General Plan policies would help ensure the SJPD meets and maintains the City's response time objectives over the long-term. Therefore, no new or more significant impacts than those analyzed would occur, and no new or additional mitigation is required.

⁵⁰ City of San José, San José Fire Department City-Wide Response Metrics. January 25, 2018.

ii. Schools?

Same Impact as Approved Project, Less Than Significant. The Project site is located within the boundaries of the San José Unified School District (SJUSD). The proposed Project does not propose the construction of residential units, and therefore would not lead to an incremental increase in demand for services within the SJUSD. 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.

iii. Parks?

Same Impact as Approved Project, Less Than Significant. The proposed Project site is located within 800 feet of the Guadalupe River Park and Garden. The proposed Project would adhere with the dedication of parkland or payment of park impact fees in order to comply with the PIO and/or PDO. The PIO/PDO obligation can be met through the dedication of land; payment of a park impact fee in-lieu fee, credit for providing new recreational facilities, or providing a combination of these solutions. An executed parkland agreement that outlines how a project would comply with the PIO/PDO would be required prior to the issuance of a Final subdivision map. Per Section 14.25.200 of the San José Municipal Code, payment of park impact in-lieu fees must be demonstrated prior to the issuance of Building Permits.

While the proposed Project development could potentially result in an increased use of existing and planned parks, trails, and community centers in the City, these facilities would be improved through the application of PIO/PDO money. Therefore, the Project would not result in substantial physical deterioration of these facilities. The proposed Project will not result in any new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur, and no new or additional mitigation is required.

iv. Other public facilities?

Same Impact as Approved Project, Less Than Significant. The Project proposes the construction of a 20-story office development, which could lead to a demand on other public facilities such as libraries and community centers within the City. However, the Project would be constructed within the Downtown area and would conform to the prescribed zoning designation. Given that existing and planned library facilities would adequately serve planned growth in the City, the proposed Project would not result in any new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR and no new or additional mitigation is required.

4.16 Recreation

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

Applicable Plans, Policies, and Regulations

The Quimby Act

The Quimby Act (California Government Code §66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO), which is like the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, and/or pay a parkland fee in lieu of land dedication for neighborhood and community parks under the PDO and PIO. Pursuant to these ordinances a residential project's parkland obligation under the PDO and PIO is equivalent in value or property to three acres for every 1,000 new residents added by the housing development, pay an in-lieu fee, construct new park facilities, or a provide combination of these.

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following public services policies applicable to the Project:

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
- Policy PR-1.3: Provide 500 square-feet per 1,000 population of community center space.
- Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a $\frac{3}{4}$ mile radius of the Project site that generates the funds.
- Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Existing Setting

The City of San José operates 195 neighborhood parks, 50 community centers, nine regional parks, and over 60 miles of trails.⁵¹ The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities.

There are several City, County, and regional parks located within a few miles of the Project. The Project site is adjacent to Guadalupe River Park to the west. The next closest park, Parque De Los Pobladores, a 0.2-acre triangular-shaped park between South Market Street and South 1st Street is located approximately 0.3-mile to the east of the Project site. Plaza De Cesar Chavez is approximately 0.3 miles northeast of the site. The closest Regional Park is Lake Cunningham Regional Park located 4.4 miles east of the proposed Project site.

These parks include, but are not limited to, Parque De Los Pobladores, Plaza De Cesar Chavez, and the Guadalupe River Park and Garden, which is located approximately 750 feet north of the Project site. Additional recreational facilities located near the Project include Montgomery Theater and the Tech Museum of Innovation, which are located approximately four-tenths (0.4) of a mile north, the Center for Performing Arts about one-quarter (0.25) mile north, and the Children Discovery Museum located approximately 900 feet west of the Project site. San José Convention Center is located approximately 700 feet northeast of the Project site and Happy Hollow Park and Zoo approximately 1.5 miles southeast of the Project site.

⁵¹ City of San José. *Fast Facts*. December 20, 2018.

Discussion

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

Same Impact as Approved Project, Less Than Significant.

The project would not increase the use of the existing neighborhood and regional parks identified in the setting section above to the point that substantial physical deterioration would occur or be accelerated. The proposed Project does not include development of any residences, which would directly increase population. Direct increases in population would potentially result in physical deterioration. Accordingly, implementation of the proposed Project would not generate an increase in demand on existing public or private parks or other recreational facilities that could result in increased physical deterioration of the facility.

Future employees could increase the use of recreational facilities in the vicinity of the Project that may deteriorate or accelerate deterioration. However, physical deterioration would not occur because the project is an office and commercial structure, whose users would primarily occupy the building itself during working hours and then return to their destination origin. Construction activities could result in detours to access along the Guadalupe River trail, which may focus users of recreational facilities into one area thereby accelerating deterioration. However, any such detour would direct users to existing pathways or trails already in use, and construction would not deteriorate park facilities because it would occur on the project site itself. 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.

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

Same Impact as Approved Project, Less Than Significant. The proposed Project does not include recreational amenities for facilities within the development of the office towers. However, the proposed Project site is located approximately 750 feet from the Guadalupe River Park and Garden. The proposed Project would adhere with the dedication of parkland or payment of park impact fees in order to comply with the PIO and/or PDO. The PIO/PDO obligation can be met through the dedication of land; payment of a park impact fee in-lieu fee, credit for providing new recreational facilities, or providing a combination of these solutions. An executed parkland agreement that outlines how a project would comply with the PIO/PDO would be required prior to the issuance of a Final subdivision map. Per Section 14.25.200 of the San José Municipal Code, payment of park impact in-lieu fees must be demonstrated prior to the issuance of Building Permits.

While the proposed Project development would result in increased use of existing and planned parks, trails, and community centers in the City, these facilities would be improved through the application of PIO/PDO money. Therefore, the Project would not result in substantial physical deterioration of these facilities. Thus, the implementation of the proposed Project, would not require the construction or expansion of existing recreational facilities. The proposed Project will not result in any new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR would occur and no new or additional mitigation is required.

4.17 Transportation

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

A Local Transportation Analysis (LTA) was prepared for the Project by Kimley-Horn, and is included as Appendix J of the SEIR. The following analysis is based on the LTA.

Applicable Plans, Policies, and Regulations

Metropolitan Transportation Commission

Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted the final Plan Bay Area in July 2013 which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan (2040).

Santa Clara Valley Transportation Agency Congestion Management Program

In accordance with California Statute, Government Code 65088, Santa Clara County has established a CMP. The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the county's CMP. The CMP requires review of substantial individual projects, which might

on their own impact the CMP transportation system. Specifically, the CMP Traffic Impact Analysis measures impacts of a project on the CMP Highway System. Compliance with the CMP requirements ensures a city's eligibility to compete for State gas tax funds for local transportation projects.

San José Transportation Impact Policy 5-1

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development under CEQA, as suggested by SB 743. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide per capita VMT. An employment (e.g., office, R&D) project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per employee VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per employee VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, which may include local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and to recommend needed transportation improvements.

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following transportation policies applicable to the proposed Project:

- Policy TR-1.1: Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
- Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
- Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
- Policy TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
- Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
- Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate

land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

- Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
- Policy TR-5.3: Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.
- Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
- Policy TR-7.1: Require large employers to develop and maintain TDM programs to reduce the vehicle trips generated by their employees.
- Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
- Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
- Policy TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
- Policy TR-8.8: Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.
- Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
- Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
- Policy TR-10.4: In Tier II, require that a portion of adjacent on-street and City owned off-street parking spaces be counted towards meeting the zoning code's parking space requirements.

- Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.
- Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
- Policy CD-3.3: Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
- Policy CD-3.6: Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

Existing Setting

The Project site is currently developed with 17 single family residential homes and access is provided via Woz Way, Locust Street, and Almaden Boulevard. Existing traffic operations were evaluated at the study intersection during morning (7:00 a.m. – 9:00 a.m.) and p.m. (4:00 p.m. – 6:00 p.m.) peak hour turning movement counts collected for the Local Transportation Analysis (Appendix J of the SEIR).

Regional and Local Access

The following local and regional roadways provide access to the Project site:

Almaden Boulevard is a four-lane divided arterial road with Class II bike lanes, on-street parking, and direct access to the Downtown Core Area north of Balbach Street. North of Santa Clara Street, Almaden Boulevard splits into a one-way street in the southbound direction and a one-way street in the northbound direction as Notre Dame Avenue. South of Balbach Street, Almaden Boulevard is a six-lane divided arterial with ramp access to Interstate 280 at the Reed Street and Grant Street intersections. The Project proposes to construct a new driveway along Almaden Boulevard.

Balbach Street is a two lane, east-west collector road that serves as the northern boundary of the Project site with direct driveway access. The roadway provides access to residences between Almaden Boulevard and Market Street and provides Class II and Class III bike facilities in both directions.

Woz Way is a two lane, east-west collector road that serves as the northern boundary of the Project site that provides direct driveway access as well as the Highway 87 ramps west of the Project. The roadway has a speed limit of 25 mph and provides Class II bike lanes in both directions. The Project proposes to construct a new driveway along Woz Way at the existing Locust Street intersection.

Market Street is an undivided four-lane, north-south arterial facility that serves the Downtown Core Area and merges into Coleman Avenue to the north and First Street south of Reed Street which is east of the Project site.

Delmas Avenue is a one-way street with two southbound travel lanes between Santa Clara Street and Auzerais Avenue. The roadway provides access to the Highway 87 southbound ramps west of the Project site.

Park Avenue is a divided four-lane, east-west arterial facility that serves the Downtown Core Area and provides access to the Highway 87 ramps. The roadway provides Class II bike lanes in both directions.

Reed Street is a two lane, east-west collector road between Almaden Boulevard and 14th Street in the Downtown Core Area. The roadway has a speed limit is 25 mph and provides on-street parking in both directions.

San Carlos Street is a divided four-lane, east-west arterial facility that serves the Downtown Core Area. Between Woz Way and South 1st Street, the center of the road has several VTA transit lines and stops to provide local transit access for the surrounding area. The roadway provides Class III shared bike lanes in both directions.

State Route 87 (SR 87) is primarily a six-lane freeway that is aligned in a north-south orientation between State Route 85 and US 101. Access to the Project site to and from SR 87 is provided by nearby ramps at Woz Way, Auzerais Avenue, Park Avenue, and through the I-280 / SR 87 interchange.

Interstate 280 (I-280) is an 8-lane freeway that connects with State Route 87 and travels in an east-west direction in the City of San José Downtown area, even though the freeway is labeled as northbound and southbound. Access to and from the Project site via the I-280 southbound direction is provided by ramp terminals at Bird Avenue and Almaden/Vine while access for the I-280 northbound direction is provided by ramp terminals at Fourth Street and Bird Avenue. An I-280 a northbound on-ramp at South Almaden Boulevard also provides direct access to and from the Project site and the downtown area.

Pedestrian and Bicycle Facilities

Pedestrian activity within the downtown area and throughout the Almaden Boulevard and Woz Way corridors are substantial. Connected sidewalks at least six feet wide are available along all roadways in the study area with good lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and count down pedestrian signals provide improved pedestrian visibility and safety.

The Guadalupe River multi-use trail provides north-south access for bicyclists and pedestrians and runs through the City of San José along the Guadalupe River between Curtner Avenue and the Alviso neighborhood north of SR 237. It is an 11-mile continuous Class I pathway that can be accessed to and from the Project site at San Carlos Street and Woz Way in the downtown area.

At the Project site frontage, pedestrian features including pedestrian count down signal heads, ADA curb ramps, and marked crosswalks are provided for all legs of the signalized Almaden Boulevard / Woz Way intersection. Overall, the existing sidewalks and pedestrian facilities adjacent to the Project have good connectivity and provide pedestrians with routes to the surrounding land uses.

Bicycle facilities within approximately one-third (0.33) mile of the Project site include Class II bike lanes on Woz Way, Balbach Street, and Almaden Boulevard north of Woz Way. Class III bike facilities with sharrow markings are provided on Balbach Street between Market Street and Almaden Avenue east of the Project site. These bike facilities are marked with appropriate signs and pavement markings.

There are no existing bike facilities on Almaden Boulevard south of Woz Way adjacent to the Project site. Bicyclists either share the lane with traffic or ride on the sidewalk when travelling on Almaden Boulevard.

The City participates in Bay Area Bike Share programs, which allow users to rent and return bicycles at various popular locations around the downtown area. In 2014, the City had 16 Bike Share stations in downtown with one located adjacent to the Project site at the northeast corner of Almaden Boulevard and Woz Way. A Bike Share is also located at the San José Diridon Caltrain Station.

In 2007, the City adopted the Green Vision which is a 15-year plan for economic growth, environmental sustainability, and enhanced quality of life for the community. From the Green Vision, the City aims to create 100 miles of off-street interconnected trails and 400 miles of on-street bike facilities by 2022. According to the 2020 San José Bike Plan, the City is planning new Class II bike lanes on Reed Street and Balbach Street as well as Class III bike routes on Almaden Avenue, William Street, and First Street within one-half (0.5) mile of the Project site.

Transit Service

San José downtown is served by many local bus routes. Most regular bus routes operate on weekdays from early in the morning (5:00 a.m. to 6:00 a.m.) until late in the evening (10:00 p.m. to midnight) and on weekends from early morning (5:00 a.m. to 6:00 a.m.) until mid-evening (8:00 p.m. to 10:00 p.m.). Bus headways during peak commute periods vary between 15 to 30 minutes. The study area is served by several of the most heavily-used bus routes in the VTA system. Within 1/3 mile near the Project site, Routes 66, 68, 23, and 523 provide local and regional bus service for commuters between San José downtown and major transit destinations in Santa Clara County. Bus stops with benches, shelters, and bus pullout amenities are provided within 1/3 mile from the Project site and in the downtown area.

VTA Light Rail Transit (LRT) Service

VTA currently operates the 42.2-mile light rail line system from south San José, downtown, and through the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. Within one-third of a -mile (0.33) walking distance from the Project site, the closest LRT station is at the San José Convention Center and the Children's Discovery Museum. The Mountain View-Winchester and Santa Teresa-Alum Rock LRT lines at these stations operate daily with 15-minute LRT headways between each schedule.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain. The San José Diridon Station in downtown San José provides access to the Project site and has approximately 581 parking spaces, 16 bike racks, and 48 bike lockers. Trains stop frequently at the Diridon Station between 4:00 a.m. and 11:00 p.m. in the northbound direction, and between 6:00 a.m. and 2:00 a.m. in the southbound direction. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during commute hours. The Diridon Station is approximately 0.8 miles from the Project site which can be accessed by either walking, biking, or riding the free DASH shuttle.

Altamont Commuter Express (ACE) Service

Commuter passenger train service across the Altamont between Stockton and San José is provided by ACE, which stops at the San José Diridon Station during both the morning and evening weekday commute hours. ACE trains stop at the Diridon Station between 6:00 a.m. and 10:00 a.m. in the westbound direction and between 5:00 p.m. and 9:00 p.m. in the eastbound direction. The Diridon Station is approximately 0.8 miles from the Project site which can be accessed by either walking, biking, or riding the free DASH shuttle.

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San José Diridon Station eight times on weekdays between 7:00 a.m. and 12:00 p.m. in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times on weekdays between 6:00 a.m. and 8:00 p.m. The Diridon Station is approximately 0.8 from the Project site which can be accessed by either walking, biking, or riding the free DASH shuttle.

Discussion

a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Same Impact as Approved Project, Less Than Significant. In accordance with General Plan policies and consistent with Downtown Strategy 2040 FEIR, the Project will facilitate pedestrian and bicycle access and safety. Existing sidewalks along the Project frontages on Woz Way and Almaden Avenue would be reconstructed and provide pedestrian access to the proposed Project.

The existing network of sidewalks and crosswalks in the study area have good connectivity and would provide residents with safe routes to bus stops and other points of interest in the downtown area. Many of the streets adjacent to the Project frontage feature lighting, landscaping, and wide sidewalks, which improve pedestrian perceptions of comfort and safety and provide a positive pedestrian experience.

For these reasons, the proposed Project supports goals, policies, and programs adopted by the City and VTA for encouraging alternative transportation modes and increasing the safety and performance of transit, bicycle, and pedestrian facilities and would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

As noted below, the proposed Project would not exceed a level of service standard established by the CMP for designated roads or highways. 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.

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

Same Impact as Approved Project, Less Than Significant. The Project site is located within the Downtown Growth Area Boundary, for which the Downtown Strategy 2040 FEIR has been completed and approved. With adoption of the Downtown Strategy 2040 FEIR, this Project is covered under the findings of the Downtown Strategy 2040 FEIR and no CEQA transportation analysis is required. Therefore, a VMT analysis is excluded for this Project. As such, the impact is the same as the Downtown Strategy 2040 FEIR. A less than significant impacts would occur, and no new or additional mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. A Local Transportation Analysis (LTA) of the Project was prepared (see Appendix J of the SEIR) to determine if adequate site access and on-site circulation is provided and to identify any access issues that should be improved. The review, summarized below, was based on the current site plans, and in accordance with generally accepted traffic engineering standards and City of San José requirements.

Site Access

Per City guidance, driveways should be spaced 150 feet minimum from any intersection. The proposed driveway locations for standard vehicle access satisfy this requirement to optimize sight distance and spacing with the existing roadway network.

The main parking garage entrance can be accessed by both Project driveways on Woz Way and Almaden Boulevard and is assumed to be open during normal business hours. It is assumed that the gated parking garage driveway along Almaden on the southeast corner of the site will only be opened during overflow or peak commute times. Per City Municipal Code 20.90.100 and Table 20-220, the minimum width of a two-way drive aisle is 26-feet; however, the drive aisle width inside the parking garages ranges between 24 to 30-feet wide measured between the building columns and parking stalls while the driveway drive aisle width on the ground floor is 24-feet wide. The Project is seeking a drive aisle width reduction to 20-feet minimum pursuant to Part C of Section 20.90.100 provided that the reduction will not impair the safe and convenient accessibility of the parking spaces affected and the safety of the site. On-site 90-degree uniform-size parking spaces are dimensioned 8.5-feet by 17-feet and satisfy City parking standards.

Woz Way Project Driveway Operations

Full access for the garage driveway is proposed on Woz Way. The proposed Project driveway is aligned with the south leg of the existing Woz/Locust intersection and consists of a standard City curb ramp design and 26-foot wide, two-lane ramp into site. From the intersection operations analysis described in Section 3, this driveway intersection is anticipated to operate at unacceptable LOS during plus project conditions with existing stop control geometry. To improve operations, the Woz Way Project driveway would need to be signalized. With the proposed signal improvement, westbound vehicles along Woz Way would be able to make a left into the Project driveway during a protected left turn phase while eastbound vehicles would be able to make a right turn into the Project driveway from the shared through-right lane.

Almaden Boulevard Project Driveway Operations

Due to the existing raised median, the Almaden Boulevard garage driveway will be limited to right-in and right-out access to the southbound through lanes only. Inbound vehicles traveling northbound at the Almaden/Woz intersection and wanting to enter the Almaden Project driveway would have to make a U-turn movement at the northbound left-turn lane. Conversely, outbound vehicles exiting the Almaden Project driveway and wanting to travel northbound along Almaden Boulevard would have to make a U-turn movement at the Grant Street intersection. Low clearance landscaping between the back of sidewalk and building frontage is also recommended to improve vehicle sight distance of approaching pedestrians and bicyclists on Almaden Boulevard.

Vehicle maneuverability and access for the parking garage was analyzed using AutoTURN software which measures design vehicle swept paths and turning through simulation and clearance checks. A passenger

car design from the American Association of State Highway and Transportation Officials (AASHTO) was assessed for the internal parking garage levels.

The parking garage for the Project provides employee and resident access with up to 1,259 total parking spaces. The internal parking garage layout consists of a primary two-way drive aisle with branching parking aisle stalls that wrap around the perimeter of the Project site. Turning analysis using the AASHTO template revealed that passenger vehicles could adequately access the driveway, maneuver through the garage, and park in the stalls without conflicting into other vehicles. The Project's reduced drive aisle width provides sufficient vehicle clearance. Therefore, the Project would not substantially increase hazards as a result of its design or use and would result in no new or more significant impacts than those previously analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

d) Result in inadequate emergency access?

Same Impact as Approved Project, Less Than Significant. In the event of an emergency, it is assumed that fire apparatus vehicles will stage adjacent to the Project site on Almaden Boulevard and Woz Way. Existing fire hydrants on the southwest and northwest corners of the Almaden Boulevard / Woz Way intersection provides direct fire access for emergency personnel. The Project driveway on Almaden and Woz are 20-feet wide, at least 10-feet high, and satisfy the 20-foot horizontal and 10-foot vertical minimum access clearances from the 2016 CA Fire Code. Therefore, the Project would result in adequate emergency access and would result in no new or more significant impacts than those previously analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

Operational Transportation Issues Not Covered Under CEQA

The following information is not required under CEQA but is provided here for informational purposes to help the decision makers in their consideration of the Project.

Trip Generation Estimates

Trip generation for the proposed Project land uses was calculated using average trip generation rates from the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 10th Edition*.

Per the 2018 Transportation Analysis Handbook, trip generation reduction credits can be applied to the Project. For mixed-use projects, an internal capture reduction can be applied based on vehicle-trip reduction rates from the VTA Transportation Impact Analysis Guidelines. Per the San José 2018 *Transportation Analysis Handbook*, the following trip adjustments were applied:

- **Mixed-Use Adjustment:** A 3% VTA mixed-use reduction was applied off the smaller project trip generator (retail land use component) due to the Project having both employment and employee-serving retail components.
- **Location Based Adjustment:** The Project location is designated as an "Urban High-Transit" place with a vehicle mode share of 78 percent for residential, 69 percent for office, and 83 percent for retail land uses. Therefore, a 22% residential, 31% office, and 17% retail mode share trip reduction credit was applied to the Project.
- **Project Trip Adjustment:** As the Project would implement vehicle miles traveled (VMT) reduction strategies, per City guidelines, it is assumed that every percent reduction in per-capita VMT is

equivalent to one percent reduction in peak hour vehicle trips for residential and office projects. From the City's VMT sketch tool results, a 9% VMT vehicle-trip reduction credit was applied.

Development of the proposed Project with applicable trip reductions is anticipated to generate a net total of 7,520 daily, 874 AM peak hour, and 884 PM peak hour vehicle trips. Of the net AM peak hour trips, approximately 763 trips are inbound to the project and 111 trips are outbound from the project. For the net PM peak hour trips, approximately 138 trips are inbound while 746 trips are outbound.

Table 17: Project Trip Generation

LAND USE / DESCRIPTION	PROJECT SIZE		TOTAL DAILY TRIPS	AM PEAK TRIPS			PM PEAK TRIPS		
				TOTAL	IN	/ OUT	TOTAL	IN	/ OUT
Trip Generation Rates (ITE)									
Office Building [ITE 710]	Per	KSF	9.74	1.16	86%	/ 14%	1.15	16%	/ 84%
Shopping Center [ITE 820]	Per	KSF	37.75	0.94	62%	/ 38%	3.81	48%	/ 52%
Office - Woz Way									
1. Baseline Trips - ITE 710	1226.600	KSF	11,948	1,423	1,224	/ 199	1,411	226	/ 1,185
2. Internal Trip Adjustments - VTA Internal Capture	-3%	Retail	(12)	(1)	(1)	/ 0	(1)	(1)	/ 0
3. Location-Based Mode Share - Urban High Transit	-31%	Office	(3,701)	(441)	(380)	/ (61)	(438)	(70)	/ (368)
4. Project Trip Adjustments - VMT Sketch Tool	-9%	N/A	(742)	(89)	(76)	/ (13)	(88)	(14)	/ (74)
Office Gross Project Vehicle-Trips			7,493	892	767	/ 125	884	141	/ 743
Retail - Woz Way									
1. Baseline Trips - ITE 820	10.107	KSF	382	10	7	/ 3	39	19	/ 20
2. Internal Trip Adjustments - VTA Internal Capture	-3%	Retail	(12)	(1)	(1)	/ 0	(1)	(1)	/ 0
3. Location-Based Mode Share - Urban High Transit	-17%	Retail	(63)	(2)	(2)	/ 0	(7)	(4)	/ (3)
4. Project Trip Adjustments - VMT Sketch Tool	-9%	N/A	(28)	(1)	(1)	/ 0	(3)	(2)	/ (1)
Retail Gross Project Vehicle-Trips			279	6	3	/ 3	28	12	/ 16
Existing Land Use Trip Adjustments									
1. Existing Use Credit - Residential Driveway Counts			(252)	(24)	(7)	/ (17)	(28)	(15)	/ (13)
Existing Land Use Trip Adjustment Subtotal			(252)	(24)	(7)	/ (17)	(28)	(15)	/ (13)
Total Project Trips									
BASELINE PROJECT VEHICLE TRIPS			12,330	1,433	1,231	/ 202	1,450	245	/ 1,205
GROSS PROJECT VEHICLE TRIPS			7,772	898	770	/ 128	912	153	/ 759
NET PROJECT VEHICLE TRIPS			7,520	874	763	/ 111	884	138	/ 746
Notes:									
Project land uses assumed based on proposed site plan from C2K Architecture (1/22/2021)									
Daily, AM, and PM trips based on average land use rates from the Institute of Traffic Engineers Trip Generation 10th Edition									
A Mode Share Reduction from Table 6 of the San Jose Transportation Analysis Handbook 2018 was applied to each individual land use since the project is located in an "Urban High-Transit" area. A 22% residential, 31% office, and 17% retail reduction was applied.									
A 9% VMT Reduction from San Jose Transportation Analysis Handbook 2018 was applied since the project is planning to implement a TDM program. Reduction percentage obtained from City VMT Evaluation Tool.									
A 3% VTA Mixed-Use reduction was applied off of the smaller retail land use trip generator for the project with employment and employment-serving retail components per Santa Clara VTA TIA Guidelines 2014. The same number of trips were subtracted from the larger office land use generator to account for both trip ends.									
Vehicle trip credit for residential neighborhood on Locust Way and Almaden Boulevard to be demolished based on existing driveway counts (9/10/2019). Driveway counts are comparable to ITE 210 rates.									

Traffic operations were evaluated at the study intersection under Project conditions based on Background conditions and adding the net vehicle trips from the proposed Project to the Background roadway geometry and traffic control. The Project traffic volumes were incorporated from the Trip Generation and Trip Distribution. Refer to Appendix J of the SEIR for traffic operations for the study intersections.

As shown below, the following study intersections are anticipated to operate at unacceptable LOS and be adversely affected by the Project during at least one peak hour under Background Plus Project conditions.

- Almaden Boulevard / Woz Way / Balbach Street (Intersection #3 - Signalized)
 - The proposed Project would cause the intersection to worsen from LOS D under Background conditions to unacceptable LOS E under Background Plus Project conditions during the PM peak hour.
- Woz Way / Locust Street / Project Driveway (Intersection #14 - unsignalized)
 - The proposed Project would cause the intersection to worsen from LOS C under Background conditions to unacceptable LOS F under Background Plus Project conditions during the PM peak hour.

Parking

The Project is subject to the parking standards in the Downtown Zoning district from the City's Municipal Code. Per Chapter 20.70.100, Chapter 20.90.060, Table 20-190, and Table 20-210 of the San José Municipal Code (SJMC), the proposed Project land uses are required to provide the following minimum off-street parking:

- Retail Sales, Goods, and Merchandise (assumed use due to unknown future tenant)
 - No vehicle parking requirement in Downtown
 - One (1) short-term and two (2) long-term bicycle parking space
- Offices, Business, and Administrative (assumed use due to unknown future tenant)
 - Two and one half (2.5) vehicle parking space per 1,000 square-feet of floor area
 - One (1) bicycle parking space per 4,000 square feet of floor area

The Project site plan is required to provide a minimum total of 3,067 off-street vehicle parking spaces and 310 bicycle parking spaces for the proposed office and retail uses. The Project site proposes a total parking supply of 1,259 vehicle spaces and 270 bicycle spaces which results in a vehicle and bicycle parking shortfall per the City's off-street parking requirements.

To mitigate the parking deficit, the Project will need to implement a Transportation Demand Management (TDM) program with applicable measures identified in the SJMC and Transportation Analysis Handbook. With implementation of transportation demand management strategies and adherence to the Transportation Analysis Handbook and all applicable SJMC measures, the Project would be able to achieve the following SJMC parking reductions:

SJMC 20.90.220.A.1.a-b

Allows up to a 20 percent parking reduction for the project:

- Located within 2,000-feet of a proposed or existing rail station, bus rapid transit station, or an area designated as a neighborhood business district, urban village, or area development policy in the City's General Plan.
- Provides bicycle parking spaces in conformance with Table 20-90.

SJMC 20.90.220.A.1.c-d

Allows up to a 50 percent parking reduction for the project implementing a TDM program with at least:

- One (1) measure as listed in 20.90.220.A.1.c.
- Two (2) measures as listed in 20.90.220.A.1.d.

SJMC 20.70.330.A

Allows up to an additional 15 percent parking reduction for projects in downtown if:

- At least one of the TDM measures listed in 20.70.330.A.1 is implemented.
- The TDM plan can be maintained for the life of the project.

The maximum combined parking reduction allowed based on the above SJMC provisions is 65%. To satisfy the City's parking standards, the Project would need a 60% parking reduction through TDM. The necessary parking reductions for the site plan could be applied since the Project would be located within walking distance to downtown VTA transit stations, would provide additional bicycle parking to satisfy City standards, and would implement a TDM program with City approved measures. The Final TDM program is pending coordination with the City and project applicant and will be finalized prior to Project approval.

It should be noted that the Project site plan would be required to satisfy the minimum bicycle parking requirement to be eligible for a parking reduction greater than 20%. In such a case, the Project would need to add 40 bicycle spaces to meet the 310-bicycle parking space minimum.

4.18 Tribal Cultural Resources

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: i) Listed or eligible for listing in the California			X			
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?			X			
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?			X			

Applicable Plans, Policies, and Regulations

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be

notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

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

A resource determined by the lead agency to be a TCR.

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.

Existing Setting

The types of tribal cultural resources that meet the definition of historical resources under Public Resource Code Section 21080.3.1 generally consist of districts, sites, landscapes, buildings, structures, and objects that are significant for their traditional, cultural, and/or historical associations. Further, a cultural place is a landscape feature, site, or cultural resource that has some relationship to particular tribal religious heritage or is a historic or archaeological site of significance or potential significance. Under CEQA, both prehistoric and historic-period archaeological sites may qualify based on historical associations as tribal cultural resources. Guadalupe River is located approximately adjacent to the west of the Project site, which is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects.

Discussion

- a) *Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: i) Listed or eligible for listing in the California:*
- b) *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?*
- c) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?*

Same Impact as Approved Project, Less Than Significant. Assembly Bill (AB) 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies when the tribes have sent written requests for notification of projects to the lead agency. Notification was conducted by the City with applicable Santa Clara County tribal representatives identified by the NAHC in compliance with AB 52.

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the downtown area of the City of San José. The tribal representatives for the Ohlone Tribe, and other tribes known to have traditional lands and cultural places within the City of San José, were sent the Notice of Preparation for the proposed Project on June 3, 2020. No response or request for consultation was received. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR (and identified in Section 3.2 Cultural Resources of the SEIR). Therefore, the proposed Project would have a less than significant impact on tribal cultural resources.

4.19 Utilities and Service Systems

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
Would the project:						
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?					X	
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?					X	
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?					X	
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?					X	
e) Comply with federal, state, and local management and reduction					X	

ENVIRONMENTAL Issues	IMPACTS	New Potentially Significant Impact	New Less Than Significant Unless Mitigation Incorporated	New Less Than Significant Impact	Same Impact as Approved Project	Less Impact Than Approved Project
statutes and regulations related to solid waste?						

The following discussion includes the information contained within the Water Supply Assessment (WSA) prepared by San José Water Company (SJW) for the proposed Project. The WSA is provided in Appendix K of the SEIR.

Applicable Plans, Policies, and Regulations

Assembly Bill 939

Assembly Bill 939 (AB 939) established the CIWMB (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

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

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupant.

Urban Water Management Plan

Pursuant to The State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, and opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in 2015. Water service to the downtown area is provided by the San José Water Company, which gets its water from a variety of sources including groundwater (approximately 40 percent), imported surface water (approximately 50 percent), and local mountain surface water (approximately 10 percent) (San José Water, 2019).

San José Zero Waste Strategic Plan/Green Vision

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

Private Sector Green Building Policy

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

NPDES Permit Program

As described in Section 3.10 Hydrology and Water Quality, the federal Clean Water Act establishes the National Pollutant Discharge Elimination System (NPDES) permit program. Under the NPDES program, the San Francisco Bay Regional Water Quality Control Board (RWQCB) administers a wastewater permit to the Water Pollution Control Plant (WPCP) and a Municipal Regional Stormwater NPDES Permit to all Bay Area municipalities and flood control agencies that discharge directly to San Francisco Bay, including the City of San José. The wastewater permit sets limits for two types of pollutants (conventional and toxic) and limits the amount of treated water (effluent) discharged to the San Francisco Bay to 120 mgd⁵².

Municipal Code – Water Supply

The City has implemented a list of conservation actions in the San José Municipal Code Chapter 15.10 that are in force at all times to prohibit water waste. These conservation actions include, but are not limited to:

- No irrigating landscapes between 10 a.m. and 8 p.m., unless using a bucket, hand-carried container, or a hose with a shut-off nozzle (15.10.290A)
- Sprinklers cannot run more than 15 minutes per station per day (15.10.290B)
- No excessive water runoff is allowed (15.10.220A & B)
- Leaking or broken water pipes, irrigation systems, and faucets must have repairs initiated within five working days and repaired as soon as practical (15.10.210 A & B)
- No cleaning of structures or paved surfaces with a hose without a positive shut-off nozzle (15.10.240)
- No cleaning of vehicles with a hose without a positive shut-off nozzle (15.10.250)
- Commercial car washes must use water recycling equipment, a bucket and handwashing, or a hose with positive shut-off nozzle (15.10.255A,B,C)
- No serving water in food service establishments unless requested by the customer (15.10.230A)

⁵² The influent and effluent capacities are based on average dry weather flows, which is the highest average daily flow over any five-weekday period between the months of June and October.

City of San José Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes the following utility and service policies applicable to the Project:

- Policy MS -1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
- Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
- Policy MS -3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
- Policy IN-3.3: Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
- Policy IN-3.5: Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
- Policy IN-3.7: Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
- Policy IN-3.9: Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
- Policy IN-4.1: Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Water Pollution Control Plant
- Policy IN-4.2: Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth.
- Policy IN-4.3: Adopt and implement new technologies for the operation of wastewater treatment and water reclamation facilities to achieve greater safety, energy efficiency and environmental benefit
- Policy IN-4.4: Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements.

Policy IN-4.6: Encourage water conservation and other programs which result in reduced demand for wastewater treatment capacity.

Existing Setting

The proposed Project would comply with the City municipal code and permitting process for any modifications to the existing solid waste generation, sanitary sewer and stormwater infrastructure potentially required over the duration of the proposed Project. The proposed Project site is located within the Urban Service Area of the City of San José and is currently served by City services. Offsite infrastructure improvements would include construction of an 18-inch storm drain main along Almaden Boulevard and two sanitary sewer connections along Almaden Boulevard which would require the existing sanitary sewer main on Almaden Boulevard to be upsized from 6-inch to 8-inch.

Utilities and services are furnished to the Project site by the following providers:

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.

Water Service: Water service in the City is provided by San José Water Company (SJWC).

Storm Drainage: City of San José.

Solid Waste: Solid waste services are currently 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

Natural Gas & Electricity: Pacific Gas and Electric (PG&E).

Telecommunications: AT&T, Comcast, Viasat, Frontier, and Spectrum

Discussion

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

Same Impact as Approved Project, Less Than Significant. As discussed above, water service in the City is provided by SJWC.

Water

Water service in Downtown San José is provided by the San José Water Company (SJWC), which is the largest private water retailer in the city. The proposed Project is currently occupied by 17 residential units. The existing estimated water demand for the Project site, as shown in Table 18: Total Water Demand Estimated for Existing Conditions, is 5,440 gallons per day (gpd), or 6.1 AF/yr. Development of the proposed Project would increase demand for water. As shown in Table 19: Total Water Demand Estimated for Proposed Project, total water demand would be 125,507 gpd, or 140.6 AF/yr.

Table 18: Total Water Demand Estimated for Existing Conditions

Land Use	Water Demand Rate	Size	Water Demand
Residential ¹	100 gallons/day/resident	54.4 residents	5,440 gpd
Total			5,440 gpd
Total			6.1 AF/yr
Source: SJ Water, 2019 ¹ Residential demand based on 290 units and a demand factor of 100 gallons per capita per day for all new residents and 3.2 people per residential unit based on 2018 population estimates from the California Department of Finance.			

Table 19: Total Water Demand Estimated for Proposed Project

Land Use	Water Demand Rate	Size	Water Demand
Office ²	0.1 gallons/day/sf.	1,226,600 sf.	122,660 gpd
Retail ³	0.25 gallons/day/sf.	10,107 sf.	2,527 gpd
Residential ¹	100 gallons/day/resident	3.2 residents	320 gpd
Total			125,507 gpd
Total			140.6 AF/yr
Source: SJ Water, 2019 ¹ Residential demand based on 290 units and a demand factor of 100 gallons per capita per day for all new residents and 3.2 people per residential unit based on 2018 population estimates from the California Department of Finance. This is referencing APN 246-31-042, which is an existing residential dwelling unit that would remain on the Project site ² Office demand based on 1,226,600 square feet of commercial space and a demand factor of 0.1 gallons per day per square foot of office space. ³ Commercial demand based on 10,107 square feet of commercial space and a demand factor of 0.25 gallons per day per square foot of commercial space.			

A Project could result in the need for new or expanded water entitlements if projected water demand for the Project exceeded the water supplies of the SJWC. If demand exceeded supply, SJWC would need to secure new water entitlements to service both existing and projected water demand. However, implementation of General Plan policies and regulations previously described would reduce demand for water generated by projects in the City.

The Project would generate a water demand of 125,507 gpd or 140.6 Af/yr, consistent with allowable expansion in the SJWC UWMP. Based on the WSA prepared for the Project, the increased demand associated with the proposed Project would be consistent with the SJWC's 2015 UWMP (Appendix K). Further, and in conformance with the current CALGreen code and the City's goals for reducing per capita water consumption and increasing water use efficiency (GP Policies MS-18.5 and MS-18.6), the City requires the Project to incorporate water conservation measures as part of the Project. This includes a landscape irrigation budget and use of water efficient landscaping (i.e., drought tolerant and native

species), in conformance with the State's Model Water Efficient Landscape Ordinance (GP Policy MS-3.1). Additional techniques that may be used include but are not limited to:

- Use high-efficiency indoor fixtures (e.g., low-flow toilets that use less than 1.6 gallons per flush, urinals that require less than one gallon per flush, showerheads that require less than 2.5 gallons per minute, aerators to reduce flow in lavatory faucets to as low as one gallon per minute, automatic shut-off sensors on lavatory faucets, etc.).
- Use high-efficiency devices for outdoor water uses (e.g., self-adjusting weather-based irrigation controllers and sensors, soaker hoses and drip irrigation technology to minimize evaporative water loss, timers on watering systems, etc.).
- Provide separate meters for indoor and outdoor potable water use.
- Prevent irrigation spray on buildings.

The development of the proposed Project would be subject to City requirements for the use of recycled water wherever feasible and cost-effective (GP Policy MS-19.4). Additionally, the Project would be required to contribute to the expansion of the recycled water system to serve the Downtown area (GP Policies MS-19.1 and MS-19.6). Implementation of these policies would likely involve the use of recycled water for irrigation, particularly of large landscaped areas, and/or the installation of dual plumbing for both interior and exterior recycled water use.

Implementation of water conservation/efficiency measures and use of recycled water would minimize the long-term potable water demand generated by the proposed Project development, as well as reduce the vulnerability of the development in the case of future water shortages due to global climate change. Additional measures may be required to further minimize water use to the extent feasible and to comply with current regulations. Therefore, it is anticipated that new or expanded entitlements for water supplies would not be required to serve the proposed Project development. Thus, 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.

Wastewater

Wastewater from the City of San José is treated at the San José/Santa Clara Regional Wastewater Facility RWF which is administered and operated by the City Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 mgd. The RWF treats an average of 110 mgd and serves 1.4 million residents. The City's share of the facility's treatment capacity is approximately 108.6 mgd. Based on the average daily dry weather flows from sources in San José (approximately 69.8 mgd), the City currently has approximately 38.8 mgd of excess treatment capacity. According to the General Plan, development under the 2040 General Plan is estimated to generate approximately 30.8 mgd of dry weather influent flow. Given that the City has approximately 38.8 mgd of excess treatment capacity, planned growth is not expected to exceed the City's allotted amount and there would be an estimated 8 mgd of excess treatment capacity even after buildout of the General Plan.

Table 20: Wastewater Generation of Existing Conditions

Land Use	Wastewater Generation Rate	Size	Wastewater Generation
Residential	0.12 gallons/day/ sf.	3.08 acres (134,165 sf)	16,100 gpd
Total			16,100 gpd
Generation rate based upon .0040 million gallons/day (mgd)/acre for office uses, 0.0018 mgd/acre for Core Area commercial uses, 0.0050 mgd/acre for high-density residential, and 0.023 mgd/acre for hotel (commercial uses). One acre equals 43,560 square feet. Source: City of San José Downtown Strategy 2000 FEIR, Pg. 316.			

Table 21: Wastewater Generation of Proposed Project

Land Use	Wastewater Generation Rate	Size	Wastewater Generation
Office	0.09 gallons/day/sf.	1,226,600 sf.	110,394 gpd
Retail	0.04 gallons/day/sf.	10,107 sf.	404 gpd
Residential ¹	0.12 gallons/day/ sf.	0.15 acres	784 gpd
Total			111,582 gpd
Generation rate based upon .0040 million gallons/day (mgd)/acre for office uses, 0.0018 mgd/acre for Core Area commercial uses, 0.0050 mgd/acre for high-density residential, and 0.023 mgd/acre for hotel (commercial uses). One acre equals 43,560 square feet. ¹ This is referencing APN 246-31-042, which is an existing residential dwelling unit that would remain on the Project site Source: City of San José Downtown Strategy 2000 FEIR, Pg. 316..			

The Project's development was not anticipated in the General Plan and may have the potential to exceed the City's wastewater treatment capacity. The proposed Project will generate up to 0.11 mgd of wastewater⁵³, as shown in Table 21: Wastewater Generation of Proposed Project. Thus, the proposed Project's wastewater generation would not exceed the City of San José's current excess wastewater treatment capacity.

Future development would be required to incorporate water conservation measures and to use recycled water whenever feasible. The increased use of recycled water would decrease the amount of effluent discharge to the bay, reducing the potential for exceeding the RWQCB limit, while minimizing water use would decrease the amount of both influent and effluent. In addition, the City will ensure that there is adequate treatment capacity at the time specific development projects are proposed, in accordance with Policy IN-4.1 and the Downtown Strategy 2040 FEIR. Implementation of the General Plan Policies, existing regulations, and local programs described above would ensure that the RWF would have sufficient treatment capacity to accommodate for the proposed Project's growth, as well as reduce the potential for

⁵³ Gpd/1,000,000 = mgd; 111,582 gpd/ 1,000,000 = 0.11 mgd

future exceedance of the RWQCB effluent limit. Therefore, the proposed Project would not require or result in the relocation or construction of new or expanded wastewater treatment. Thus, there would be no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR and no new or additional mitigation is required.

Stormwater

The amount of impervious surface area with implementation of the proposed Project would increase by approximately 78 percent, or 14,000 square feet. The Project would discharge surface drainage to an existing storm drain. The storm drainage system has sufficient capacity to convey runoff from the Project site and it is not anticipated that the Project would exceed the capacity of existing or planned storm drainage systems. 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.

The Project site is developed with existing single-family homes and a mixture of hardscape and landscaped areas. The proposed General Plan Amendment would not affect pervious or impervious surfaces as these physical features are generally associated with physical development of properties. However, the General Plan Amendment facilitates an entitlement request for a Site Development Permit to allow construction of the Project. Construction would increase impervious surfaces by approximately 14,000 square feet. Therefore, the Project is required to comply with the City of San José's Post-Construction Urban Runoff Management Policy 6-29 and the RWQCB Municipal Regional NPDES permit. To meet these requirements, the Project would include a stormwater treatment vault within the podium structure, as well as planted areas on the fifth level of the podium and on the rooftops of the towers. Stormwater runoff from the structure would drain into the stormwater treatment vault areas prior to entering the storm drainage system. The proposed treatment facilities would be numerically sized and would have capacity to treat the roof and parking area runoff entering the storm drainage system consistent with the NPDES requirements. While stormwater treatment vaults are typically not acceptable as the only means of treatment, the Project is an infill, transit-oriented development which qualifies as a Category C Special Project. Projects in this category are permitted to treat a minimum of 10 percent of runoff by bioretention and a maximum of 90 percent by mechanical filtration. 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.

Services

The Project site is occupied by 17 existing single-family residential units. Therefore, infrastructure on the Project site for electric power, natural gas, and tele communications is established. As discussed, PG&E is the main electricity and natural gas provider for the City of San José. PG&E would continue to provide these services for the proposed Project. Telecommunications would be provided by existing infrastructure from AT&T, Comcast, Viasat, Frontier, and Spectrum. Therefore, the proposed Project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm drainage, electric power, natural gas, or telecommunications facilities. Thus, the proposed Project, would result in no new or more significant impacts than those analyzed in the Downtown Strategy 2040 FEIR and no new or additional mitigation is required.

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

Same Impact as Approved Project, Less Than Significant. As discussed in the WSA (Appendix K), water service to the Project site is provided by San José Water Company. The Downtown Strategy 2000 EIR determined that development in Downtown could result in the need for new or expanded water entitlements. SJWC estimates that the total water demand for their service area could reach approximately 150,406 acre-feet per year (AF/yr) by 2040. However, with implementation of conservation measures and recycled water supplies, SJWC would meet projected system wide demand. Total future water demand in the Downtown area in 2040 would be roughly 7,533 AF/yr and would be within normal growth projections for water demand in SJWC's system.⁵⁴ As shown in Table 19, it is estimated that the Project would have a water demand of approximately 125,507 gpd, or 140.6 AF/yr.

Water usage associated with the proposed Project represent a 0.096% increase over the system wide 2013 water production of 146,776 AF/yr⁵⁵. The 0.096% increase in water demand is consistent with SJW's 2015 UWMP, which projected a 12.3% increase in total system demand between actual 2013 demand and projected 2040 demand. Therefore, the Project demand is within normal growth projections for water demand in SJW's system. Furthermore, SJW has no concern regarding the concentration of demand in this area, as the Project region is located in one of SJW's highest producing groundwater zones. 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.

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Same Impact as Approved Project, Less Than Significant. Wastewater from the City of San José is treated at the San José/Santa Clara RWF, which is administered and operated by the City of San José Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day (mgd).⁵⁶

According to the General Plan, future average dry weather effluent flow would not exceed 120 mgd under long-term cumulative conditions, and the City of San José has approximately 38.8 mgd of excess treatment capacity. Planned growth in the City is not expected to exceed the City's allotted capacity. While the Downtown Strategy 2040 Final EIR determined that the increase in wastewater from development in the downtown could cause effluent from the RWF to exceed the RWQCB limit of 120 mgd, the additional wastewater from the Project would not exceed the capacity of the RWF.

The City has approximately 8 mgd of excess treatment capacity after buildout of the General Plan and, as shown in Table 21, the Project would generate up to 0.11 mgd of additional wastewater. Although the proposed Project was not analyzed in the General Plan, the City would have a remaining wastewater capacity after accounting for full development of the General Plan and the proposed Project. Further, General Plan policies would further ensure adequate capacity of the RWF. Implementation of General

⁵⁴ City of San José Downtown Strategy 2040 FEIR, 2018. Pg. 330

⁵⁵

⁵⁶ City of San José. Water Pollution Control Capital Program 2018-2022. Accessed May 14, 2018. <http://www.sanjoseca.gov/DocumentCenter/View/71793>.

Plan Policies IN-4.1 through 4.4, existing regulations, and local programs would ensure that the San José/Santa Clara RWF has sufficient treatment capacity to accommodate growth and reduce the potential for future exceedance of the RWQCB effluent limit. Thus, the proposed Project's wastewater generation would not exceed the City of San José's wastewater treatment capacity.

Environmental impacts from the construction of new or expanded facilities would be avoided by utilization of existing facilities, which are below capacity. The projected wastewater demand of the Project, by itself, would not result in the exceedance of capacity at the RWF. A determination if excess treatment capacity at the RWF considers current uses within the City of San José and within the treatment plant's service boundaries. Consistent with the Downtown Strategy 2040 FEIR, the treatment capacity of the RWF would not be exceeded as a result of the proposed Project or the Project's contribution to existing treatment commitments.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Same Impact as Approved Project, Less Than Significant. According to the 2040 General Plan EIR, planned growth under the 2040 General Plan could increase the amount solid waste sent to landfills by approximately 571,500 tons per year through 2035, using current generation rates. This estimate represents the upper limit of potential landfilling needs given that disposal rates will likely continue to decrease overtime. Based on the upper limit, the existing landfills in San José would have sufficient permitted capacity of 5.3 million tons per year to receive the additional waste generated by new development in the City. According to Santa Clara County's 2016 five-year countywide integrated waste management plan review report, the County has adequate disposal capacity (i.e., greater than 15 years). According to Table 22: Existing Solid Waste Generation, it is estimated that the existing use generates approximately 62 pounds of solid waste per day.

Table 22: Existing Solid Waste Generation

Land Use	Solid Waste Rate	Size	Solid Waste Generated
Residential	4.4 lbs/day/dwelling unit	17 dwelling units	61.6 lbs
Total			61.6 lbs/day
Source: San José Downtown Strategy 2040 FEIR, 2018.			

The proposed Project would intensify the uses on the site and increase the amount of solid waste generated on-site compared to existing uses. As seen in Table 23: Proposed Solid Waste Generation, the proposed Project would generate approximately 7,617 pounds of solid waste per day, or 3.8 tons/day. This is equal to 1,387 tons/year of solid waste generated by the Project. This volume would represent approximately 0.2 percent of the total volume of solid waste generated citywide based on an annual basis.⁵⁷

⁵⁷ 0.2 percent = [1,387.2 tons/yr] (i.e. Project solid waste generation)/ [571,500 tons/yr] (i.e. estimated solid waste generated by build-out of General Plan into 2035)

Table 23: Proposed Solid Waste Generation

Land Use	Solid Waste Rate	Size	Solid Waste Generated
Office	0.006 lbs/day/sf.	1,266,600 sf.	7,360 lbs
Retail	2.5 lb/100 sf./day	10,107 sf.	253 lbs
Residential ¹	4.4 lbs/day/dwelling unit	1 dwelling unit	4.4 lbs
Total			7,617 lbs/day
Source: Estimated Solid Waste Generation Rates, CalRecycle, 2018.			
¹ This is referencing APN 246-31-042, which is an existing residential dwelling unit that would remain on the Project site			

Although the proposed Project was not anticipated in the General Plan, the County has adequate disposal capacity beyond 2022. Additionally, the proposed solid waste generation does not exceed the capacity of local infrastructure, which has sufficient permitted capacity of 5.3 million tons per year. Therefore, the Project would not generate solid waste in excess of state or local standards, local infrastructure, or impair the attainment of solid waste reduction goals and be less than significant. 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.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Same Impact as Approved Project, Less than Significant Impact. Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the CIWMB in 1996 and has since been reviewed in 2004 and 2007. The jurisdictions in the Santa Clara County IWMP include Campbell, Cupertino, Gilroy, Morgan Hill, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San José, Santa Clara, Saratoga, Sunnyvale and the unincorporated areas of Santa Clara County. Each jurisdiction in the County has a diversion requirement of 50 percent for 2000 and each year thereafter.

Santa Clara County's IWMP was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. According to the IWMP, Santa Clara County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfilling capacity of the five operating landfills in the City is approximately 5.3 million tons per year.⁵⁸ According to the Downtown Strategy 2040 FEIR, the local landfills have adequate disposal capacity through at least 2031.⁵⁹ According to Table 22, it is estimated that the existing uses on the Project site generate approximately 62 pounds of solid waste per day.

⁵⁸ City of San José. Envision San José 2040 General Plan DEIR. Page 664

⁵⁹ The Downtown Strategy 2040 FEIR (page 335), identifies the 2016 Santa Clara County Five Year CIWMP/RAIWMP Review Report as the source for adequate landfill capacity. The 2016 CIWMP/RAIWMP report concludes that the County has disposal capacity for equal to or greater than 15 years, (i.e., 2031).

The development, implementation and adoption of diversion programs (including many jurisdictions adopting zero waste plans) established by all jurisdictions help extend landfill capacity and would continue to do so as these programs and outreach help the community understand and buy into the zero-waste concept and alternatives to landfilling waste. In addition, compliance with the CALGreen Code and CARB's Mandatory Commercial Recycling Measure would complement local efforts and further reduce demand for landfill facilities. As redevelopment proceeds and diversion rates increase overtime, the City will ensure adequate landfill capacity through monitoring the availability of collection, transfer, recycling, disposal, and waste processing services; periodically assessing infrastructure needs; and working with MRF and landfill operators to expand capacity as needed (GP Policies IN-5.1, IN-5.4, and IN-5.15). With implementation of General Plan policies and the Zero Waste Strategic Plan, the proposed Project would not exceed the permitted or actual capacity of existing landfills.

Solid waste generation from implementation of the proposed Project would be minimized with the ongoing implementation of the current CALGreen Code, which require would require the proposed Project to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. In addition, the Project would comply with the City's Zero Waste Strategic Plan, which would require the Project to consider strategies including redesigning the commercial solid waste system and improving services for multi-family dwellings. The Project would be compliant with the General Plan policies, existing regulations, and local programs, thus ensuring that the Project would not result in significant impacts to landfill capacities to accommodate the City's increased service population. Therefore, the Project would comply with management and reduction statutes and regulations related to solid waste and the Project would result in no new or more significant impacts than those previously analyzed in the Downtown Strategy 2040 FEIR. Impacts would be less than significant, and no new or additional mitigation is required.

4.20 Wildfire

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

Applicable Plans, Policies, and Regulations

Wildland-Urban Interface Fire Area Standards in the California Building Code

The 2007 California Building Code requires that any new buildings proposed in State Responsibility Areas, Local Agency Very-High Fire Hazard Severity Zone, or Wildland-Urban Interface Area (as designated by the enforcing agency) be constructed to meet the Wildland-Urban Interface Fire Area Building Standards. The California Building Code establishes minimum standards for materials and material assemblies in order to provide a reasonable level of exterior wildfire exposure protection for buildings in wildland-urban interface areas.

City of San José Envision San José 2040 General Plan

The City's General Plan includes the following wildfire policies applicable to the Project:

- Policy EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
- Policy EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
- Policy EC-8.3: For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, continue to implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

Existing Setting

The 3.08-acre Project site is occupied by single-family residences. The proposed Project is zoned as "Non-Very High Fire Hazard Safety Zone" on the Very High Hazard Severity Zones in LRA Map dated October 2008 and "LRA Incorporated" on the Fire Hazard Severity Zones in LRA Map dated October 2007.⁶⁰ The proposed Project is also outside of the Santa Clara County Wildland Urban Interface Fire Area.⁶¹ The nearest Very High Fire Hazard Severity Zone is approximately 6.6 miles southwest of the Project site.

The City has participated in the development of a multi-jurisdictional hazard plan by ABAG. The hazard mitigation plan, Taming Natural Disasters, includes mitigation activities and strategies for dealing with hazards that are likely to impact the Bay Area, including wildfires. The City has also adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. The Plan identifies the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

⁶⁰ California Department of Forestry and Fire Protection. VHFHSZ in LRA. Available at: https://osfm.fire.ca.gov/media/5935/san_jose.pdf. Accessed on September 6, 2019.

⁶¹ County of Santa Clara. Santa Clara County Wildland Urban Interface Fire Area. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf. Accessed on September 6, 2019.

Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

Same Impact as Approved Project, Less Than Significant. The City has adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. Because the Project site is zoned in the “Non-Very High Fire Hazard Safety Zone” and outside of the Wildland Urban Interface Fire Area, as shown in Figure 16 and Figure 17, the proposed Project would not substantially impair the City’s Emergency Operations and Evacuation Plan. 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.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Same Impact as Approved Project, Less Than Significant. The Project site is zoned in the “Non-Very High Fire Hazard Safety Zone” and outside of the Wildland Urban Interface Fire Area, as shown in Figure 16. In addition, the Project site is relatively flat and in an urbanized area with residential and commercial buildings. The nearest Very High Fire Hazard Severity Zone is approximately 7 miles northeast of the Project site. 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.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Same Impact as Approved Project, Less Than Significant. All proposed Project components (including infrastructure, roads, etc.) would be located within the boundaries of the Project site, and impacts associated with the development of the Project within its footprint area analyzed throughout this document. Additionally, as part of the City’s process, the City will review all plans for adequate fire suppression, fire access, and emergency evacuation. Adherence to standard City policies would reduce potential impacts to a level of less than significant. Thus, no new or more significant impacts than those analyzed in the Downtown Strategy 2040 would occur. Impacts would be less than significant, and no new or additional mitigation is required.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Same Impact as Approved Project, Less Than Significant. The Project is zoned in the “Non-Very High Fire Hazard Safety Zone” and outside of the Wildland Urban Interface Fire Area. In addition, the Project site is relatively flat and the proposed on-site detention/infiltration basins and facilities would limit the release of stormwater from the site. Therefore, the proposed Project would not expose people to flooding or landslides because of runoff, post-fire slope instability or drainage change. Thus, 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.

4.21 Mandatory Findings of Significance

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

Discussion

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

Different Impact as Approved Project, Potentially Significant Impact. As discussed in the individual sections, the proposed Project could potentially degrade the quality of the environment. As discussed in Section 4.4 Biological Resources, the Project would have a potentially significant impact on a sensitive habitat or species, as further analyzed in the SEIR for the proposed Project

The Project would potentially result in new or more significant impacts than identified in the certified Downtown Strategy 2040 FEIR.

- b) *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

Different Impact as Approved Project, Potentially Significant Impact. Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

With the implementation of the identified mitigation measures, the measures from the Downtown Strategy 2040 FEIR, Conditions of Project Approval, Standard Permit Conditions, and consistency with adopted City policies, the Project would result in less than significant air quality, hydrology and water quality, biology (evaluated and analyzed in the SEIR), and noise (evaluated and analyzed in the SEIR) impacts during construction. As the identified impacts are temporary and would be mitigated, the Project would not have cumulatively considerable impacts on air quality, water quality, biology, and noise impacts.

The Project would have a less than significant impact on aesthetics, geology and soils, hazards and hazardous materials, population and housing, recreation, and utilities, and would not contribute to cumulative impacts to these resources. The Project would not impact agricultural and forest resources or mineral resources. Therefore, the Project would not contribute to a significant cumulative impact on these resources.

However, the proposed Project build out would have potentially significant impacts to cultural resources. Impacts to cultural resources are evaluated and analyzed in the SEIR for this Project, and the consideration if these potentially significant impacts would be cumulatively considerable is also contained in the SEIR.

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

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

5.0 REFERENCES

Bay Area Air Quality Management District. CEQA Guidelines. May 2011

California, State of, Department of Conservation. Earthquake Zones of Required Investigation San José West Quadrangle. Available at:
http://gmw.conservacion.ca.gov/SHP/EZRIM/Maps/SAN_JOSE_WEST_EZRIM.pdf. Accessed September 5, 2019.

California, State of, Department of Conservation. Regulatory Maps.
<http://maps.conservacion.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed September 5, 2019.

California, State of, Department of Conservation. Web Soil Survey. Available at:
<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed September 5, 2019.

California, State of, Department of Conservation, Williamson Act/Land Conservation Act. Available at
<ftp://ftp.consrv.ca.gov/pub/dlrp/wa/>. Accessed September 5, 2019.

California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2018. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/>. Accessed August 29, 2019.

California Department of Forestry and Fire Protection. FHSZ Viewer. Available at
<https://egis.fire.ca.gov/FHSZ/>. Accessed September 5, 2019.

California Department of Forestry and Fire Protection. VHFHSZ in LRA. Available at:
https://osfm.fire.ca.gov/media/5935/san_jose.pdf. Accessed on September 6, 2019.

City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

City of San José. San José Market Overview and Employment Lands Analysis. January 2016.

City of San José Public Library. Available at: <https://www.sjpl.org/locations-map-search>. Accessed on September 5, 2019.

County of Santa Clara. Santa Clara County Wildland Urban Interface Fire Area. Available at:
https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf. Accessed on September 6, 2019.

Federal Emergency Management Agency, FEMA Flood Map Service Center. Available at
<https://msc.fema.gov/portal/search#searchresultsanchor>. Accessed on September 5, 2019.

San José Fire Department. Stations. Available at: <http://www.sanjoseca.gov/index.aspx?NID=755>. Accessed on August 29, 2019.

San José USD. School Site Locator. Available at:
<http://apps.schoolsitelocator.com/?districtcode=25499#>. Accessed on September 5, 2019.

State of California Employment Development Department. Available at:
<http://www.labormarketinfo.edd.ca.gov/data/labor-force-and-unemployment-for-cities-and-census-areas.html>, accessed August 29, 2019.