Supplemental EIR

CityView Plaza Office Project

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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SUMMARY

The 8.1-acre project site is currently developed with nine buildings and an underground parking structure. The project proposes to demolish the existing buildings and parking structure and three office towers with approximately 3,574,533 square feet of leasable office space and 65,500 square feet of ground floor retail. The 19-story buildings would have a maximum height of 293 feet. The project would also include five levels of below grade parking and a 15-car surface parking lot.

The following is a summary of the significant impacts and mitigation measures addressed within this SEIR (including the Initial Study in Appendix A). The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Project Information and Description* and *Section 3.0 Environmental Setting, Impacts, & Mitigation*

Significant Impacts	Mitigation Measures
Air Quality	
Impact AIR-1: Construction activities associated with the proposed project would result in NO_x emissions in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**	**MM AIR-1.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce NO_X emissions. • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • 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 use equipment that 1) 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 a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • 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. • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site

	(such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. 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 the above mitigation measure. The plan shall include but not be limited to the following: • List of activities and estimated timing. • Equipment that would be used for each activity. • Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure. • How the construction contractor will ensure that the measures listed are monitored. • How the construction contractor will remedy any exceedance of the thresholds. • How often and the method the construction contractor will use to report compliance with this mitigation measure The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.
Impact AIR-2: Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of BAAQMD thresholds. In addition, construction activities on-site would expose sensitive receptors to $PM_{2.5}$ emissions in excess of acceptable thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**	**MM AIR-2.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce TAC and PM2.5 emissions: • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • 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 use equipment that 1) 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 a 85 percent reduction

	in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • 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 • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. 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 the above 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.
Impact AIR(C)-1: The maximum cancer risk and annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources. **[Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)]**	**MM AIR(C)-1.1:** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce cancer risk and $PM_{2.5}$ emissions: • For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$). • 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 use equipment that 1) 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 a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with

	lower NOx emissions that meet the 85 percent NOx and PM reduction requirements. • 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. • Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators. 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 the above 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.
Biological Resources	
Impact BIO-1: The birds in the vicinity of the project site could collide with the proposed bridges between the towers. **[New Less Than Significant Impact with Mitigation (Less Than Significant Impact with Mitigation Incorporated)]**	**MM BIO-1:** Prior to issuance of any building permits, the project applicant shall incorporate the following measures to minimize and/or avoid bird collisions: • All glazing on the façades of the two bridges shall have low-reflectivity glazing (20-percent reflectivity or lower) to minimize reflections of the sky and vegetation in the bridge façades. • If glazing on the bridges is tinted or translucent so that it is not possible to see one side of the bridge to the other, no glazing treatments shall be necessary. If transparent glazing is used and it is possible to see through from one side of the bridge to the other, all glazing on the façades of the bridges shall be 100 percent treated with a bird-safe glazing treatment, as described below: o Bird-safe glazing treatments could include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior, or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least one-fourth inch wide with a maximum spacing of four inches, and/or horizontal elements shall be at least

	one-eighth inch wide with a maximum spacing of two inches. • The visibility of frit patterns on bird-safe glazing products is highly variable based on the glazing design (e.g., the glass surface on which the frit is placed, the color/tint of the glass, and the color of the frit), the frit type (e.g., sandblasted, acid-etched, or ceramic frit), and the production process (e.g., the pressure of sandblasting). If bird-safe glazing is used on the bridge and/or freestanding glass railings, a physical sample of the glazing shall be evaluated by a qualified biologist to ensure that the bird-safe glazing treatment is visible to birds. The qualified biologist's evaluation shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee. • The final design shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permits. • The approved design specifications shall be printed on all project plans for subsequent ministerial permits.
Cultural Resources	
Impact CUL-1: Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic resources, and together contribute to the historic significance of the Park Center Plaza. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**	**MM CUL-1.1:** Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps, actions, and documents have been satisfied for each of the four historic structures in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants. Documentation (HABS): The four structures and associated features on the project site shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components: A. Drawings – Prepare sketch floor plans. B. Photographs – Digital photographic documentation of the interior, exterior, and setting of the four buildings in

	compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. C. Written Data – HABS written documentation. An architectural historian and historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data. The documentation shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer. Additional copies shall be made available to other local research institutions including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District and the four individual buildings, along with associated features, spaces, and landscaping. Documentation (Digital Scans): The four structures and associated features on the project site shall be documented through a series of digital scans and video production. Relocation by the Applicant and/or a Third Party: Prior to issuance of any demolition permits, the project applicant, or an interested third party, shall be required to advertise the availability of the four structures for relocation for a period of no less than 60 days. The advertisements must include notification in a newspaper of general circulation, on a website, and notice placed on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. If the project applicant or third party agrees to relocate one or more of the four structures, the following measures must be followed:

	1. The Director of Planning, Building and Code Enforcement or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building. 2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. 3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move. 4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for the long-term preservation and reuse. Upon completion of the repairs, a qualified architectural historian shall document and confirm that work to the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the relocation, repair, and reuse. Salvage: If the project applicant and/or no third party agrees to relocate any of the four structures within the specified time, the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic Preservation Officer in accordance with the Action Plan. The project applicant must provide evidence to the

	City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits. Deconstruction/Reverse Construction: All structures and associated features being salvaged and demolished shall be documented, photographed, and videoed showing in reverse the original methods of construction and use of materials. Commemoration: The four structures and associated features on the project site, as well as the Park Center Plaza as a whole, shall be commemorated and curated to include: • Physical remnants from the site • Oral histories • Research • Historic photographs • Historic maps • Historic displays • Historic Marker consistent with the City's Marker Program for history The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the commemorative actions.
Hazards and Hazardous Materials	
Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**	**MM HAZ-1.1:** Prior to issuance of any grading or excavation permits, the project proponent shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel. The SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer in the Environmental Services Department for review and approval prior to issuance of grading or excavation permits.

	MM HAZ-1.2: Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant shall obtain a NPDES permit obtained from the San Francisco Bay Regional Water Quality Control Board to modify the dewatering/treatment system to address groundwater seepage into the proposed underground parking areas, and to identify any improvements to the groundwater remediation system to address low levels of solvents in the groundwater that must be implemented to meet the NPDES discharge requirements. **MM HAZ-1.3:** Prior to any Aboveground Storage Tank (AST) removal, the project applicant shall contact the San José Fire Department (SJFD) and the SCCDEH and coordinate any necessary field inspections, sampling (if required) and required permits and paperwork from both agencies. The project applicant shall also complete and submit an Aboveground Storage Tank System Closure Permit Application to the SCCDEH and an Aboveground Storage Tank System Closure Application (UN-003) to the SJFD. Additional permits (i.e., demolition permits, electrical permits, plumbing permits, etc.) may be required by the City of San José's Department of Planning Building, and Code Enforcement or other State or federal agencies. The project applicant shall submit copies of all required permits and related paperwork to the Director of Planning, Building and Code Enforcement, or to the Director's designee prior to the issuance of any site demolition, grading, or excavation permits.
Noise and Vibration	
Impact NOI-1a: Implementation of the project would result in a permanent traffic noise level increase in the project vicinity. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**	It is not feasible for an individual development to implement public improvements such as those listed [in the Downtown Strategy 2040 FEIR], and no feasible mitigation measures have been identified to lessen this significant impact. Therefore, the project would have a significant unavoidable impact on traffic noise.
Impact NOI-1b: Project construction would last for a period of more than 12 months and nighttime construction would exceed	**MM NOI-1.1b:** Consistent with the Municipal Code and in accordance with the Downtown Strategy 2040 FEIR, particularly Policy EC-1.7, a qualified acoustic consultant shall prepare a construction noise logistics plan which includes the following Best Management Practices and other site-specific measures

steady noise levels of approximately 35 dBA and fluctuating noise levels of approximately 45 dBA which would impact hotel guests, interim housing residents, and future residents.
 	
[New Significant Unavoidable Impact (Significant Unavoidable Impact)]
	during all phases of construction on the project site to reduce noise levels as much as possible during construction activities:
	
	• The construction noise logistics plan shall include, at a minimum:
	  o A list of all activities that would use heavy construction equipment and high vibratory equipment (jackhammers, hoe rams, etc.)
	  o A list of the equipment used for each activity
	  o The anticipated duration for each activity
	  o The method used to ensure that equipment does not exceed the noise thresholds
	  o A procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
	  o Submit the construction noise logistics plan 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 or grading permit.
	• Construct solid plywood fences around construction sites adjacent to operational businesses, residences, and other noise-sensitive land uses.
	• Strictly prohibit unnecessary idling of internal combustion engines.
	• Use 'quiet' models of air compressors and other stationary noise sources where technology exists.
	• Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
	• Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
	• Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
	• Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
	• If necessary, erect a temporary noise control blanket along building façades facing the construction sites.

	• Designate a "noise disturbance coordinator" to respond to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign.

Summary of Alternatives to the Proposed Project

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives, including alternatives considered but rejected, is provided in Section 7.0 Alternatives Analysis.

No-Project – No Development Alternative

The No Project – No Development Alternative would retain the existing land uses on-site as is. If the project site were to remain as is, the significant impacts of the project would not occur.

Preservation Alternative 3 – Preservation of all Buildings Extant in 1974

Preservation Alternative 3 would retain Buildings 1-5 and the original plaza around Building 2. Buildings 6 and 7, which are not historic, would be demolished to allow for infill construction in those locations. By retaining Buildings 1-5, the available space for new construction would be significantly reduced. As such, this alternative assumes the new building(s) would be built to the maximum allowable height to maximize the space. Given the area available for new construction under this alternative, it is estimated that the total new development square footage would be approximately one-third or less of the proposed project (approximately 1.2 million square feet).

Preservation Alternative 4 – Preservation of Candidate Landmark Buildings

Preservation Alternative 4 would retain two or more of Buildings 2-5 or, alternatively, would specifically retain the Pelli buildings (Buildings 3, 4, and 5).[1] Preservation of either building along Market Street (Buildings 2 and 3) would require the easternmost tower to be substantially reduced in size, or in the case of both buildings being preserved, removed entirely from the project. This would result in the loss of approximately 731,542 to 1,463,083 square feet of new development. It would also alter the site access as one of the site driveways is proposed in the location of the Bank of America building.

[1] The Pelli buildings all have a unified theme of modern interpretations of ancient temples.

Preservation of Building 4 would require reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also allow for the retention of the existing driveway on Park Avenue, which is inconsistent with the City proposed roadway improvement plan for Park Avenue. Preservation of Building 5 would also require reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also alter the site access as one of the site driveways is proposed in the location of the bank building.

Preservation of Buildings 3-5 specifically would result in the loss of approximately 1,747,808 square feet of office space. It would also alter the site access as noted above.

Preservation Alternative 5 – Preservation of the Wells Fargo Building

Preservation Alternative 5 would retain Building 2 and the original plaza around Building 2. Given the area available for new construction under this alternative, it is estimated that preservation of the Wells Fargo building would reduce the total square footage of new development by approximately 347,657 square feet and reduce total below-grade parking by 600 spaces.[2] This would equate to approximately 3,226,876 million square feet of total new development square footage on-site. Preservation of Building 2 would not alter the site access and operations compared to the proposed project.

Preservation Alternative 6 – Preservation of the Sumitomo Bank Building

Building 5 is located at the southwestern corner of the project site. Preservation of this building would reduce the significant and unavoidable impact to a potential NRHP historic resource, but would not eliminate the significant and unavoidable impacts to CRHR and City historic resources. The project applicant has indicated that preservation of the Sumitomo Bank building would also require retention of the existing tower immediately north of the bank building (150 Almaden Boulevard). By retaining both buildings, only two of the three proposed towers could be constructed, a loss of approximately 1,211,916 square feet in new office development and 2,061 parking spaces.[3] This would result in 2,362,617 square feet of new development on-site. If retention of the office tower was not required, then this alternative would result in a loss of approximately 605,958 square feet in new office development. This would result in 2,968,575 square feet of new development on-site. The new building at 150 Almaden would not be able to be connected to the other new towers with an elevated pedestrian bridge. Preservation of the Sumitomo Bank building and adjacent office tower would require altering the site access as one of the site driveways is proposed in the location of the bank building.

Reduced Development Alternative 1– Square Footage Reduction

The proposed project would have significant and unavoidable noise and air quality impacts during construction. The only way to reduce construction impacts would be to reduce the size of the project. Any development scenario with a smaller project of any size would involve a shorter construction timeframe, less excavation for parking, and less heavy equipment on-site, which would lessen the significant unavoidable air quality and noise impacts as compared to the proposed project.

[2] Lindberg, Britt. Senior Associate, Gensler. February 11, 2020.
[3] Ibid.

The proposed project would need to be reduced in size from 3,648,584 to approximately 1,500,000 square feet to avoid the construction air quality impacts, resulting in a reduction of 59 percent of the proposed project. That would result in a total reduce of 2,148,584 square feet.

Reduced Development Alternative 2 – Reduced Parking

As proposed, the project would include 6,245 parking spaces of which 6,230 spaces would be located in a five-level below grade parking garage. The remaining 15 spaces would be located in a surface parking lot on-site.

With the 50 percent parking reduction, the total number of parking levels would be reduced from five to four. Using the parking summary for the proposed project, the surface lot would have 15 spaces, basement level 1 would have 764 spaces, basement levels 2 and 3 would have 899 each, basement level 4 would have 1,826, and basement level 5 would have 1,842 spaces. Assuming the same number of parking spaces per level, Reduced Development Alternative 2 would require basement levels 1-3 and a portion of level 4 to construct 3,589 spaces. Basement level 4 could possibly be eliminated if stackers and/or valet options were included to increase parking capacity on levels 1-3.

The elimination of one to two levels of below-grade parking would reduce the necessary excavation and construction, thereby reducing the number and duration of heavy equipment usage to needed to build the garage. Construction equipment usage and duration for all phases of the project would remain the same.

Reduced Development Alternative 3 – Height Reduction for East Tower

As proposed, the project would result in a significant and unavoidable shading impact to Cesar Chavez Plaza. The Reduced Development Alternative 3 would reduce the height of the east tower from 19 stories to 12 stories. This would result in a reduction in building size of 174,958 square feet.

Areas of Public Controversy

Areas of public concern include:

- Increased traffic
- Height and Massing
- Interface with Cesar Chavez Plaza/bird strikes
- Loss of historic structures

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) for the CityView Plaza Office Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

This SEIR tiers from the Downtown Strategy 2040 FEIR because the project was included in the overall development that was analyzed for that document at a program level. An SEIR is required for this project because project-specific information was not available at the time the Downtown Strategy 2040 FEIR was prepared. The SEIR evaluation process is the same as the EIR process as outlined below.

1.2 SEIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, State, and federal agencies on August 8, 2019. The standard 30-day comment period concluded on September 9, 2019. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City also held a public scoping meeting on August 19, 2019 to discuss the project and solicit public input as to the scope and content of this SEIR. The meeting was held at the Bowers Institute Meeting Room located at 145 West San Carlos Street, San José, CA 95113. Appendix K of this EIR includes the NOP and comments received on the NOP.

1.2.2 Draft SEIR Public Review and Comment Period

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

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Phone: (408) 535-6872, Email: Reema.Mahamood@sanjoseca.gov

1.3 FINAL SEIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final SEIR in conformance with CEQA Guidelines Section 15132. The Final SEIR will consist of:

- Revisions to the Draft SEIR text, as necessary;
- List of individuals and agencies commenting on the Draft SEIR;
- Responses to comments received on the Draft SEIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft SEIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 Notice of Determination

If the project is approved, the City will file a Notice of Determination (NOD) within five days of project approval, which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office and available for public inspection for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094(g)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The applicant proposes to redevelop approximately 8.1 acres (APNs 259-41-054, -057, -066, -067, -068, -070) in downtown San José. Vehicular access to the site is currently provided via five curb cuts (one for a driveway along South Almaden Boulevard, one for a driveway, one for a loading dock along West San Fernando Street, and two for driveways along Park Avenue). Refer to Figures 2.1-1 to 2.1-3 for the Regional, Vicinity, and Aerial maps.

2.2 PROJECT DESCRIPTION

Implementation of the project would demolish nine buildings on-site and the stair structure that provides access to the below-grade parking garage which is on a single basement level. A summary of existing development on the project site is shown in Table 2.2-1, below. The total square footage of the existing buildings on the site proposed for demolition is 1,017,846.

Table 2.2-1: Existing Development On-Site

Building	Use	Size (square feet)
101 Park Center Plaza	Office	359,918
150 South Almaden Boulevard	Office	218,400
185 Park Avenue	Office/Commercial	162,144
100 West San Fernando Street	Office	116,720
177 Park Center Plaza	Office/Commercial	33,543
170 Park Center Plaza	Office	23,280
130 Park Center Plaza	Commercial	20,290
115 Park Center Plaza	Commercial	8,272
110 Park Center Plaza	Stair Access to Underground Parking	1,479
121 South Market Street	Office	73,800
	Total	**1,017,846**

The applicant proposes to construct three new 19-story office buildings (Towers A, B, and C) with ground floor retail. The office buildings would consist of approximately 3,574,533 square feet of leasable office space on floors one through 19, 126,203 square feet of enclosed mechanical space, 65,500 square feet of ground floor retail and leasable active use tenant space, and 24,000 square feet of ground floor lobby, totaling 3,790,236 square feet. The buildings would be up to 293 feet tall to the top of the parapet with a floor area ratio (FAR) of 10.7. A pedestrian bridge is proposed on floors five to 19, which would connect all three office buildings. The project would also include five levels of below-grade parking and a 15-car surface parking lot.

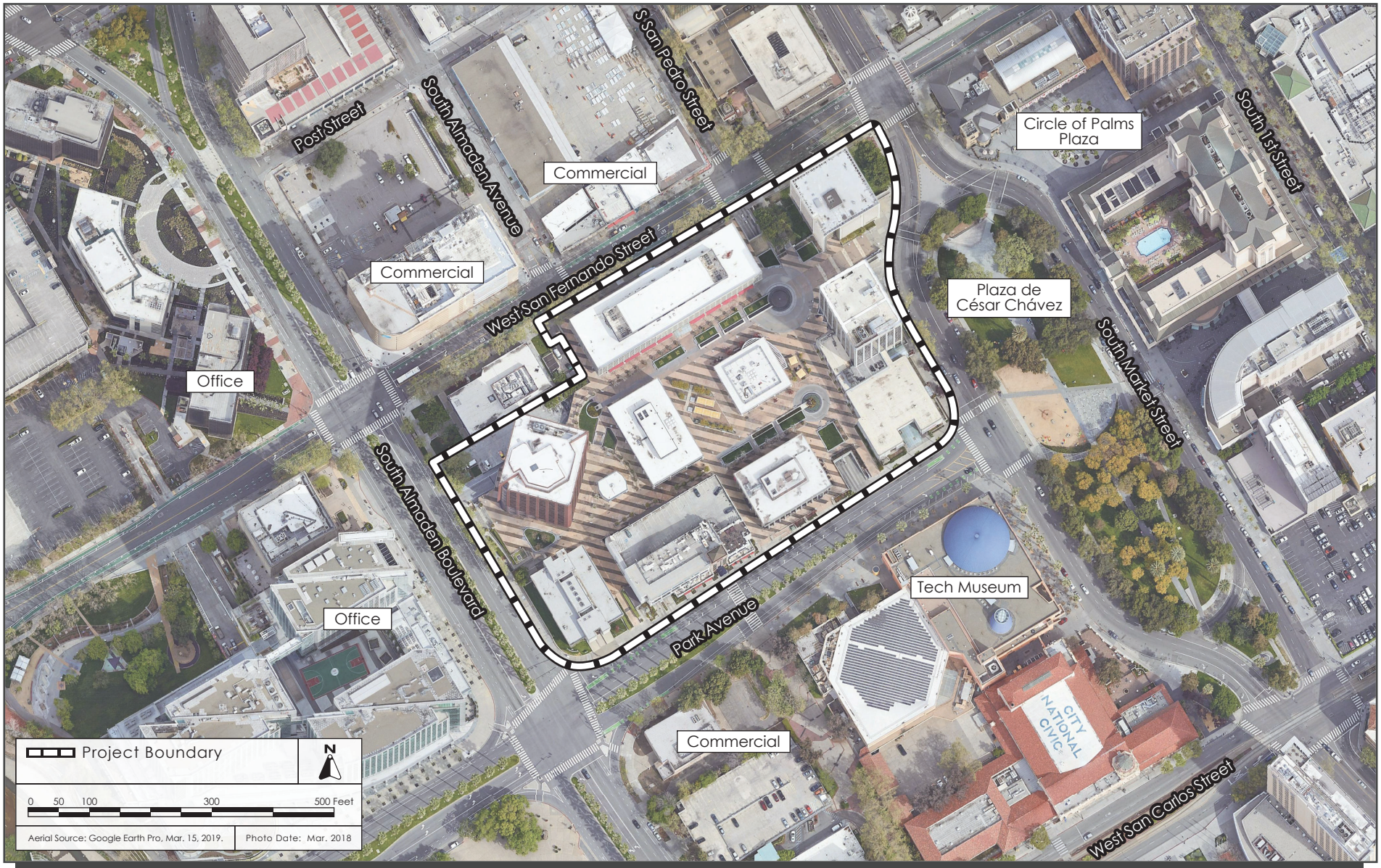
Refer to Figure 2.2-1 for the ground floor site plan. Building elevations for the proposed project are shown in Figures 2.2-2 and 2.2-3.

2.2.1 Project Operation

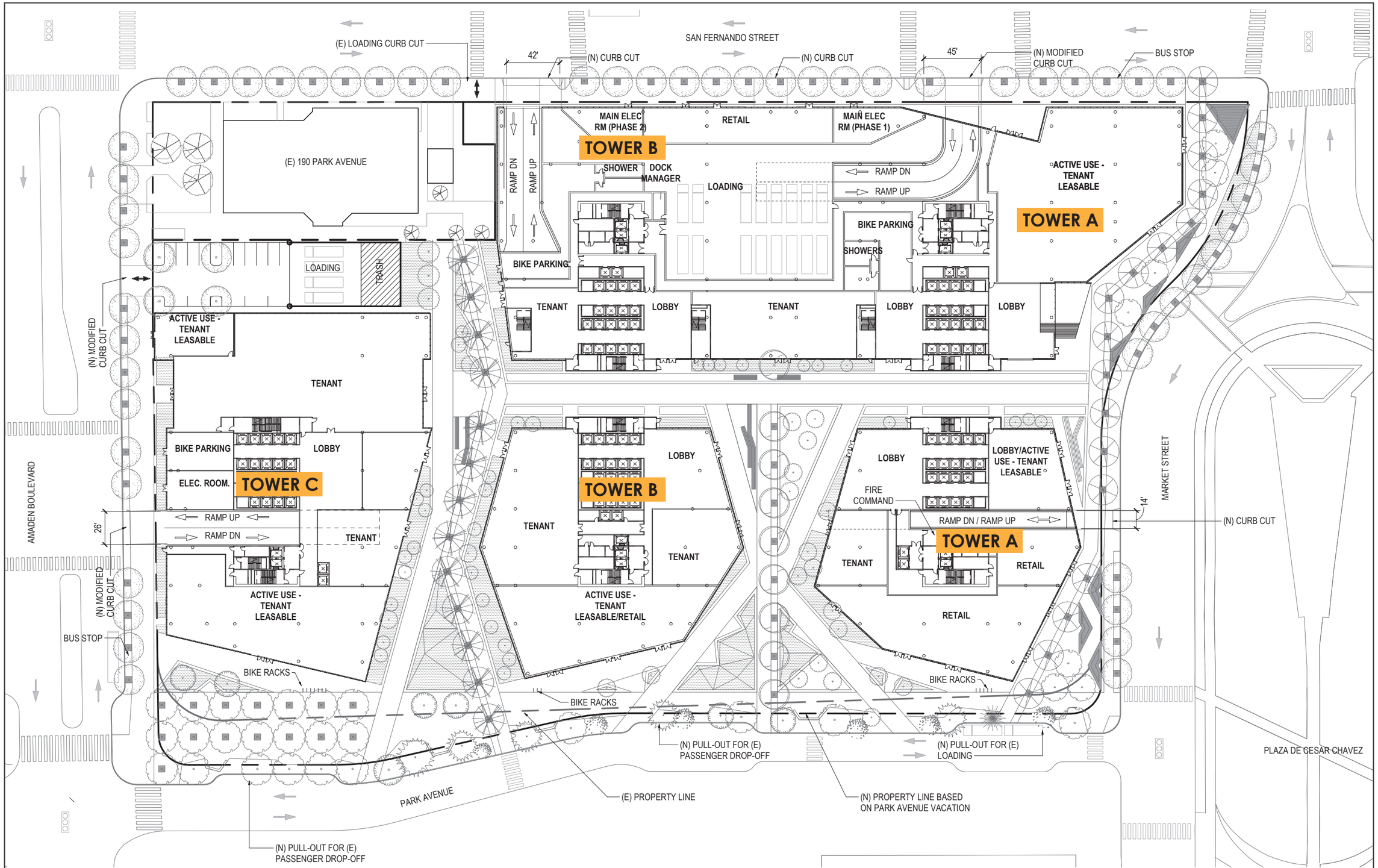
The applicant would construct three new 19-story office buildings with ground floor retail. It is anticipated that, when complete, upwards of 20,000 employees would occupy the site. Based on leasing activity, this could vary between a single large tenant or multiple tenant configurations,

REGIONAL MAP | FIGURE 2.1-1

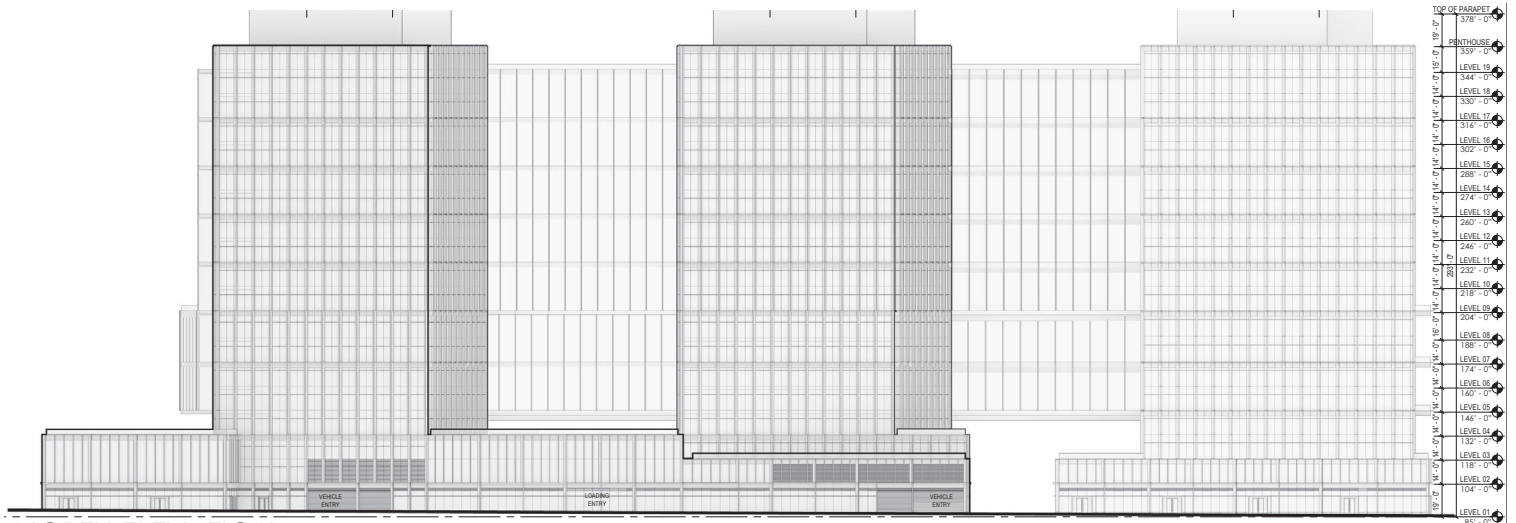
VICINITY MAP | FIGURE 2.1-2



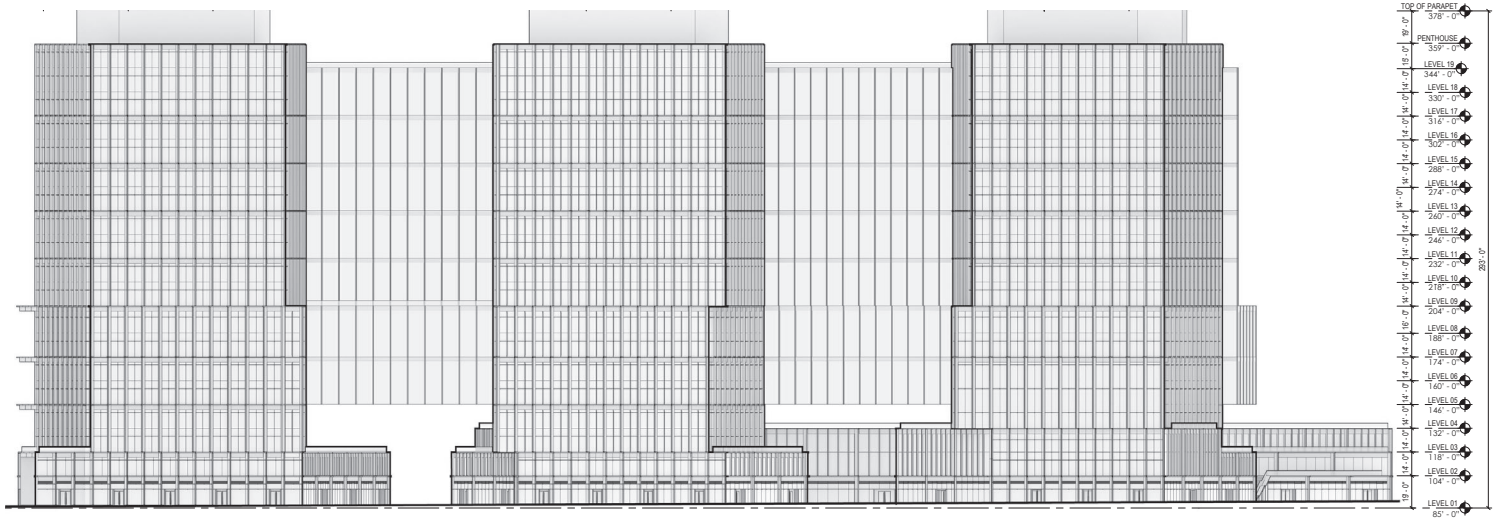
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3



SITE PLAN - GROUND FLOOR | FIGURE 2.2-1

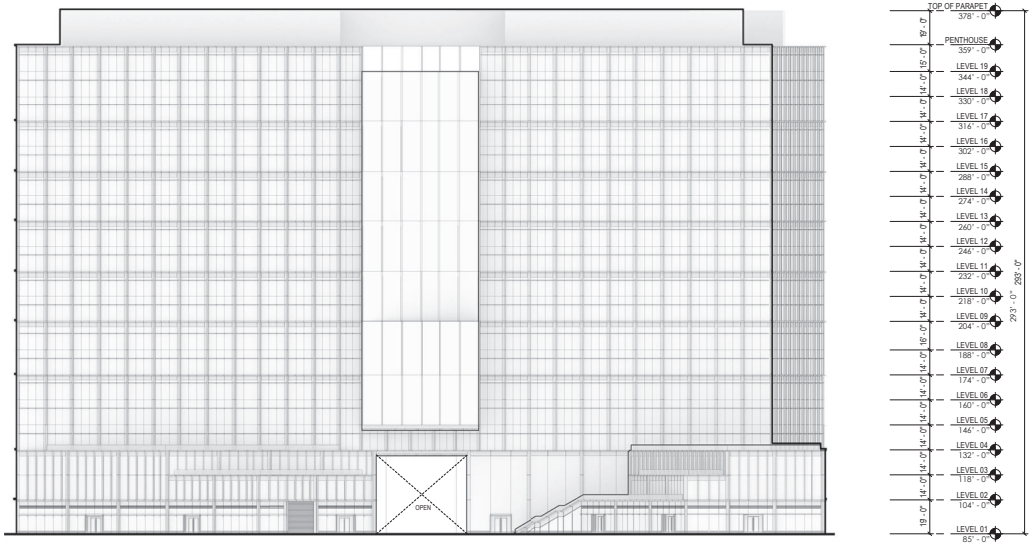


NORTH ELEVATION

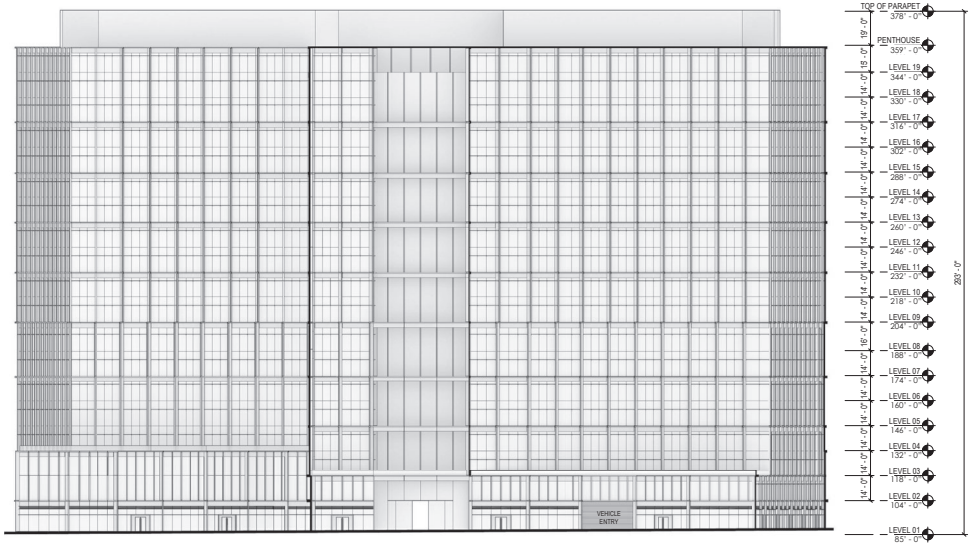


SOUTH ELEVATION

NORTH & SOUTH ELEVATION | FIGURE 2.2-2



EAST ELEVATION



WEST ELEVATION

EAST & WEST ELEVATION

FIGURE 2.2-3

each with their own goals and workspace needs. With this exciting influx of workforce, it is anticipated that an enhanced vibrancy would be brought to this precinct of downtown as employees use multiple modes of transportation to access the site and use the downtown's local businesses for their personal and business needs. Care has been taken in the design to provide both a secure environment for business operations, but also the development of inviting peripheral spaces to enhance public and private engagement.

The project applicant intends to self-manage the project site with its internal property management division which focuses on a high level of service to meet the needs of the tenants anticipated to populate the site. These services would include, but would not be limited to, property managers, building engineers, parking and security personnel, janitorial services, loading dock management, and landscape operations.

2.2.2 Site Access, Parking and Circulation

The project site's vehicle access would be reconfigured. One full-access driveway along South Almaden Boulevard would provide access to the surface parking lot and a loading dock with four truck bays. Access to the subterranean parking garage would be provided via two full-access driveways along West San Fernando Street, one full-access driveway along South Almaden Boulevard, and one right-in, right-out reversible driveway along Market Street (inbound only during the AM peak hour and outbound only during the PM peak hour). The proposed five-level below-grade parking garage would provide for a mix of valet-assisted tandem and parallel parking spaces (basement floors one through three) and stacked parking spaces and over-aisle lifts (basement floors four and five). One loading dock supporting a total of eight truck bays would also be provided on West San Fernando Street; the loading dock would be separate from the garage entrances. The parking garage would have a total of 6,230 parking spaces and the surface parking lot would provide an additional 15 parking spaces.

There are existing sidewalks and crosswalks on West San Fernando Street, South Market Street, Park Avenue, and South Almaden Boulevard. Pedestrian access to the office lobbies would be provided via paved paseos connecting the sidewalks to the interior of the site. Class II bike lanes occur on Park Avenue, and Class IV bike lanes occur on West San Fernando Street and South Almaden Boulevard. Three bicycle parking locations with associated shower facilities for employees are proposed under the project. In total, the project would provide 776 long-term bicycle spaces and 30 short-term bicycle spaces, all to be located on the ground floor. The project's Park Avenue frontage would include street improvements in line with the Park Avenue Reconfiguration Plan.

2.2.3 Green Building Measures

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

2.2.4 Transportation Demand Management Program

The applicant proposes the following measures[4] as part of the transportation demand management (TDM) program for the proposed project:

- Transit Measures
  - Design and locate buildings to facilitate transit access
- Bicycle Measures
  - Provide secure, weather-protected bicycle parking for employees
  - Provide safe, direct access for bicyclists to adjacent bicycle routes
  - Provide showers and lockers for bicycling or walking to work
- Transportation Coordinator
  - Provide a transportation coordinator who would be responsible for overseeing general traffic operations on the site and providing outreach to the office and retail tenants.

Transit Measures

Class II bike lanes occur on Park Avenue, and Class IV bike lanes occur on West San Fernando Street and South Almaden Boulevard. These bike lanes provide bicycle access to the project site. The nearest bus stops to the project site are located on South First Street, San Carlos Street, and Santa Clara Street located approximately 575 feet east, 875 feet southwest, and 800 feet north, respectively. The San José Diridon Station serves as a transfer point to Caltrain, Altamont Commuter Express (ACE), and Amtrak. The closest Santa Clara Valley Transportation Authority (VTA) light rail station is located approximately 600 feet south of the project site. Public sidewalks, and paved paseos and pathways within the project site, provide pedestrian access from these public transit stops.

Bicycle Measures

The proposed project includes a total of 776 bicycle parking spaces for the office uses on the ground floor of all three towers. Showers and lockers are also proposed in Towers A and B. In addition, thirty short-term bicycle parking spaces would be provided outside the buildings.

2.2.5 Envision San José 2040 General Plan and Zoning Designation

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

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

[4] Lindberg, Britt. Senior Associate, Gensler. July 29, 2019.

The proposed project is consistent with the General Plan's *Downtown* designation by providing office and retail uses which support pedestrian and bicycle uses with convenient access to public transit. The proposed project is consistent with the *DC Zoning District* designation by not exceeding the maximum height limitation of 293 feet for the safe operation of Mineta San José International Airport.

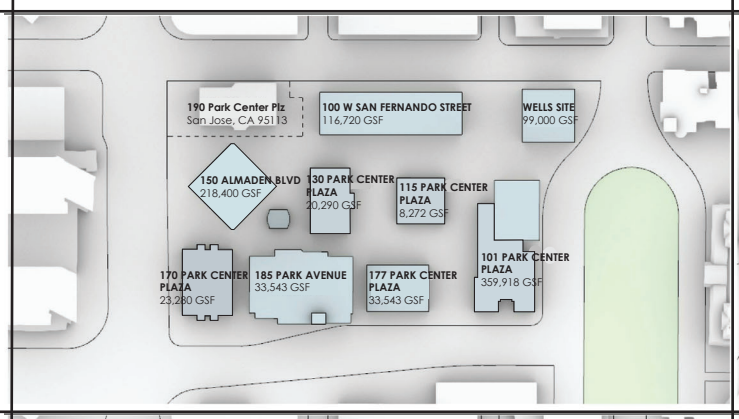
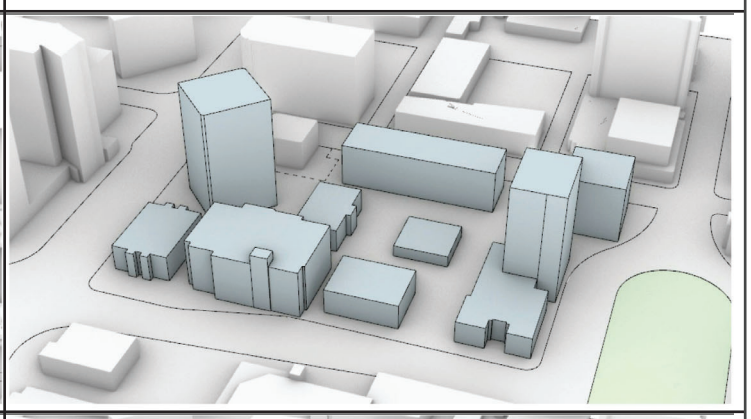
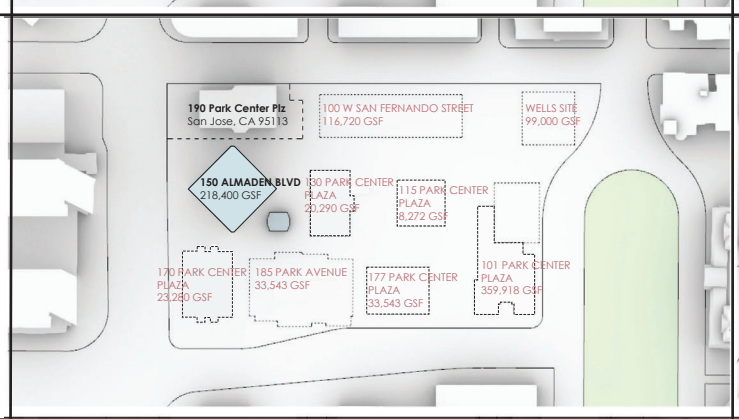
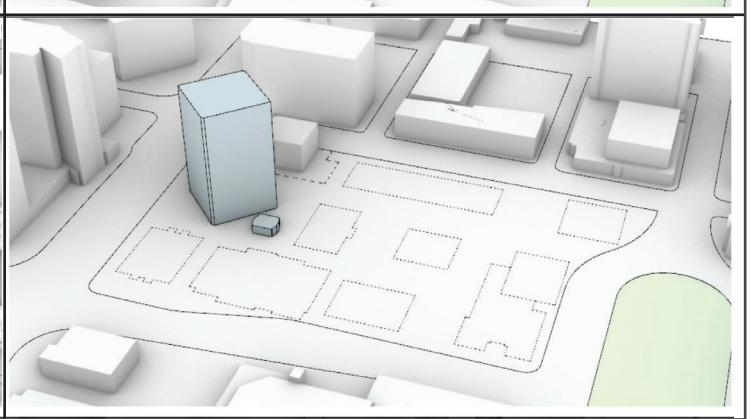
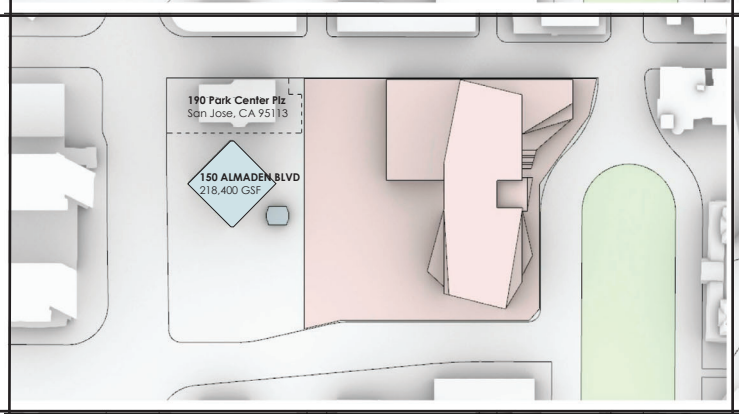
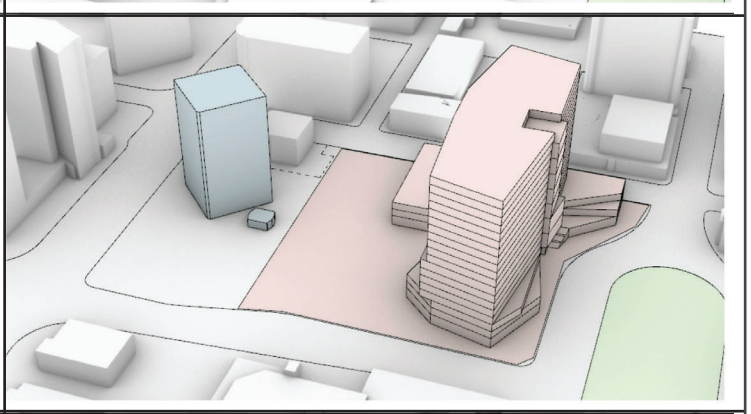
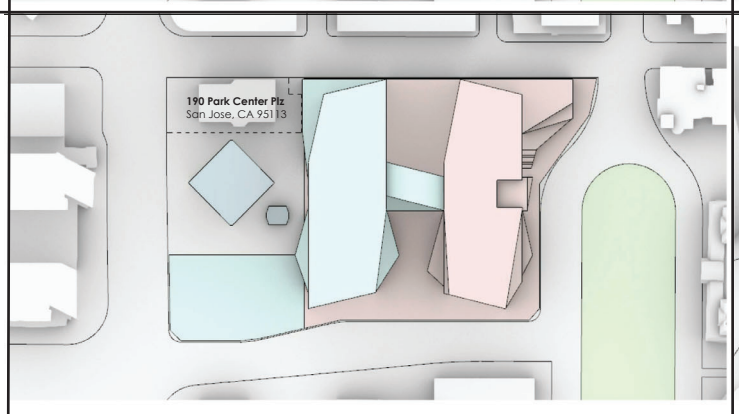
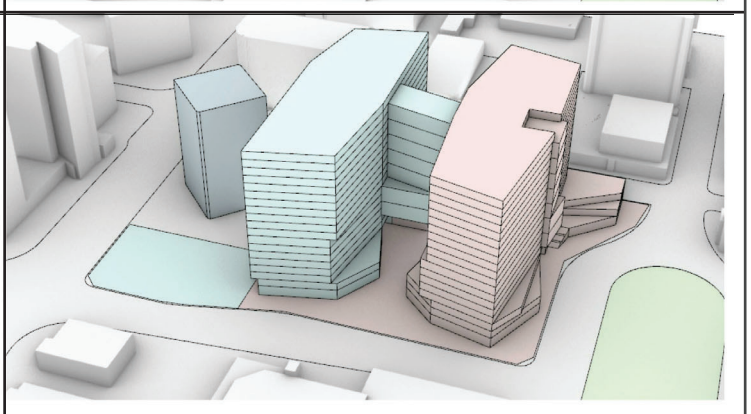
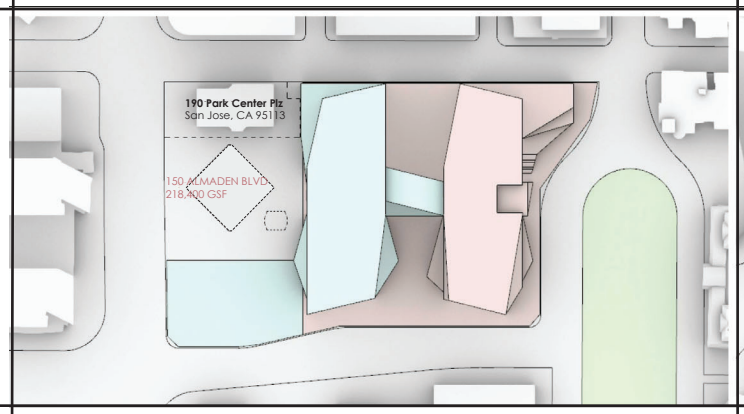
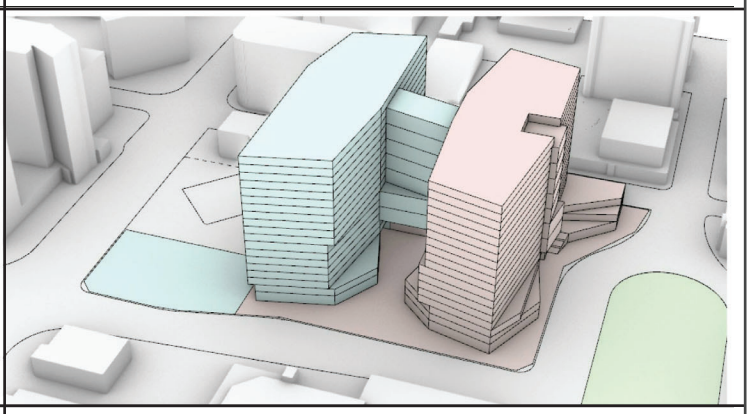
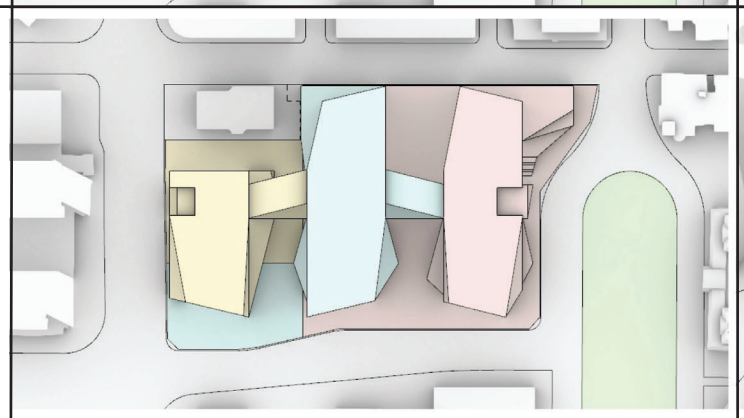
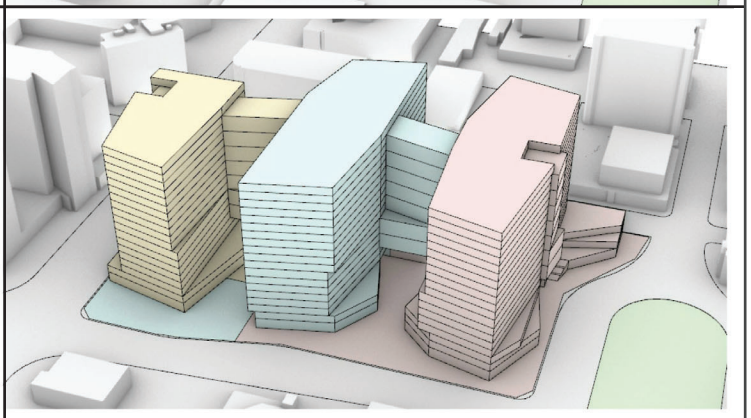
2.2.6 Construction

Construction of the proposed project is estimated to begin in 2020 for a period of 69 months. The applicant proposes extended construction hours from Monday to Sunday for 24 hours a day and 24-hour concrete pours for up to 20 days over the course of the entire project construction period.

Figure 2.2-4 show the construction phasing schedule currently anticipated for the project. To expedite construction, the project would be phased for construction and occupancy. Existing tenants would be consolidated into the existing 150 South Almaden Boulevard office tower which has its own separate subgrade parking garage and garage entry. Separate occupancy permits would be sought after the completion of each portion of the project. The phase plan is presented in Table 2.2-2, below.

Table 2.2-2: Phasing Plan

Phase 1	Demolition	• Eight existing buildings totaling approximately 823,167 square feet, the communal parking garage and the podium
	Existing to Remain	• The 150 South Almaden Boulevard office tower (approximately 218,400 square feet) and associated garage
	Construction	• Shoring and excavation of the below-grade garage up to existing ATT easement line (up to 2,095 parking spaces) • Tower A and podium along West San Fernando Street (eight loading spaces)
	Utility Relocation	• Relocation of any utilities on-site and off-site affected by the project
	Completion	• Occupancy permit for Tower A and below-grade parking garage
Phase 2	Construction	• Shoring and excavation as needed for expansion of the underground garage (up to 2,422 parking spaces) • Tower B along with multi-story connecting bridge, a portion of the exterior façade on the Tower A would be removed in order to receive the connecting bridge
	Completion	• Occupancy permit for Tower B, connecting bridge and underground garage expansion
Phase 3	Demolition	• After complete vacancy, the office tower at 150 South Almaden Boulevard would be demolished along with associated underground garage
	Construction	• Shoring and excavation for expansion of the underground garage (up to 1,713 parking spaces) • Tower C and connecting bridge, A portion of Tower B exterior façade would be removed to receive the connecting bridge (four loading spaces)
	Completion	• Occupancy permit for Tower C, connecting bridge and underground garage expansion

PHASE	PLAN	PERSPECTIVE
EXISTING		
PHASE 1 DEMOLITION		
PHASE 1 CONSTRUCTION 1,232,193 GSF		
PHASE 2 CONSTRUCTION <u>+1,215,924 GSF</u> 2,448,117 GSF TOTAL		
PHASE 3 DEMOLITION		
PHASE 3 CONSTRUCTION <u>+1,211,916</u> 3,660,033 GSF TOTAL		

PHASING DIAGRAM | FIGURE 2.2-4

Initial demolition is anticipated to take six months. The buildings at 150 South Almaden Boulevard and 121 South Market Street would be demolished later in the project due to leasing obligations. Approximately 500 tons of demolition debris would be hauled from the site and taken to a certified Waste Diversion Facility in compliance with the City's Construction and Demolition Diversion Program which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills. Some of the demolished concrete would remain on-site and be used for winterization and base. Approximately 72 feet of excavation would occur to accommodate the five levels of underground parking. Approximately 1,037,689 cubic yards of soil would be exported from the site in accordance with the City's Construction and Demolition Diversion Program. Table 2.2-3 below provides a summary of the estimated total number of trips by trip type.

Table 2.2-3: Estimated Total Trips by Trip Type

Land Uses and Construction Phase	Total Trips by Tripe Type		
	Worker[1]	Vendor	Haul
Demolition	16,506	--	8,532
Site Preparation	1,710	--	--
Shoring	18,042	--	--
Grading/Mass Excavation	13,756	--	129,836
Building/Exterior	2,480,952	1,146,388	--
Paving/Hardscape	10,695	--	--

Note: [1] The worker trips were modeled using the California Emissions Estimator Model (CalEEMod) Version 2016.3.2.
Source: Illingworth & Rodkin, Inc. *CityView Plaza Air Quality and Greenhouse Gas Emission Assessment*. February 19, 2020.

It is currently estimated that there would be roughly 27,780 cement truck round-trips. There are estimated to be 20 24-hour concrete pours which would take place on Friday or Saturday nights to ensure that traffic would not be impacted. A generator would operate on-site for welding and shoring activities. No pile driving activities are proposed.

Construction haul routes would occur on the following roadways: North Almaden Boulevard, South Almaden Boulevard, West Santa Clara Street, South San Pedro Street, South Market Street, Notre Dame Avenue, West San Fernando Street, Park Avenue, and State Route 87.

2.3 PROJECT OBJECTIVES

The stated objectives of the project applicant are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density development on a downtown site near transit.

2. Create an attractive new building adding to the City's skyline, and activating the ground floor with pedestrian paseos and a connected commercial complex.

3. Create a modern Class A office project to attract the best tenants and support the City's economic development goals.

4. Support San Jose's Environmental Stewardship goals by providing a modern LEED building with sustainable energy and water usage, natural ventilation, EV parking, strengthened urban forest and reduced heat island.

5. Adding economic development growth in a transit centric location served by various modes of public transportation such as bikeways, VTA light rail and buses, and planned BART extension.

6. Promote the City's goal of a multi-modal future by enhancing existing pedestrian networks, revisioning Park Ave as a pedestrian paseo, enhancing the existing cycling network, providing secure bike storage and shower facilities, and designating drop-off facilities for public and private shuttle systems.

2.4 USES OF THE EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this EIR:

- Site Development Permit
- Demolition and Grading Permits
- Other Public Works Clearances

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

The Initial Study (Appendix A) of this document discusses impacts associated with the following resources areas:

- Aesthetics
- Agricultural and Forestry Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire
- Mandatory Findings

This section presents the impact discussions related to the following environmental subjects in their respective subsections:

3.1 Air Quality
3.2 Biological Resources
3.3 Cultural Resources
3.4 Hazards and Hazardous Materials
3.5 Land Use and Planning
3.6 Noise

The discussion for each environmental subject includes the following subsections:

Environmental Setting – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

Impact Discussion – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.
- **Impact Conclusions** – Because the analysis in this SEIR tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project specific analysis is presented as it relates to the findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same

Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.

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

  The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130(b)(1)). This EIR uses the list of projects approach.

  The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

  For each environmental issue, cumulative impacts may occur within different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area.

  Table 3.0-1 provides a list of the approved but not yet constructed/occupied and pending projects within 0.5-mile radius of the project site that were considered in the cumulative impacts analysis of the project.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site

Project Name	Location	Description
Approved But Not Yet Constructed/Occupied		
ParkView Towers	Northeast corner of First Street/St. James Street intersection	Construction of up to 154 unit residential tower and 62 unit residential tower with five townhouses.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
Modera San Pedro Square	45 North San Pedro Street	Construction of up to 204 residential units and approximately 9,000 square feet of ground floor retail.
The James	66 North First Street	Construction of up to 190 residential units and approximately 10,000 square feet of ground floor retail
Miro	33 North Fifth Street	Construction of up to 630 residential units and approximately 21,000 square feet of ground floor retail
Greyhound Residential	70 South Almaden Boulevard	Construction of up to 781 residential units with approximately 20,000 square feet of ground floor retail in two high rise towers.
335 West San Fernando Street	335 West San Fernando Street	Construction of an approximately 1,315,000-square-foot building, 690,328 square feet of research and development and office use, and up to 8,132 square feet of retail use.
Diridon TOD	402 West Santa Clara Street	Construction of up to 1.04 million square feet of office/commercial space, and up to 325 multi-family residences.
Museum Place	180 Park Avenue	Construction of a 24-story mixed-use building with approximately 214,000 square feet of office, 13,402 square feet of ground floor retail, 60,000 square feet of museum space, 184 hotel rooms, and 306 residential units.
200 Park Avenue Office	200 Park Avenue	Construction of an approximately 1,055,000 square foot office building with 840,000 square feet of office space, and 229,200 square feet of above-grade parking.
The Graduate	80 East San Carlos Street	Construction of a 19-story building with up to 260 residential units and approximately 14,800 square feet of ground floor retail/commercial space.
Sparq	598 South First Street	Construction of a seven-story apartment building with up to 105 residential units and 3,000 square feet of ground floor retail.
Gateway Tower	455 South First Street	Construction of a 25-story building with up to 308 residential units and approximately 8,000 square feet of ground floor retail.
Aura	180 Balbach Street	Construction of a four-story building with up to 101 residential units.

Table 3.0-1: List of Projects Within Half-Mile Radius of the Project Site		
Project Name	**Location**	**Description**
363 Delmas Avenue	341 Delmas Avenue	Construction of a five-story building with up to 120 residential units.
425 Auzerais Avenue	425 Auzerais Avenue	Construct a six-story residential building and up to 130 attached residential units.
Pending		
Fourth Street Housing	100 North 4th Street	Construction a 23-story mixed-use building with approximately 10,733 square feet of commercial and up to 316 units of housing.
Tribute Hotel	211 South First Street	Construction of a 24-story, 279 room hotel integrated into a historic building.
South Market Mixed-Use	477 South Market Street	Construct of a six-story mixed-use building with 130 residential units and approximately 5,000 square feet of commercial space.
Carlysle	51 Notre Dame Avenue	Construction of an 18-story mixed use building with 220 residential units, 4,000 sf of commercial space, and 70,000 sf of office space.
South Fourth Street Mixed-Use	439 South Fourth Street	Construction of an 18-story mixed use building consisting of 218 residential units, approximately 1,345 square feet of commercial use and approximately 12,381 square feet of public eating establishment.
South Almaden Office	Northwest corner of Almaden Boulevard/Woz Way intersection	Construction of two 16-story towers for a combined total of 1.7 million square feet of office.
Balbach Affordable Housing	Southeast corner of Balbach Street/South Almaden Boulevard intersection	Construction of an eight-story building with 87 residential units.
543 Lorraine Avenue Mixed-Use	543 Lorraine Avenue Mixed-Use	Construction of a mixed-use building including up to 70 residential units and approximately 2,200 square feet of commercial space.
Fountain Alley	26 South First Street	Construction of a six-story office building.
Block 8	282 South Market Street	Construction of a 20-story office building with approximately 568,286 square feet of office and 16,372 square feet ground floor commercial space

3.1 AIR QUALITY

The following discussion is based upon an Air Quality and Greenhouse Gas Assessment[5] prepared by *Illingworth & Rodkin, Inc.* in February 2020. The report is included in Appendix B of this document.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

Federal and State agencies regulate air quality in the San Francisco Bay Area Air Basin, within which the proposed project is located. At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the State agency that regulates mobile sources throughout the State and oversees implementation of the State air quality laws and regulations, including the California Clean Air Act.

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as criteria pollutants), including particulate matter (PM), ground-level ozone (O_3), carbon monoxide (CO), sulfur oxides, nitrogen oxides (NO_x), and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Toxic Air Contaminants

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

[5] The retail square footage has increased from 15,449 square feet to 32,500 square feet and the office space has been reduced from 3,648,584 square feet to 3,574,533 square feet since the air quality analysis was completed. The total building square footage would remain the same. Since the square footage has not changed, there would be no substantial changes to the operational impacts and conclusions of the analysis.

regions of the lungs (most susceptible to injury).[6]

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 on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

2017 Clean Air Plan

BAAQMD is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State and federal air quality standards would be met. BAAQMD's most recently adopted plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gasses (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[7]

CEQA Air Quality Guidelines

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

City of San José

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel

[6] CARB. "Overview: Diesel Exhaust and Health." Accessed December 12, 2019. https://www.arb.ca.gov/research/diesel/diesel-health.htm.
[7] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

through parking supply and pricing management; and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
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-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-11.5	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 a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.1.1.2 *Existing Conditions*

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

BAAQMD is responsible for assuring that the national and State ambient air quality standards are attained and maintained in the San Francisco Bay Area Air Basin. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: CO, O_3, nitrogen dioxide (NO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). These pollutants are considered criteria pollutants by the EPA and CARB as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. Table 3.1-1 shows violations of State and federal standards at the

monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2016-2018 period (the most recent years for which data is available).[8]

Table 3.1-1: Ambient Air Quality Standards Violations and Highest Concentrations

Pollutant	Standard	Days Exceeding Standard		
		2016	2017	2018
SAN JOSE STATION				
Ozone	State 1-hour	0	3	0
	Federal 8-hour	0	4	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	0	**6**	**4**
$PM_{2.5}$	Federal 24-hour	0	**6**	**15**

Source: Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries". Accessed December 5, 2019. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

"Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area does not meet federal and State ambient air quality standards for $PM_{2.5}$ and O_3. The area is also considered in non-attainment for PM_{10} under State standards. The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as TACs under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs tend to be localized and are found in relatively low concentrations; however, exposure to low concentrations over long periods can result in adverse chronic health effects.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). Diesel is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM.

Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to exposure to pollutants (i.e., children, the elderly, and people with illnesses). Locations that may contain high concentrations of sensitive population groups include residential areas, hospitals, daycare and elder care facilities, elementary schools, parks and places of assembly. Sensitive receptors that currently exist within the

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

vicinity of the project site include the multi-family residences at One South Market Street and the residents of the Plaza Hotel located at 96 Almaden Avenue, located approximately 110 feet north of the site. Additionally, new future residences would be located at 70 South Almaden Avenue (approximately 200 feet north), 171 Post Street (approximately 500 feet north), and 27 South First Street (approximately 620 feet northeast). Figure 3.1-1 shows the locations of off-site sensitive receptors.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, the analysis considers if the project would:

1) Conflict with or obstruct implementation of the applicable air quality plan
2) 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
3) Expose sensitive receptors to substantial pollutant concentrations, and/or
4) Result in substantial emissions (such as odors) adversely affecting a substantial number of people

3.1.3 Air Quality Impacts – Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.1-2.

Table 3.1-2: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	

Table 3.1-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions (pounds/day)**	**Annual Average Emissions (tons/year)**
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	0.3 µg/m^3	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 µg/m^3	0.8 µg/m^3 (average)	
Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = coarse particulate matter with a diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 µm or less.			

3.1.3.1 *Project Impacts*

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

Construction Period Emissions – Criteria Pollutants

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. The proposed land uses of the project were input into CalEEMod, which included 3,648,584 square feet entered as "Office Park", 112,314 square feet entered as "General Light Industry"[9], 15,499 square feet entered as "Strip Mall", and 6,246 parking spaces[10] entered as "Enclosed Parking with Elevator". Demolition of the existing buildings and soil export were input into CalEEMod as well. Truck-related emissions were based on vendor trip estimates from CalEEMod and haul trips were estimated using demolition and soil exports. Refer to Appendix B for more information regarding assumptions and CalEEMod inputs. The construction schedule assumes that the project would be built over a period of approximately 69 months, or an estimated 1,796 construction workdays.[11]

Table 3.1-3 shows the estimated daily air emissions from construction of the proposed project.

[9] There is no land use category for mechanical penthouse; therefore, the General Light Industry land use was used.
[10] The 6,246 parking spaces includes the 16 spaces for the 190 Park Center Plaza easement.
[11] The seven days per week assumption underestimated the construction timeline; therefore, the estimated 1,796 construction workdays are based on six days per week of construction. The six days per week of construction aligns with the proposed construction schedule provided by the applicant.

Table 3.1-3: Daily Construction Period Emissions				
Scenario	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Equipment, Traffic, Evaporative Emissions[1] in tons:	33.25	83.69	4.07	3.84
Truck Traffic (Running, Start, and Idle) in tons:	1.50	41.83	1.82	0.96
Total Construction emissions (tons)	34.76	125.52	5.89	4.80
Average daily emissions (pounds per day)[2]	39	140	7	5
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	**No**	**Yes**	**No**	**No**

Notes: [1]Evaporative emissions from volatile organic compounds, paints, and coatings.
[2]Assumes 1,796 construction workdays.

As shown in the table above, NO_x construction emissions would exceed the BAAQMD significance thresholds.

Impact AIR-1: Construction activities associated with the proposed project would result in NO_x emissions in excess of BAAQMD thresholds.

Mitigation Measure

MM AIR-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce NO_X emissions.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$).
- 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 use equipment that 1) 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 a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements.
- 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.
- Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul

trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

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 the above mitigation measure. The plan shall include but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure

The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.

On-site construction NO_x emissions would be reduced by 66 percent with Tier 4 interim and Tier 4 final[12] construction equipment. Traffic-related emissions would be reduced by 30 percent with the use of newer model year trucks used for material/soil hauling and vendor hauling. In addition, the TDM program for workers could reduce NO_x emissions by approximately one percent. Overall, the identified mitigation measure would result in a 54 percent reduction in NO_x emissions. Even with implementation of Mitigation Measures AQ-1.1, NO_x emissions would continue to exceed BAAQMD significance thresholds by 10 pounds per day. As a result, the project would result in a significant unavoidable impact and would conflict with implementation of the Bay Area 2017 CAP.

Operational Emissions – Criteria Pollutants

Operational criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future employees, customers, and vendors. CalEEMod was used to estimate the emissions from operation of the project assuming full build out. The earliest the project would be constructed and operational would be 2026. Any emissions associated with build out later than 2026 would be lower than current emissions due to assumed efficiencies over time. Trip generation rates

[12] Tier 4 interim and Tier 4 final are EPA diesel engine standards that regulate the amount of PM and NO_x emissions emitted from diesel powered equipment.

from the Local Transportation Analysis prepared for the proposed project (refer to Appendix I of this document), generator emissions, and CalEEMod defaults for energy use and emissions associated with solid waste generations and water/wastewater use were used.

The assumptions and results are described in detail in the *Air Quality and Greenhouse Gas Emission Assessment* prepared for this project (refer to Appendix B of this document). The estimated daily operational emissions from the proposed project are summarized in Table 3.1-4 below.

Table 3.1-4: Operational Period Emissions

Scenario	ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2026 Project Operational Emissions (tons/year)	18.16	17.67	17.38	4.92
2026 Existing Use Emissions (tons/year)	4.25	2.59	2.04	0.61
Net Annual Emissions (tons/year)	13.92	15.08	15.34	4.31
BAAQMD Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceed Threshold?	**Yes**	**Yes**	**Yes**	**No**
2026 Project Operational Emissions (pounds/day)[1]	76.3	82.6	84.1	23.6
BAAQMD Thresholds (pounds/day)	54	54	82	54
Exceed Threshold?	**Yes**	**Yes**	**Yes**	**No**

Notes: [1]Assumes 365-day operation.

Operational criteria pollutant emissions associated with the proposed project would exceed BAAQMD significance thresholds for ROG, NO_x, PM_{10}, and $PM_{2.5}$. The project is part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from full build out of the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. Consistent with the Downtown Strategy 2040 FEIR, the proposed project would implement a TDM plan (refer to *Section 2.2.4 Transportation Demand Management Program*) to reduce emissions associated with vehicle travel. The project would not result in impacts of greater severity than were already disclosed in the Downtown Strategy 2040.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

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

The Downtown Strategy 2040 FEIR concluded that build out of the Downtown Strategy 2040 would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of ozone standards. As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As discussed previously, the Bay Area is currently in non-attainment for PM_{10} under State standards. Operational criteria pollutant emissions associated with the project would exceed BAAQMD's significance thresholds for PM_{10} by 0.34 tons per year and 2.1 per day. Future development, including the proposed project, would be required to implement a TDM program (refer to *Section 2.2.4 Transportation Demand Management Program* for proposed measures) to reduce emissions associated with vehicle travel. As a result, the proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

Would the project expose sensitive receptors to substantial pollutant concentrations?

Dust Generation

Construction activities would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5.}$ Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying loads of soils. Consistent with the Downtown Strategy 2040 FEIR, the project shall implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions:

The project applicant shall implement the following measures 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 by 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 at the lead agency to contact regarding dust complaints.

With implementation of these Standard Permit Conditions consistent with the Downtown Strategy 2040 measures, fugitive dust and other particulate matter during construction would have a less than significant air quality impact.

Community Risk Impacts Within 1,000 feet of the Project Site From Project Construction – On-Site and Hauling

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC, and would pose as a health risk to nearby receptors. A community risk assessment of the project construction activities including on-site construction and hauling activity was completed for the proposed project. The assessment evaluated potential health effects to nearby receptors (within 1,000 feet of the project site) from construction emissions of DPM and $PM_{2.5}$.[13] For the purposes of this analysis, receptors include locations where sensitive populations would be present for extended periods of time including existing and approved (but not yet constructed) residences to the north and east. Additionally, receptors were identified on the first and second floor of an interim housing building located north of the site. The project proposes extended construction hours which would include Monday to Sunday work for 24 hours a day and up to 20, 24-hour concrete pours (an activity which releases concrete dust, a source of air pollution).

The CalEEMod model was used to determine total annual DPM and $PM_{2.5}$ dust emissions for the off-road construction equipment and on-road vehicles that would be used during project construction. Additionally, the U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing receptors in the vicinity of the project construction area and construction haul routes. The off-site truck emission rates were calculated using the EMFAC2017 model. The U.S. EPA AERMOD dispersion model and EMFAC2017 model assumptions and results are included in Appendix B of this document.

The maximum modeled annual DPM and $PM_{2.5}$ concentrations were identified at the first floor of the interim housing building. The maximum-modeled cancer risk maximum exposed individual (MEI) would be located on the second floor of the approved Greyhound Residential development site located at 70 South Almaden Boulevard. Figure 3.1-1 depicts the locations of the sensitive receptors. The maximum annual cancer risk would be 246.48 cases per one million for infants (246.38 cases per one million for on-site construction and 0.10 cases per one million for truck hauling) and 6.9 cases per one million for adults (6.9 cases per one million for on-site construction and 0.1 cases per one million for truck hauling). The maximum residential cancer risk would exceed the BAAQMD threshold of 10 cases per one million. The maximum annual $PM_{2.5}$ concentration was calculated to be 2.57 $\mu g/m^3$ which exceeds BAAQMD significance threshold of 0.3 $\mu g/m^3$. The maximum annual residential DPM concentration was 0.68 at the construction MEI. The maximum Hazard Index (HI) based on this DPM concentration is 0.14 which does not exceed the BAAQMD significance criterion of a HI greater than 1.0.

Impact AIR-2: Construction activities associated with the proposed project would expose infants near the project site to TAC emissions in excess of BAAQMD thresholds. In addition, construction activities on-site would expose sensitive receptors to $PM_{2.5}$ emissions in excess of acceptable thresholds.

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

LOCATIONS OF OFF-SITE SENSITIVE RECEPTORS AND CONSTRUCTION HAUL ROUTES | FIGURE 3.1-1

Mitigation Measure

MM AIR-2.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce TAC and $PM_{2.5}$ emissions.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$).
- 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 use equipment that 1) 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 a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements.
- 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.
- Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

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 the above 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.

With implementation of Mitigation Measure AQ-2.1 and the Standard Permit Conditions consistent with the Downtown Strategy 2040 FEIR measures, the residential cancer risk would be reduced to 15.01 cases per one million and the maximum $PM_{2.5}$ concentration would be 0.44 $\mu g/m^3$ which would continue to exceed the BAAQMD significance threshold of 10 cases per one million for cancer risk and the maximum $PM_{2.5}$ of 0.3 $\mu g/m^3$, respectively. The HI would be 0.01. The project would have a significant unavoidable impact to the off-site MEI.

Construction Risk Impacts – Surrounding Area

Sensitive receptors located within 450 feet north of the project site would be exposed a cancer risk of up to 15 cases per one million and would have a cumulative cancer risk that would exceed the cumulative threshold of 100 cases per one million. Figure 3.1-2 below shows the locations of sensitive receptors and the extent of the cancer risk within the 1,000-foot radius. As for $PM_{2.5}$, the area located immediately north of the site would be exposed to $PM_{2.5}$ concentrations greater than 0.3 $\mu g/m^3$ and most of the project area would have a cumulative annual $PM_{2.5}$ concentration exceeding the 0.8 $\mu g/m^3$ threshold. Figure 3.1-3 shows the locations of sensitive receptors (within a 1,000-foot radius) and the extent of the $PM_{2.5}$ exposure in 2021.

Community Risk Impacts from Project Construction – Traffic and Generators

Operation of the project would result in long-term emissions associated with traffic and generators. TAC and $PM_{2.5}$ impacts from local roadways, which include Park Avenue, West San Fernando Street, West San Carlos Street, West Santa Clara Street, South Almaden Boulevard, South Almaden Avenue, South San Pedro Street, and South Market Street, were analyzed using the California Department of Transportation EMFAC2017 model (CT-EMFAC2017) and the Local Transportation Analysis prepared by *Hexagon Transportation Consultants, Inc*. The increased cancer risk from project traffic would be 0.47 cases per one million, the maximum annual $PM_{2.5}$ concentration would be 0.11 $\mu g/m^3$, and the HI value would be less than 0.01.

The project proposes three emergency generators for each of the office buildings. The three generators would be located on the rooftop of each tower in an emergency generator room. The generators would vary in size with one generator being 2,000 kW and the other two generators being 1,500 kW. The emergency back-up generators would also be powered by diesel engine generators. Emergency generators would be operated during periods of emergency and for maintenance and testing purposes. During the maintenance and testing periods, the generator would run for less than one hour at a time. The increased cancer risk, maximum annual $PM_{2.5}$ concentration, and HI from the proposed generators would be 0.40 cases per one million, 0.01 $\mu g/m^3$, and 0.01, respectively. The MEI would be exposed to six years of construction cancer risks and 24 years of operational cancer risks. Refer to Appendix B for more information and Table 3.1-5 for a summary of the construction and operation risk impacts at the off-site MEI. Figure 3.1-4 shows the generator modeling locations.

Table 3.1-5: Construction and Operation Risk Impacts at the Off-Site Project MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Unmitigated Project Construction (Years 0-6)*	246.48	2.57	0.14
Mitigated Project Construction (Years 0-6)*	14.14	0.44	0.01
Project Traffic (Years 7-30)	0.47	0.11	<0.01
Project Generators (Years 7-30)	0.40	<0.01	<0.01
Unmitigated Total/Maximum Project (Years 0-30)	**247.35**	**2.57**	0.14
Mitigated Total/Maximum Project (Years 0-30)	**15.01**	**0.44**	0.01
Exceed Threshold?			
Unmitigated	**Yes**	**Yes**	No
Mitigated	**Yes**	**Yes**	No

Note: * Includes the construction hauling cancer risk (0.10 cases per one million)

MITIGATED CONSTRUCTION CANCER RECEPTOR RISK | FIGURE 3.1-2

MITIGATED CONSTRUCTION PM2.5 RECEPTOR RISK (YEAR 2021) | FIGURE 3.1-3

PROJECT SITE, PROJECT GENERATOR LOCATIONS, AND MAXIMUM TAC IMPACTS | FIGURE 3.1-4

As shown in the table above, the maximum cancer risks and annual $PM_{2.5}$ concentrations from construction and operation of the project would exceed BAAQMD's significance thresholds of 10 cases per one million and 0.3 $\mu g/m^3$, respectively, with and without Mitigation Measure AQ-1.1 and the required Downtown Strategy 2040 measures. The HI from construction and operation activities would not exceed BAAQMD's significance threshold of greater than 1.0. The project would have a significant unavoidable impact to the off-site MEI.

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the State Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect. Project emissions (without mitigation) would contribute to 0.02 percent of the region's air quality as discussed in *Section 3.1.3.2 Cumulative Impacts,* below. The project would not result in a cumulatively considerable contribution to a significant air quality impact.

[Same Impact as Approved Project (Significant Unavoidable Impact)]

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

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. The odor emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. The project applicant would be required to abide by policies (such as Policy MS-12.2) which require adequate buffers between sources of odors and sensitive receptors. Implementation of the proposed project would not result in odors that would adversely affect a substantial number of people. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.1.3.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant air quality impact?

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts.

No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts.

NO_x Emissions Impact

Construction of the project would result in a significant unavoidable NO_x emissions impact even with implementation of Mitigation Measure AQ-1.1. As shown in Table 3.1-5 below, project emissions (without mitigation) would only contribute to 0.02 percent of the region's air quality. With mitigation, project emissions would be less (0.01 percent) and would not result in substantial change to regional pollutant levels.

Table 3.1-6: Comparison of Project Emissions and Bay Area Air Basin

Scenario	NO_x
Bay Area Air Basin in 2015	298 tons/day
Unmitigated Project Construction	0.07 tons/day
Percent of Basin (%)	0.02%

As shown in the table above, project emissions (without mitigation) would only contribute to 0.02 percent of the region's air quality. With mitigation, project emissions would be less (0.01 percent) and would not result in substantial change to regional pollutant levels. Based on the above, the project would not result in a cumulatively considerable contribution to a significant air quality impact.

Cumulative Impact on Off-Site MEI

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a community health risk assessment was prepared for the project (see Appendix B) which looks at all sources of TACs (including highways, streets, and stationary sources identified by BAAQMD) within 1,000 feet of the project site as discussed below. The analysis below also considers nearby projects.

Mobile Sources of TACs

Traffic on high volume roadways (10,000 average daily trips [ADT] or more) is a source of TAC emissions that may adversely impact sensitive receptors in close proximity to the roadways. A review of the project area identified SR 87 and local project roadways (e.g., Park Avenue, West San Fernando Street, West San Carlos Street, West Santa Clara Street, South Almaden Boulevard, South Almaden Avenue, South San Pedro Street, and South Market Street) as mobile sources of TACs. All other roadways in the area would have an ADT of 10,000 vehicles or less.

The estimated cancer risk from SR 87 would be less than 2.2 cases per one million and the annual $PM_{2.5}$ concentration would be 0.02 $\mu g/m^3$. The HI for SR 87 would be less than 0.01.

The local roadways under existing plus project and background traffic conditions were estimated using AERMOD. Under both conditions, the estimated cancer risk from the local roadways identified above would be 3.79 cases per one million and the annual $PM_{2.5}$ concentration would be 0.19 $\mu g/m^3$. The HI for the local roadways would be 0.01.

Stationary Sources of TACs

Twenty-seven stationary sources of TAC emissions near the project site were identified using *BAAQMD's Stationary Source Risk & Hazard Analysis Tool*. This tool uses Google Earth™ and identifies the location of stationary sources and their estimated risk and hazard impacts. Of the 27 stationary sources identified, two plants[14] were not included in the emissions calculations. BAAQMD noted that Plant #15556 has been shut down. Additionally, the generator located on-site (Plant #14985) would be removed as a result of the project. As a result, Plant #15556 and #14985 are not further discussed.

Construction Risk Impacts from Nearby Approved Development

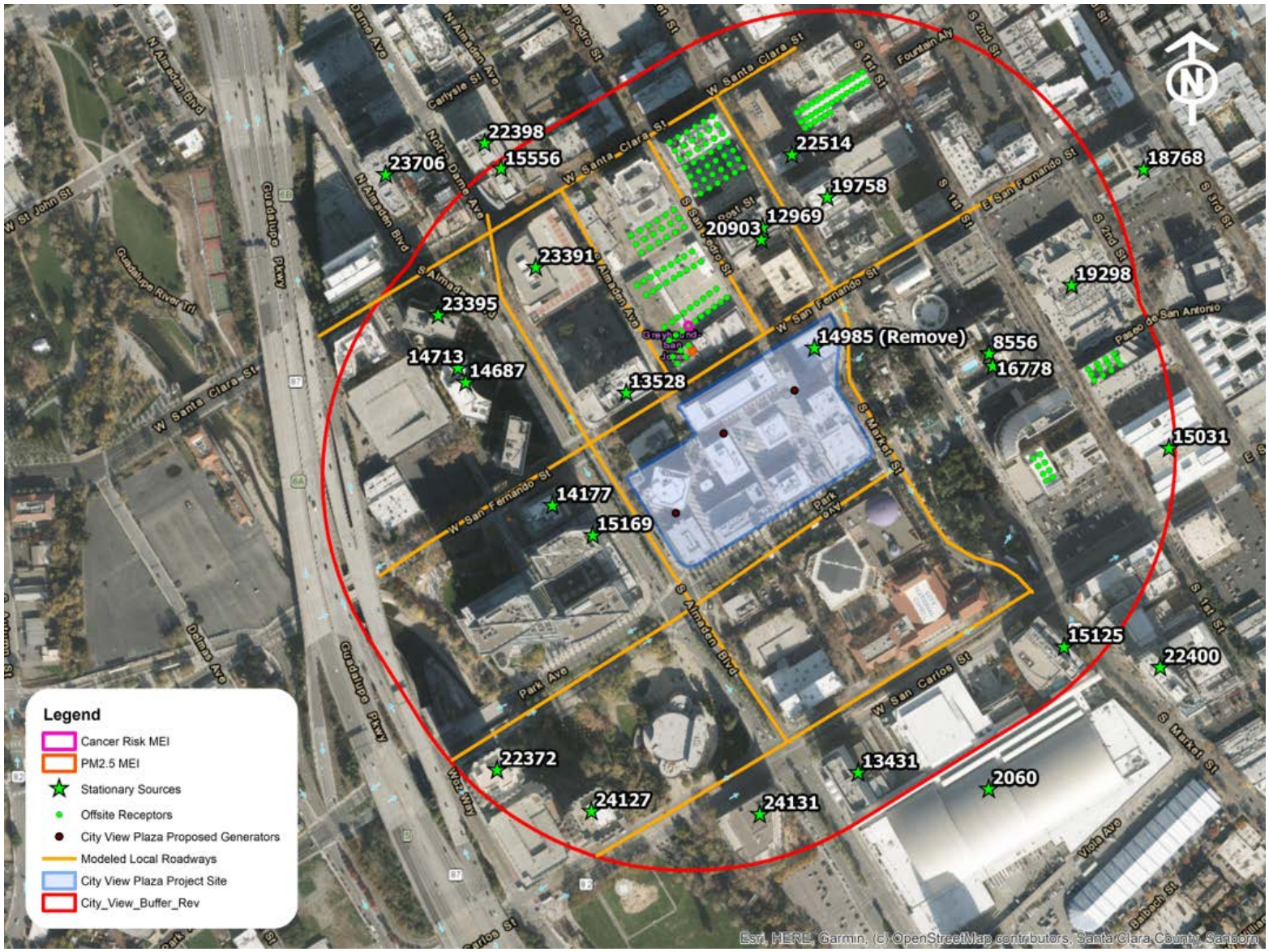
Within the 1,000 feet of the project site, there are six proposed and approved developments (e.g., 200 Park Avenue Office (File Number H18-045), Museum Place (File Number H16-024), Greyhound Residential (File Number SP16-021), the Post and San Pedro Towers at 171 Post Street (File Numbers H14-023 and HA14-023-02), 27 South First Street Mixed Use (File Number SP18-016), and the San José Tribute Hotel (File Numbers HP17-003 & H16-042). The Greyhound Residential development was not included in the cumulative risk analysis because the project MEI was identified at this building and it is assumed that the Greyhound Residential development would be constructed and operational by the time the proposed project is under construction. It was assumed that the construction risks from the remaining five developments would not exceed BAAQMD's single-source thresholds for community risks and hazards.[15] Table 3.1-7**Error! Reference source not found.** below summarizes the cumulative health risks at the MEI. Figure 3.1-5 shows the project site and the locations of nearby TAC and $PM_{2.5}$ sources.

Table 3.1-7: Community Risk Impacts from TAC Sources

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction and Operation -			
Unmitigated	**247.35**	**2.57**	0.14
Mitigated	**15.01**	**0.44**	0.01
SR 87 at 400 feet east	<2.2	<0.02	<0.01
Local Roadways	3.79	0.19	0.01
Plant #12969 at 75m	7.07	0.01	0.01
Plant #19758 at 160m	0.63	0.01	0.01
Plant #20903 at 75m	10.85	0.01	0.02
Plant #8556 at 235m	2.02	0.10	0.01
Plant #16778 at 235m	0.87	0.17	0.01
Plant #19298 at >300m	2.5	0.01	0.01
Plant #18768 at >300m	0.11	0.01	0.01
Plant #15031 at >300m	0.03	0.01	0.01
Plant #15125 at >300m	0.17	0.02	0.01
Plant #22400 at >300m	0.01	-	-

[14] Plants are facilities that contain single emission sources of TACs (e.g., a generator or gas station). These facilities or plants can have multiple stationary sources on-site. Bay Area Air Quality Management District, 2017. *CEQA Air Quality Guidelines*. May 2017.

[15] This assumption would provide an overestimate of the community risk and hazard levels because it assumes that maximum impacts from these projects would occur concurrently with the proposed project.



PROJECT SITE AND NEARBY TAC AND PM2.5 SOURCES | FIGURE 3.1-5

Table 3.1-8: Community Risk Impacts from TAC Sources			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Plant #2060 at >300m	1.32	0.07	0.01
Plant #13431 at >300m	0.33	0.01	0.01
Plant #24131 at >300m	0.15	0.01	0.01
Plant #24127 at >300m	0.22	0.01	0.01
Plant #22372 at >300m	0.16	0.01	0.01
Plant #15169 at 215m	10.22	0.01	0.01
Plant #14177 at 220m	0.06	0.01	0.01
Plant #13528 at 65m	24.24	0.03	0.04
Plant #14687 at 210m	0.12	0.01	0.01
Plant #23391 at 125m	0.57	0.01	0.01
Plant #14713 at 210m	0.11	0.01	0.01
Plant #23395 at 230m	0.32	0.01	0.01
Plant #23706 at >300m	0.09	0.01	0.01
Plant #22514 at 180m[1]	-	-	-
Plant #22398 at 225m	0.26	0.01	0.01
Nearby Construction Development - Mitigated Emissions	25	0.75	2.5
Cumulative Total -			
Unmitigated	**363.57**	**4.83**	5.42
Mitigated	**108.43**	**1.97**	2.8
BAAQMD Threshold – Cumulative Sources	***>100***	***>0.8***	***>10.0***
Threshold Exceeded?			
Unmitigated	***Yes***	***Yes***	***No***
Mitigated	***Yes***	***Yes***	***No***
Note: [1]BAAQMD reported zero daily average emissions for this stationary source.			

The maximum cancer risk and annual $PM_{2.5}$ concentration without mitigation would exceed the BAAQMD threshold for cumulative sources.

Impact AIR(C)-1: The maximum cancer risk and annual $PM_{2.5}$ concentration would exceed the BAAQMD threshold for cumulative sources.

Mitigation Measure

MM AIR(C)-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce cancer risk and $PM_{2.5}$ emissions:

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. EPA Tier 4 emission standards for NO_x and PM (both PM_{10} and $PM_{2.5}$).
- 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 use equipment that 1) 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 a 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment and/or 2) use alternatively-fueled equipment with lower NOx emissions that meet the 85 percent NOx and PM reduction requirements.

- 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.
- Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater used on-site (such as haul trucks, water trucks, dump trucks, and concrete trucks) are model year 2011 or newer.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.

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 the above 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.

With implementation of Mitigation Measures AIR(C)-1.1 and the required Downtown Strategy 2040 measures, the computed maximum increased lifetime residential cancer risk from construction would be 15.01 cases per one million, the maximum annual $PM_{2.5}$ concentration would be 0.44 $\mu g/m^3$, and the HI value would be 0.01. With mitigation and the identified measures incorporated, the HI would not exceed BAAQMD significance threshold. The cumulative cancer risk and $PM_{2.5}$ concentration would, however, continue to exceed BAAQMD significant thresholds of greater than 100 cases per one million and 0.8 $\mu g/m^3$, respectively.

[Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)]

3.2 BIOLOGICAL RESOURCES

The following discussion is based, in part, on an Arborist Report prepared by *HMH Engineers* in December 2019. In addition, the following discussion is based upon a Bird-Strike Analysis prepared by *H.T. Harvey & Associates* in February 2020. The reports are included as Appendix C and D in this document.

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching of migratory birds are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[16] However, if there is the potential for incidental take, then a permit from the CDFW is required prior to the activity. Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[16] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed March 28, 2019. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan (SCVHP)/Natural Community Conservation Plan (NCCP) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County.[17] It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees.

Riparian Corridor and Bird-Safe Building Policy 6-34

The City of San José's Riparian Corridor and Bird Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-safe design guidance for buildings and structures includes avoidance of large areas of reflective glass, transparent building corners, up-lighting, and spotlights.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources, as listed below.

General Plan Policies: Biological Resources	
Policy ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.

[17] Santa Clara County. *Final Santa Clara Valley Habitat Plan*. August 2012.

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

3.2.1.2 *Existing Conditions*

Special-Status Species

The project site is located in an urban area surrounded by commercial, entertainment, and office land uses, as well as a large park. The site is developed with nine buildings and includes a paved central plaza and landscaping.

Developed urban areas, such as the project site, are typically low in species diversity. Most special-status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats.

Furthermore, the project site is located within the SCVHP study area and is designated as "Urban-Suburban" land.[18] "Urban-Suburban" land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

[18] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed May 10, 2019. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

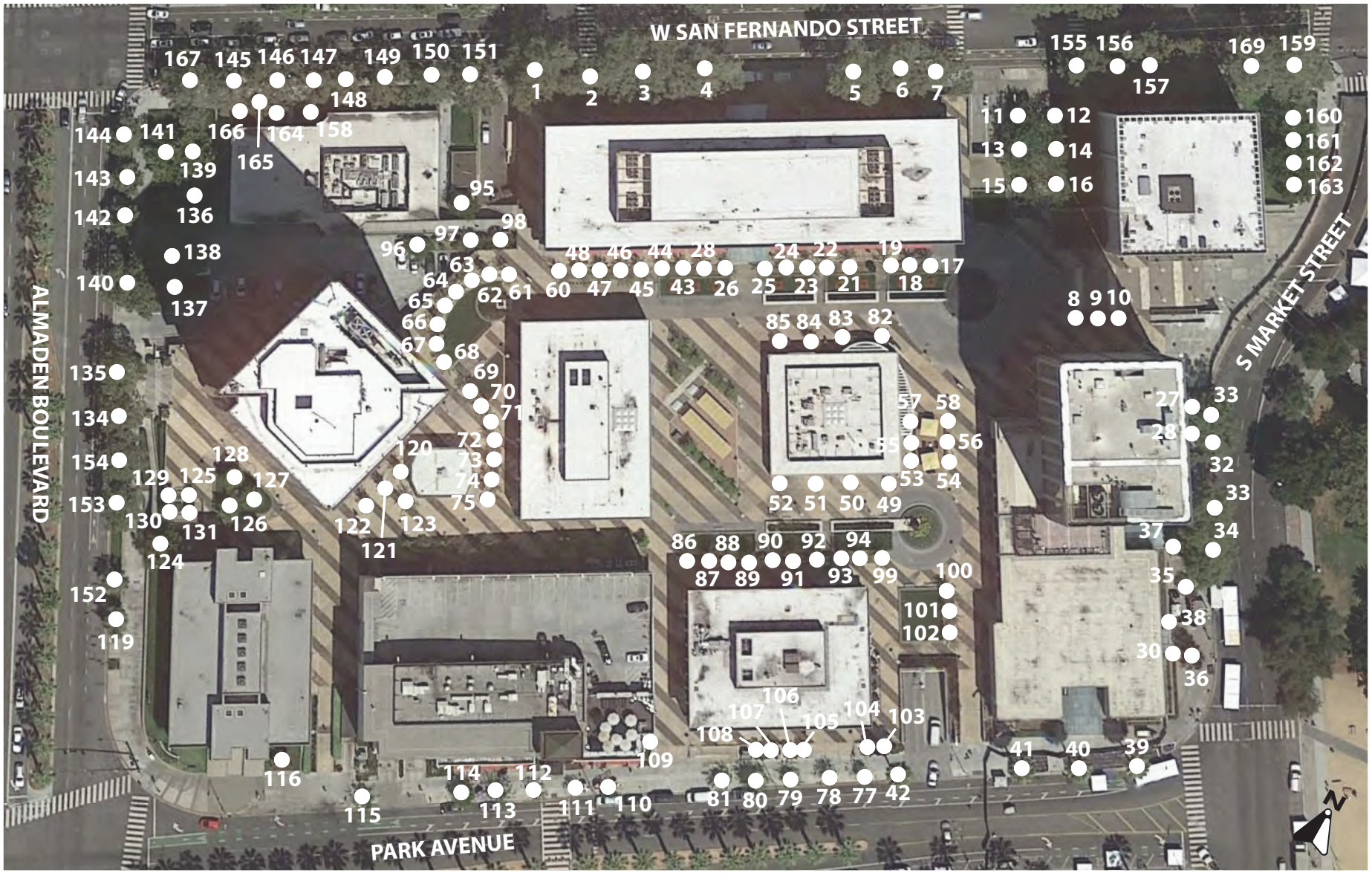
Trees

There are 160 trees on-site; 53 of which are street trees. None of the trees surveyed are native trees. In accordance with City policy, trees that are a minimum of 12.1 inches in diameter (38 inches in circumference) at 4.5 feet above ground, as well as Heritage Trees, are protected from removal without a permit. Fifty-four trees on-site are ordinance-sized. Table 3.2-1 below summarizes the species and sizes of trees located on the project site. A full list of trees on-site (including species, size, and health) is provided in Appendix C. Figure 3.2-1 shows the location of the trees surveyed.

Table 3.2-1: Tree Survey

Common Name	Scientific Name	Circumference			Total Number of Trees
		Less than 19.0 inches	19-38 inches	Greater than 38 inches	
Japanese maple	*Acer palmatum*	20	7	1	28
Evergreen ash	*Fraxinus uhdei*	--	3	--	3
Jacaranda	*Jacaranda mimosifolia*	11	--	--	11
Crape myrtle	*Lagerstroemia indica*	--	--	4	4
Privet	*Ligustrum japonicum*	1	2	--	3
Southern magnolia	*Magnolia grandiflora*	--	1	9	10
London plane	*Platanus acerifolia*	1	5	30	36
Black cherry plum	*Prunus cerasifera*	--	2	--	2
Callery pear	*Pyrus calleryana*	34	17	--	51
Evergreen pear	*Pyrus kawakamii*	--	2	6	8
Filibusta palm	*Washingtonia filifera x robusta*	--	--	4	4

Notes: Ordinance-sized trees are 38+ inches in circumference (12.1+ inches in diameter). Tree numbers 20, 59, 75, 76, 117, 118, 132, 133, and 168 were labeled as N/A in the arborist report because all the trees with those numbers have been removed prior to the tree survey with the tree tags. The removed trees were included in the matrix in case someone wants to compare an old arborist report to current conditions. Sowa, Bill. HMH. Personal communications. February 5, 2020.



TREE LOCATION MAP

FIGURE 3.2-1

3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, the analysis considers if the project would:

1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other mean
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance and/or
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan

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Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?

The project site is located in a highly urbanized area and does not provide habitats suitable for special-status species. The project would remove 160 trees which could provide nesting and/or foraging habitat for migratory birds including raptors. In accordance with the Downtown Strategy 2040 FEIR, the following Standard Permit Conditions would be implemented by the proposed project to reduce potential impacts to special-status species.

Standard Permit Conditions:

The project would implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 15th (inclusive), as amended.
- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st

through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

- **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.
- **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.

Implementation of the measures listed above would not have a substantial adverse effect on any candidate, sensitive, or special-status species, consistent with the findings of the Downtown Strategy 2040 FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

According to the Downtown Strategy 2040 FEIR, the only sensitive natural communities in the vicinity of the Downtown area are the riparian and aquatic habitats within the Los Gatos Creek and the Guadalupe River corridors.[19] The closest riparian corridor to the project site is the Guadalupe River, located approximately 650 feet west of the project site, and is separated from the project site by developed City blocks. This portion of the Guadalupe River is channelized with a concrete embankment on one side, and a narrow area of riparian vegetation on the opposite bank. The paved Guadalupe River Trail runs along both sides of the river. Construction of the project would be confined to the site and would not impact the Guadalupe River or the riparian area adjacent to it. Therefore, implementation of the proposed project would not result in a substantial adverse effect on any riparian habitat or sensitive natural community. **[Same Impact as Approved Project (Less than Significant Impact)**

Would the project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

There are no federally protected wetlands within, or adjacent, to the project site. For this reason, the proposed project would not adversely affect protected wetlands through demolition, excavation,

[19] City of San José *San José Downtown Strategy 2040 EIR.* December 2018.

grading, or construction activities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?

An Avian Collision Risk Assessment was prepared which analyzed the potential bird collision issues with the proposed project. Glass windows and building facades can result in injury or mortality of birds due to bird collisions with these surfaces. Because birds do not perceive glass as an obstruction the way humans do, they may collide with glass when the sky or vegetation is reflected in the glass; when transparent windows allow birds to perceive an unobstructed flight route through the glass (such as at corners); and when the combination of transparent glass and interior vegetation results in attempts by birds to fly through glass to reach that vegetation. The greatest risk of avian collisions with buildings occur in areas approximately 40 to 60 feet above ground. Buildings that are 500 feet or taller may pose a threat to birds that are migrating through the area. The proposed project would have a maximum height of 293 feet to the top of the parapet.

According to the Avian Collision Risk Assessment, a low number of native birds and occasional migratory bird collisions would be expected to occur on-site regardless of project design. Based on the project plans, non-reflective fins and mullions would break up the glass façades of the proposed buildings. These design elements would prevent the building from appearing as unbroken panes of glass and would break up the reflection of the sky and/or vegetation within the glass avoiding bird collisions.

The area with the greatest potential for avian collision are the two large transparent glass bridges that connect the three towers. Based on the renderings provided by the applicant, the bridges would be less densely spaced and would have narrower fins and mullions than the proposed buildings. Birds flying in the vicinity would see the bridges as being open air rather than a solid surface and would collide with the glass façades when flying to vegetation or other structures. There are planned landscape improvements along Paseo de San Antonio which would provide connectivity between Plaza de César Chávez and the Guadalupe River. Due to the project site's proximity to the Plaza de César Chávez and the planned landscape improvements, birds are expected to be present in the site vicinity and collisions with the proposed bridges could occur frequently. Additional bird collision hazards would occur in the following areas:

- Areas with transparent glass corners with angles less than 90 degrees;
- Freestanding glass railings;
- Extensive glazing on floors one, two, and portions of three;
- Terraces proposed on floors two to 19 and terraces on the glass bridges on floors nine and 19; and
- Sections of the eastern and western façades with narrow mullions and no fins;

A number of these hazards are present in the design of the western and central plazas and are expected to funnel birds inward toward the buildings. While the birds may collide with the glazing

surrounding the plaza, these collision hazards would be less extensive compared to the bridges due to 1) the low abundance of birds expected to be present on- and immediately adjacent to the site, 2) the limited extent of these potential collision hazards, and 3) the mullions/fins that break up the glass façades.

Although building collisions by migrant songbirds are likely to occur, most bird strikes would be from resident species. Resident birds would spend more time near the proposed buildings compared to birds migrating through the region. There is potential for certain common bird species (e.g., acorn woodpeckers, red-tailed hawks and red-shouldered hawks, and cedar waxwings) to collide with the proposed buildings. As discussed previously, the potential for birds to collide with the proposed bridges would be higher than the rest of the buildings.

Impact BIO-1: The birds in the vicinity of the project site could collide with the proposed bridges between the towers.

Mitigation Measure

MM BIO-1: Prior to issuance of any building permits, the project applicant shall incorporate the following measures to minimize and/or avoid bird collisions:

- All glazing on the façades of the two bridges shall have low-reflectivity glazing (20-percent reflectivity or lower) to minimize reflections of the sky and vegetation in the bridge façades.
- If glazing on the bridges is tinted or translucent so that it is not possible to see one side of the bridge to the other, no glazing treatments shall be necessary. If transparent glazing is used and it is possible to see through from one side of the bridge to the other, all glazing on the façades of the bridges shall be 100 percent treated with a bird-safe glazing treatment, as described below.
    - Bird-safe glazing treatments could include fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior, or ultraviolet patterns visible to birds. Vertical elements of the window patterns shall be at least one-fourth inch wide with a maximum spacing of four inches, and/or horizontal elements shall be at least one-eighth inch wide with a maximum spacing of two inches.
    - The visibility of frit patterns on bird-safe glazing products is highly variable based on the glazing design (e.g., the glass surface on which the frit is placed, the color/tint of the glass, and the color of the frit), the frit type (e.g., sandblasted, acid-etched, or ceramic frit), and the production process (e.g., the pressure of sandblasting). If bird-safe glazing is used on the bridge and/or freestanding glass railings, a physical sample of the glazing shall be evaluated by a qualified biologist to ensure that the bird-safe glazing treatment is visible to birds. The qualified biologist's evaluation shall be submitted to the

Director of Planning, Building and Code Enforcement or the Director's designee.

- The final design shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permits.
- The approved design specifications shall be printed on all project plans for subsequent ministerial permits.

With implementation of Mitigation Measure BIO-1 identified above, the number of bird collisions would be reduced. The proposed project would not interfere with the movement of any fish or wildlife species. **[New Less Than Significant Impact with Mitigation (Less than Significant Impact with Mitigation Incorporated)]**

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

As discussed in the Downtown Strategy 2040 FEIR, development within Growth Areas could result in direct and indirect impacts to the City's "community forest," which consists of the ornamental trees, stands of native trees, and remnant orchard trees found in developed areas of San José. Within the City of San José, the "community forest" is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. Redevelopment of areas within the downtown would not, however, substantially affect the community forest due to the relatively low value of existing habitat. Consistent with the Downtown Strategy 2040 FEIR, the project would be required to conform to the following Standard Permit Conditions.

Standard Permit Conditions:

Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.2-2 below, as amended.

Table 3.2-2: Tree Replacement Ratios

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

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

Since all 160 trees on-site would be removed, 67 trees would be replaced at a 1:1 ratio, 39 trees would be replaced at a 2:1 ratio, and the remaining 54 trees would be replaced at a 4:1 ratio for a total of 361 trees. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted would be 361 trees. The species of trees to be planted would be determined in consultation with the City Arborist and staff from the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, at the development permit stage:

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

By conforming to the above conditions, the proposed project would meet all applicable tree removal and tree protection guidelines set forth by the City of San José. Therefore, the proposed project would not conflict with any ordinance protecting biological resources, and would not result in a significant impact to trees and the community forest. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As mentioned previously, the proposed project is designated as "Urban-Suburban" land.[20] Private development in the SCVHP area is subject to the requirements of the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;[21]
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;

[20] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed May 10, 2019. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

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

- The project is located in an area identified as “Rural Development Equal to or Greater than Two Acres is Covered,” or “Urban Development Equal to or Greater than Two Acres is Covered” or,

- The activity is located in an area identified as “Rural Development is not Covered” but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

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

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

3.3 CULTURAL RESOURCES

The following information is based on a Historic Resource Project Assessment prepared by *Archives & Architecture* in December 2019, and updated February 7, 2020. The Historic Resource Project Assessment can be found in Appendix E of this document. Public comments received during the NOP scoping process pertained to the historic significance of the Bank of California building that would be demolished as part of the proposed project.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). The NRHP is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological or cultural significance at the national, state or local level. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the California Register of Historic Resources (CRHR).[22]

National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context." The NRHP identifies four possible context types, of which at least one must be applicable at the national, state, or local level. As listed under Section 8, "Statement of Significance," of the NRHP Registration Form, these are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
B. Property is associated with the lives of persons significant in our past.
C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
D. Property has yielded, or is likely to yield, information important to prehistory or history.

Second, for a property to qualify under the NRHP's Criteria for Evaluation, it must also retain "historic integrity of those features necessary to convey its significance." While a property's significance relates to its role within a specific historic context, its integrity refers to "a property's physical features and how they relate to its significance." To determine if a property retains the physical characteristics corresponding to its historic context, the NRHP has identified seven aspects

[22] Refer to Public Resources Code Section 5024.1(d)(1)

of integrity: 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

State

California Register of Historical Resources

The CRHR is administered by the California Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[23]

The guidelines for identifying historic resources during the project review process under CEQA are set forth in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a). These provisions of CEQA create three categories of historical resources: mandatory historical resources; presumptive historical resources; and resources that may be found historical at the discretion of the lead agency. These categories are described below.

- **Mandatory Historical Resources**. A resource the State Historical Resources Commission lists on the California Register of Historical Resources (CRHR), or the State Historical Resources Commission determines to be eligible for listing in the CRHR is defined by CEQA to be "an historical resource." Resources are formally listed or determined eligible for listing by the State Historical Resources Commission in accordance with the procedures set forth in the provisions of state law relating to listing of historical resources.[24] If a resource has been listed on the State Register, or formally determined to be eligible for listing by the State Historical Resources Commission under these procedures, it is conclusively presumed to be an "historical resource" under CEQA.
- **Presumptive Historical Resources**. A resource included in a local register of historic resources as defined by state law[25] or identified as significant in an historical resource survey meeting the requirements of state law,[26] shall be presumed to be historically or culturally significant. The lead agency must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

[23] CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.
[24] Set forth in Public Resources Code Section 5024.1 and 14 Cal. Code Regulations Section 4850, et. seq.
[25] Set forth in Public Resources Code section 5020.1(k), a local register of historical resources is a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.
[26] Under section 5024.1(g), a resource can be identified as significant in an historical resources survey and found to be significant by the State Office of Historic Preservation (i.e., listed in the CRHR) if three criteria must be met: (1) the survey has or will be included in the State Historic Resources Inventory; (2) the survey and documentation were prepared in accordance with State Office of Historic Preservation procedures and requirements; and (3) State Office of Historic Preservation has determined the resource has a significance rating of Category 1 to 5 on Form 523.

- **Discretionary Historical Resources.** A resource that is not determined to be a significant historical resource under the criteria described above, may, in the discretion of the lead agency, be found to be a significant historical resource for purposes of CEQA, provided its determination is supported by substantial evidence in light of the whole record. The CEQA Guidelines further provide that generally, a lead agency should consider a resource historically significant if the resource is found to meet the criteria for listing on the CRHR, including the following:
  - Criterion 1 (Events): The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States; or
  - Criterion 2 (Persons): The resource is associated with the lives of persons important to local, California, or national history; or
  - Criterion 3 (Architecture): The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values, or
  - Criterion 4 (Information Potential): The resource has the potential to yield information important to the prehistory or history of the local area, California or the nation.[27]

Historical resources eligible for listing in the CRHR must meet one of the criteria of significance described above *and* retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic integrity may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and hence; in evaluating adverse changes to them. Integrity is defined as "the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The process of determining integrity is similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven aspects include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

Archaeological Resources and Human Remains

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

California Health and Safety Code Section 7050.5 regulates the procedure to be followed in the event of human remains discovery. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the coroner must notify the Native American Heritage Commission (NAHC). The NAHC

[27] CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.

then notifies those persons most likely to be related to the Native American remains. The Act stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

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

City of San José

Historic Preservation Ordinance

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

City Council's Policy on the Preservation of Historic Landmarks

The City Council's Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

Envision San José 2040 General Plan

The General Plan includes policies applicable to all development projects in San José. The following cultural resources policies are applicable to the proposed project.

General Plan Policies – Cultural Resources	
Policy EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.[28] A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

[28] For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

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.
Policy LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitate and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.5	Evaluate areas with a concentration of historically and/or architecturally significant buildings, structures, or sites and, if qualified, preserve them through the creation of Historic Districts.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.

Policy LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

3.3.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

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

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The physical distance between the project site and Guadalupe River is 0.20 mile.

Literature reviews completed for nearby projects identified one recorded archaeological site in the immediate project vicinity. Site CA-SCL-128/H was first recorded in 1973 south of Park Avenue. A large prehistoric deposit and Native American burials were found, and the site was nominated to the National Register of Historic Places in 1982.

Historic Subsurface Resources

Mission Period

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

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

in downtown San José was the center of the second pueblo. The physical distance between the project site and the second pueblo is 700 feet.

Post-Mission Period to Mid-20th Century

Existing Structures on the Project Site

The existing structures on-site were conceived and constructed as part of a Park Center Plaza master plan. It was the City's first major redevelopment effort when it was conceived in the late 1950s and was initiated in the late 1960s by San José Center Corp under the authority of the City's Redevelopment Agency. At the time of construction, it was a pivotal urban renewal project associated with the revitalization of Downtown San José during the post-war period. Much of CityView Plaza remains today as an exceptional representative of important local patterns of community redevelopment. Table 3.3-1 lists the nine buildings located on-site and the years in which they were constructed.

Table 3.3-1: Existing Structures On-Site

No.	Building(s)	Address	Build Dates
1	Landmark building, Plaza Pavilion Buildings, and garage	100 West San Fernando St	1968-1969
1		130 South Almaden Blvd	
1		115 South Market St	
2	Wells Fargo Bank	121 South Market St	1969-1970
3	Bank of America and tower	125 South Market St	1970-1971
4	United California Bank (Morton's Steakhouse)	177 Park Avenue	1971-1973
5	Bank of California (Sumitomo Bank/Family Court)	170 Park Center	1971-1973
6	Mitsui Manufacturers Bank (Heritage Bank/Kiosk)	150 South Almaden Blvd	1984-1985
7	Scott's Seafood/Parking Garage	183-185 Park Avenue	1985

Landmark Building and Plaza Pavilion Buildings (No. 1)

Landmark Office Building – View facing west, December 2019

The Landmark Office Building was constructed in 1969 and is an example of 1970s modernist architecture with brutalist influences. The building was designed by Gruen Associates and was the first major building designed in the complex. The building entrances feature fixed, arched cantilevered canopies and the four upper levels feature square openings between an exposed concrete grid structure. The horizontal concrete beams are cantilevered at the corners, and the windows wrap with a single stacked window facing each direction, accentuating the horizontal concrete elements. The horizontal top and bottom beams are wider, creating a visually balanced composition.

Like other elements in the plaza complex added in 2006, the glazed panels are supported by steel-colored structural elements, and the face of the wall has been altered with a grid of steel-colored panels. To both sides of both main entrances are a series of added fixed red awnings, mounted to the face of the concrete wall above the ground-floor openings and below the upper windows. The east and west ends of the building are constrained by parking lot entrances that create walkways. The north façade has no walkway, but offices open onto seating areas. Only the south façade faces a landscaped area at grade.

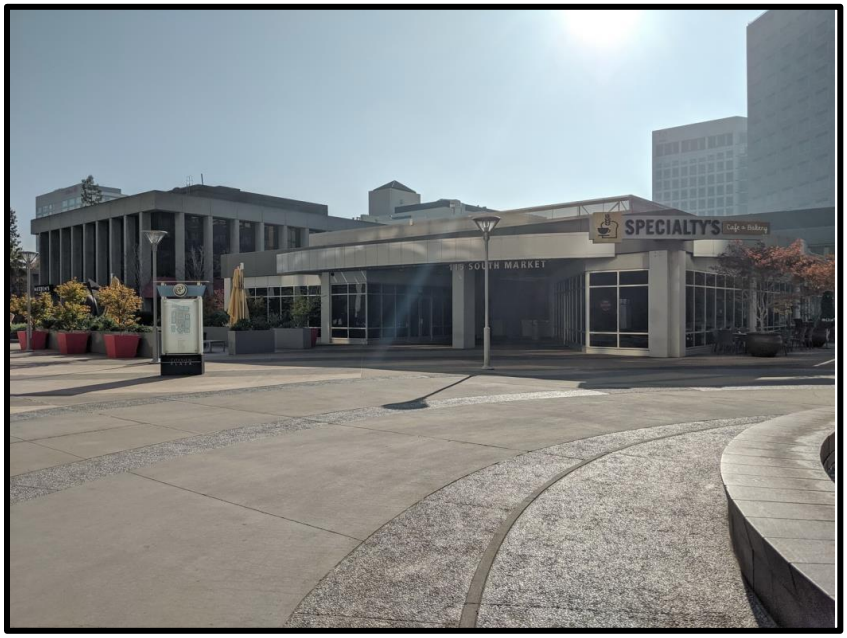
The historic integrity of this building has almost been completely preserved though entrances have been altered. Also, some important aspects of its setting have been lost in recent years. The location has remained constant, but the 2006 alterations to the plaza (including demolition of the pavilions and modernization of the paving and landscaping) have altered the original visual connection between the building and the rest of the complex.

The building includes embedded formwork connectors and concrete texture that could be referred to as artisanship, and these have been preserved. The building embodies associations with the larger complex as envisioned by Gruen Associates, and its design continue to be associated with the urban renewal process in San José in the mid-to-late twentieth century. The building continues to evoke the feeling of concrete architectural designs of financial office buildings during the early days of redevelopment in San José.

Park Center Plaza's original design consisted of a raised, paved open area that also was the roof for the below-grade parking. It features a paving grid that corresponded with the placement of various

square and rectangular buildings within the deck. The deck and landscaping were completely replaced in 2006. The current design includes diagonal striped paving patterns, a large, low central fountain, linear water features and planting areas, curved planting features, and rows of large planters with trees and other plantings. The redesigned setting includes minimalist angular light posts that resemble the style and color of the altered front entrance awnings at the Landmark Building. There are many large sculptures set within the design. The current plaza has little historic integrity relative to the original design, materials, or craftsmanship.

The Landmark Office Building is associated with the initial construction of the raised plaza and podium pavilions within the center of the plaza. There are two pavilions still remaining on-site, one of which has been altered heavily over time. Three pavilions or "kiosks" were demolished in 2006 when the deck and landscaping was redesigned. The design of the pavilions and kiosks was directly related to the materials and detailing of the other buildings. The pavilion sizes, locations, and shapes corresponded to the grid system of the early plaza landscaping and featured exposed concrete column-and-spandrel grid systems at their outer façades, flat roofs, and recessed or inset dark-tinted glazing set into bronze-anodized window framing. The exposed concrete structure includes tightly controlled patterns of joints that represent the construction methods, and the walls are very flat, with a slightly grainy texture; however, some of the buildings have been painted. Pavilions 102, 106, 108 and 109 were permitted for demolition in 2006.

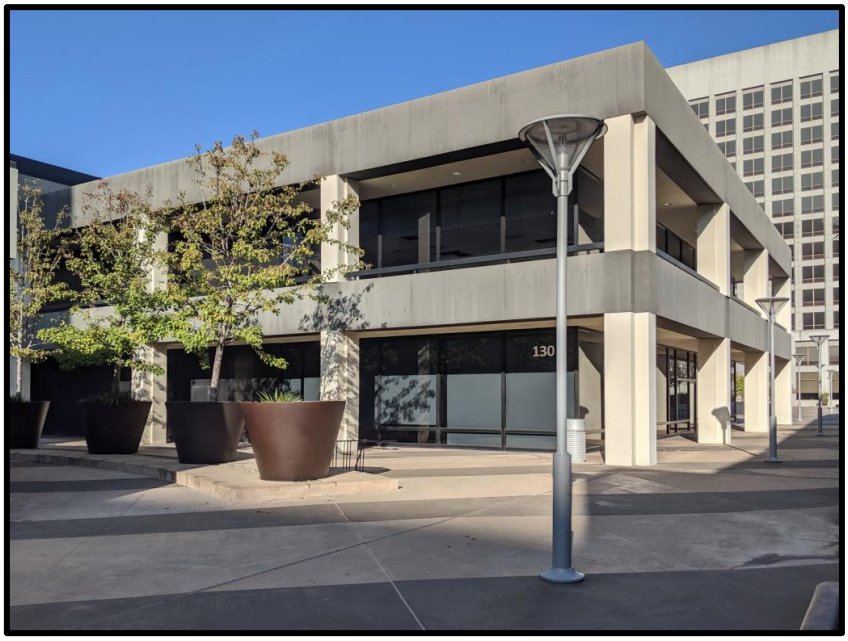


Pavilion 104/Plaza Deck – View facing southwest, December 2019

The former Union Bank (Pavilion 104) is an altered one-story modern design constructed in 1973. The square building, which corresponds to the original plaza grid, has raw-concrete influences and is pictured in historic documentation as a flat-roofed building supported by a series of exposed square pillars that are accentuated by recessed dark-tinted dark-anodized windows. The building currently has replacement windows of brushed steel that are flush with the face of the columns, and a prominent rounded canopy added in 2006 wraps the northeast corner of the building. The building has been painted, but the joints remain visible, indicating its original concrete detailing but obscuring the concrete texture.

This building has lost much of its historic integrity with the replacement of the original windows, the modification to the entrance, and the paint, impacting the design and character-defining materials. Its location remains original; however, its footprint and location were integrated into the original plaza design, and the landscaping alterations have impacted its relationship to the original setting. The loss of integrity of design and materials have removed the understanding of its original use as a compact

bank building in the center of a composed whole, and the alterations have removed much of its visual associations with the Gruen design of the original Park Center Plaza.



Pavilion 130 – View facing northeast, December 2019

Pavilion 130 is a square, two-story office building, which corresponds to the original plaza grid, with three bays on each side and fully recessed curtain walls providing sheltered walkways under a flat roof. The outer corner posts are indented while the roof has a 90-degree corner that projects. The building has been painted gray and beige, but the joints remain visible, indicating its original concrete detailing but obscuring the concrete texture.

The building retains much of its historic integrity and its location remains original; the landscaping alterations have impacted its relationship to the original setting, but it is a large enough building to have associations beyond its placement in the larger composition. There has been very little loss of integrity of design and materials although its painted exterior impacts its original exposed-concrete aesthetic. It continues to have the feeling of a 1970s office building, and it conveys the associations of a speculative office building of its time.

These three buildings are within the portion of the complex that has been identified as eligible for the CRHR under Criterion 1 and as a historic landmark site under the City of San José Criteria for its value as a representation of planned redevelopment, its exemplification of the economic heritage of the City of San José, its local embodiment of corporate design development and brutalist design, its associations with César Pelli and Gruen Associates and the firm Skidmore, Owings, & Merrill (SOM), and for its excellence in architectural design, detail, materials, and craftsmanship.

The Landmark Office building's elongated form, façade detailing, materials, raised podium, and construction are in concert with the other sophisticated concrete buildings in Park Center Plaza; however, the design of this building is not individually distinctive within the context of the complex or the City of San José. There are no focal features, special materials, or sculptural forms that provide design impact or advance the architectural associations. The office building was not found individually eligible for the CRHR or as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance.

Pavilion 104 has been heavily altered and painted, diminishing its contributions to the overall composition. It currently lacks the design qualities that would make it individually eligible for the CRHR or as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance. Pavilion 130 retains only some of its historic integrity. Although sharing many features of the individually significant buildings that also contribute to the historic Park Center Plaza, Pavilion

130 has a simpler form and repetitive façades that indicate its support role. It does not have the individual design excellence that would make it individually eligible for the CRHR or as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance.

Wells Fargo Building (No. 2)

Wells Fargo Building – View facing southwest, December 2019

The Wells Fargo building, constructed in 1969, is an excellent regional example of early 1970s Brutalist design. The building uses the repetitive formwork and organic qualities of concrete construction to create a boldly sculptural building and distinctively textured finish. While an integral component of the late-1960s and early-1970s Park Center Financial Plaza plan, the building differs in design and materials from the other buildings of the same timeframe within the Park Center Plaza complex as it was built.

Designed by the San Francisco office of SOM, the nine-story commercial office building is at the nominally northeast corner of the Park Center Plaza. The outer walls (north and east) of the building are raised five to seven steps above the sidewalks, forming the outer planes of the plaza podium where the complex borders San Fernando and Market Streets. An original stair and an added access ramp are located at the southern corner of the Market Street elevation, and the southern entrance is at plaza level. Unlike many of the other buildings in plaza, the building is not set back with an outer plaza walkway or raised planter.

Each side of the building is divided into three vertical bays, separated by smooth concrete pilasters that terminate in the wide upper fascia band/parapet wall. All three of the north-facing bays are glazed, while a single bay on each side and all three southern bays wrap the plaza-facing elevation with solid concrete panels. The glazed floors feature horizontal ribbon windows separated by horizontal concrete spandrels. The window glass is tinted, supported by dark-anodized frames. The base of the building is differentiated from the main column by full height glazing that illustrates the lower level's original lobby use. Each of the angled recessed entrance walls is accentuated by rough-textured, ribbed concrete panels; the south-facing wall adjacent to the Market Street entrance bay and the west-facing wall adjacent to the plaza entrance bay are also ornamented with the ribbed concrete, accentuating these corners and the south façade.

The building appears to have had few alterations over the years, although it was updated in 2014 and gained LEED Silver certification. It is unknown if the building was painted originally, but it was

always a light color, either exposed concrete or paint. The main entrance stairs facing Market Street (east) have been overlaid with a ramp. The adjacent plaza setting was altered in 2006.

The historic integrity of the Wells Fargo Bank Building remains intact, although some aspects have been slightly altered over time. The location has remained constant but the alterations to the plaza have altered the immediate setting somewhat. The original 1970s design has been substantially preserved while the paint would appear to have reduced the integrity of the historic materials. The building includes ribbed or corrugated formwork that could be referred to as handcraft, and it remains. The building has associations with the design firm Skidmore Owings & Merrill and is associated with the urban renewal process in San José in the early-to-late twentieth century. The building continues to evoke the feeling of concrete architectural designs of financial office buildings during the early days of redevelopment in San José.

The Wells Fargo commercial building is individually distinctive for its carved-away form, expressive façade detailing, exposed use of textured materials, raised podium, and connection to the plaza level. The design is in concert with the remaining, sophisticated Gruen-designed buildings in Park Center Plaza, but embodies a complementary set of design principles. The building can be found individually eligible for the CRHR under Criterion 3 and can be found eligible as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance.

Bank of America Building (No. 3)

Bank of America and Tower – View facing north, December 2019

The Bank of America building and tower, constructed in 1970-71, is an example of 1970s modernist architecture with Brutalist and New Formalist influences. The building uses the repetitive formwork and organic qualities of concrete construction to create a classically inspired modern building with a sculptural southern wing. The building is related by design, materials, and architect to the former United California Bank building adjacent to the west, to the Landmark Building diagonally across the raised plaza complex, and to the former Union Bank and other pavilion buildings within the original plaza complex. Its sculptural southern wing is somewhat similar to the former Bank of California, in the southwest corner of the shared block; however, it is less purposefully sculptural, it has large expanses of wall planes and a massive appearance.

The building is formed with two main elements that are designed to appear separated when viewed from the street and to overlap visually when viewed from the plaza. To the south is a monumentally scaled two-story wing, approximately square in plan, with an inset centered front entrance that faces Park Avenue. The 14-story northern half of the building (thirteen stories above the plaza level) is also approximately square in footprint.

The outer walls of the building are raised five to seven steps above the sidewalks, forming the outer planes of the plaza podium where the complex borders Park Avenue and Market Street. Unlike many of the other buildings in the plaza, the building is not set back with a separate plaza walkway. The exposed concrete structure includes patterns of joints that represent the construction methods, and the walls are very flat, with a slightly grainy texture.

The two-story wing is set back slightly and differentiated with an array of vertical window bays; this window pattern relates to the high-rise portion of the building that it wraps. The south façade features a symmetrical massing, with two large blocks separated by a recessed entrance. There is no fenestration on east half of south façade. The recessed entrance has been altered by an arched fixed awning manufactured of steel and glazed panels. It also features a steel-colored curtain-wall frame and canopy structure that was added in 2006. In the high-rise portion, eight vertical bays face Market Street, separated by full-height vertical pilasters. There is an intermediate concrete band above the two lower floors, creating a base, and the parapet band is wide, creating a cornice.

The 2006 entrance canopies consist of prow-shaped triangles with speed-stripe fascias, manufactured to have a brushed-steel or aluminum appearance. The original dark-anodized entrances were also replaced with polished metal frames.

The historic integrity of the Bank of America building remains intact, although a few minor aspects have been altered over time. The location has remained constant but alterations to the plaza have altered the immediate setting in ways that reduce the connection of the design to the original 1970s patterns of paving and planters. The original design has been substantially preserved although all the entrances were altered with new steel-and-glass fixed awnings in 2006. The building includes embedded formwork connectors and concrete texture that could be referred to as artisanship, and these have been preserved. The building continues to embody associations with the design firm Gruen Associates and César Pelli and its design and setting continue to be associated with the urban renewal process in San José in the mid-to-late twentieth century, although the setting has been altered. The building continues to evoke the feeling of concrete architectural designs of financial office buildings during the early days of redevelopment in San José.

The Bank of America building can be found to contribute to the period of significance, design, and use identified with the development of this financial center in Downtown San José. Much of the block-sized complex is identified as eligible for the CRHR under Criterion 1 and as a historic landmark site under the City of San José Criteria for its value as a representation of planned redevelopment, its exemplification of the economic heritage of the City of San José, its local embodiment of corporate design development and brutalist design, its associations with César Pelli and Gruen Associates and the firm SOM, and for its excellence in architectural design, detail, materials, and craftsmanship.

The building's complex form, distinctive façades, materials, detailing, and construction are a compatible feature within the original, sophisticated concrete buildings of Park Center Plaza. It is also distinctive for its massive-appearing south wing and gridded high-rise tower and can be found individually eligible for the CRHR under Criterion 3 and eligible as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance for its associations with Gruen Associates and for its design.

United California Bank/Morton's Steakhouse Building (No. 4)

Morton's Steakhouse Building – View facing northwest, December 2019

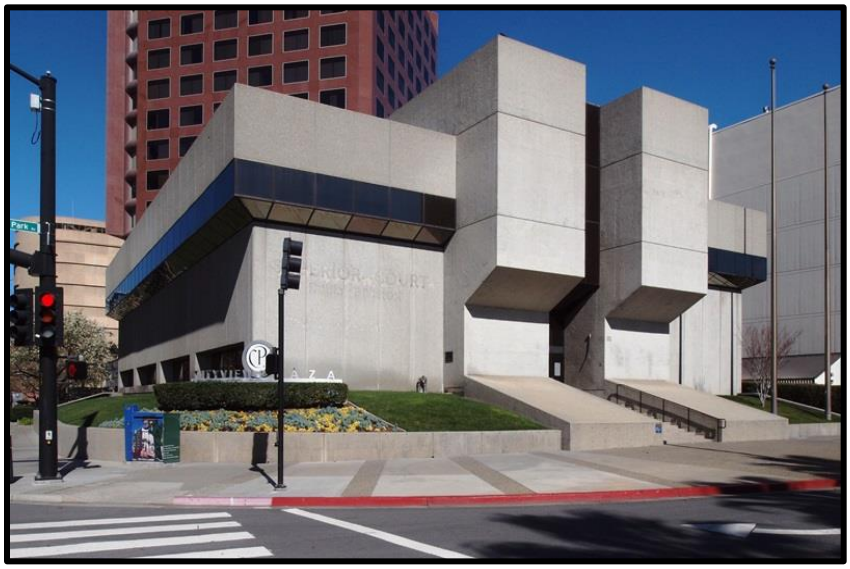
The current Morton's Steakhouse building, constructed in 1971, is an example of modernist architecture referred to as "New Formalism," with some Brutalist influences. The design is a Modernist homage to classical Greek temple designs, with multiple vertical columns supporting a flat roof. This form was used for many institutional designs in the second half of the twentieth century. The building is related by design, materials, and architect to the Bank of America building, the Landmark Building, north across the raised plaza complex, and the pavilion buildings within the original plaza complex.

The building has a relatively compact rectangular footprint and the primary design features are the array of full-height square concrete pilasters that are topped by a single horizontal concrete band that reads as a cornice. The exposed concrete structure includes patterns of dots and seams that represent the construction methods and formwork. The concrete walls are very flat, with a slightly grainy texture. Glazed curtain wall bays, with bronze frames and tinted mirror glass, are recessed between the pilasters. The ground floor consists of vertical full-height fixed windows and doors with thin frames. The bronze spandrels between the floors are extremely narrow. The columns are held back from the corners and support the cornice in cantilever. The dark, recessed window walls wrap the corners beneath these elements. The west elevation features a centered entrance with a paired column bay at the main floor and a recent cloth awning. The east elevation has been altered with a recent lobby entrance approximately centered on the façade. It features a paired prow-shape fixed awning across two of the bays Replacement storefront elements have been installed at the entrance with steel-colored frames rather than bronze-anodized. On the north side of the building, each bay is spanned by a fixed cloth awning in red. These conceal the lower windows of the second floor and have traditional sloping tops with front valances.

The historic integrity of the building has almost completely been preserved, although some aspects of its setting have been lost over time. The location has remained constant but alterations to the plaza in 2006 have altered an original visual connection between the buildings in the plaza and all of the entrances have been altered with new steel-and-glass fixed awnings and changes in glazing. The building includes embedded formwork connectors and concrete texture that could be referred to as artisanship, and these have been preserved. The building continues to embody associations with César Pelli when he was working with Gruen Associates, and its design and setting continue to be associated with the urban renewal process in San José in the mid-to-late twentieth century. The building continues to evoke the feeling of concrete architectural designs of financial office buildings during the early days of redevelopment in San José.

The building's compact form, its distinctive façade detailing, its materials, raised podium, and construction are in concert with the other sophisticated concrete buildings in Park Center Plaza, and the former bank building is also individually distinctive for its classical Greek temple influences. The building can be found individually eligible for the CRHR under Criterion 3 and can be found eligible as a Candidate City Landmark under the City of San José's Historic Preservation Ordinance.

Bank of California/Sumitomo Bank Building (No. 5)



Sumitomo Bank – View facing north, December 2019

A unique example of Modern architecture, the design of the building, constructed in 1973, is monumental in scale while relatively small in size. The building is representative of the work of César Pelli in his early years.

The building has a relatively small, approximately rectangular footprint within the larger plaza context. The two-story subject building is set back from and above the property line, on a sloping lawn plinth retained by a low concrete wall at the sidewalk. Each dark-glass, three-story entrance is flanked by a pair of monumental vertical walls that are partially cantilevered and partly sloped outward. The building has a strong symmetrical form, is oriented to Park Avenue, and uses abstract references in it design detailing. The walls are smooth concrete, in contrast to the dark glazing. The walls rise above the surrounding flat roofline from low, wide bases at the sidewalk. Concealed from the street, the roof is raised above the central lobby area.

The two outer portions of the building feature cantilevered upper walls on all sides. A horizontal stripe of dark, metal-framed windows makes up the base and sloping soffit of the cantilever. The window mullions align with the vertical expansion joints on the walls of the building. In contrast, the

joints are horizontal on the entrance blocks, accentuating the heaviness of these walls. The smooth texture of the concrete accentuates the starkness of the design.

It is slightly later in age than—but differs significantly in design approach from—the rest of the Gruen Associates designs within the plaza. It shares the texture of concrete finish and the deliberate placement of the control joints, as well as the dark-tinted glazing and frames. It is not, however, influenced by New Formalism, and, instead, has sculptural qualities that make it an exceptional example of Modern architecture in San José.

The historic integrity of the building has been almost completely preserved and the location has remained constant. The east and north setting was altered when the parking structure and banking tower were built in 1985, and again this setting was altered in 2006 when the plaza was replaced with a new design. Because this building was always separated from the rest of the plaza buildings, the changes in the plaza setting have less impact on the integrity of the building. The original design has been substantially preserved, along with its materials and quality of construction. The building exemplifies its associations with César Pelli and his early body of work, and its design and setting continue to be associated with the urban renewal process in San José in the mid-to-late twentieth century. The building continues to evoke the feeling of blocky sculptural architecture from the 1970s and continues to represent an exceptional piece of architectural design.

The building is set apart from the other contributing buildings by more recent infill construction, by its lower landscaped setting, and by its more sculptural design, but it shares the period of significance, the financial associations, an architect, and its excellence in materials and detailing. This design of this building has been identified as an exceptional example of the work of architect César Pelli. Its materials, detailing, form, setting, are representative of the early oeuvre of a master designer. Therefore, it has been identified as individually eligible for the NRHP under Criterion C and the CRHR under Criterion 3. It meets the criteria of a City Landmark in the City of San José for its significant architectural innovation in the local area and unique in the larger context of the built environment. The Preservation Action Council of San José in a letter dated January 30, 2020, has requested that the City Historic Landmarks Commission consider referral of this building as a City Landmark to the City Council.

Heritage Bank Building and Parking Structure (No. 6 and 7)

Heritage Bank Building – View facing southeast, December 2019

The Heritage Bank building and pavilion and the Park Avenue parking garage were designed by The Munselle/Brown Partnership Inc. and built by 1985. They are differentiated in siting, design, and materials from the other, earlier, buildings in the plaza complex. They incorporate some mid-1980s post-modern influences in their designs and use of materials. The high-rise tower is set diagonally and clad in red granite, in contrast to the light-colored or bare concrete structures that surround it, and

the parking garage, although primarily painted concrete, has a structure concealed by applied tile façade.

The parking structure is a relatively functional design, with stylistically "Corporate Modern" elements and post-modern influences. The garage building incorporates design elements that date from its mid-1980s construction period including some understated post-modern influences, such as the square clock tower and the flat use of materials as decorative elements.

Although both buildings to the sides of this six-story structure are raised a half-level above the sidewalk, this mixed-use building is set lower and includes retail spaces that open at sidewalk level. A primary feature of the building is its restaurant on the top floor.

The parking elements of the design are finished with exposed concrete; these primarily consist of solid horizontal guardrails that step out in plan at each higher level of the front façade. The central feature of the front façade is a rectilinear elevator and clock tower.

The Heritage Bank tower is differentiated in design and materials from the other, exposed-concrete buildings in the plaza complex. The Heritage Bank tower is sited at a diagonal, is clad in red granite, incorporates curved elements, and features boldly rounded exposed frames "recessed behind" postmodern "peeling" curtain walls.

The tower is approximately square in footprint and set diagonally to the plaza (and City) grid. Its west and east corners are rounded at the plaza level while its north and south corners are clipped on a 45-degree angle. The building is 15 stories with round corners consisting of dark-painted bullnose-profile metal frames that are exposed between the outer walls and at the base of the building. The outer wall planes are quite flat in design and feature approximately square windows set into a grid of red stone veneer panels. The top spandrels of the outer walls are not accentuated into a cornice band, and the outer walls step back at the base to reveal the metal framework at grade.

The Heritage Bank kiosk is related in age and architecture to the red-granite high-rise building to its immediate west and the parking garage to its south; however, the three buildings are not closely related in form, materials, or detailing. The one-story kiosk has an elongated, approximately octagonal footprint with squared corners. It is set atop the parking podium within the center of the plaza, surrounded by paved and planting elements altered in 2006. The building features symmetrical full-height, full-width glazed storefronts on the two longer sides; the only entrance is centered on the north storefront. The angled sides are concrete, unadorned except by control joints and down-light fixtures.

The buildings have no identified historical associations, as the second phase of the Park Center Plaza redevelopment project, because their design and setting were after the urban renewal process was mostly completed in San José. As a result, they are outside the period of significance. The architectural integrity and location of the three buildings on this parcel remain substantially intact. The original designs have not been altered except for the addition of the outdoor dining area on the top floor and the various tenant improvements at the retail level. Two of the buildings include stone veneer materials that remains in place. There is little that could be referred to as handicraft or visible artisanship. The building continues to evoke the feeling of architectural designs of the mid-1980s. These buildings have a different architect and have different design qualities than the earlier

buildings within the complex. Because of their age, they could not be objectively reviewed, after the passage of time, for individual significance based on historic patterns, personages, or architectural design.

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, the analysis considers if the project would:

1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5, and/or
3) Disturb any human remains, including those interred outside of dedicated cemeteries

3.3.2.1 *Project Impacts*

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

CityView Plaza, originally Park Center Plaza, was San José's first redevelopment project and represents the City's modern-era banking and financial center developed beginning in 1968 and was intended to assist with the revitalization of the downtown. The plaza remains a key and exceptional representation of an important local pattern of community development. While the plaza has undergone some minor renovations, most of the circa 1970 buildings remain intact. The exception is the small promenade that connected the Bank of California to the plaza and early kiosks on the plaza deck. The promenade was replaced in the 1980s with the current parking garage, which occurred after the plaza's period of significance (1968-1973).

The plaza complex has been determined to be a historic resource under CEQA because it meets Criterion 1 of the CRHR because:

1. It has value as a part of the local and regional history as the first planned redevelopment project in Downtown San José;
2. The plaza exemplifies the economic and historic heritage of the city of San José;
3. It portrays the environment of the local financial sector in an era of history, the period of Industrialization and Suburbanization, characterized by a distinctive corporate architectural style;
4. The plaza embodies distinguishing characteristics of the modern Brutalist architectural type that was prevalent in the United States during the 1960s and early 1970s;
5. The design of the buildings in the complex have been identified as the work of architects César Pelli and his team at Gruen Associates, and John Merrill Jr. and Lawrence Doane of Skidmore, Owings, & Merrill, whose work has influenced the development of the city of San José; and
6. The design of the complex embodies elements of architectural design, detail, materials or craftsmanship which represents a significant architectural innovation in the local area and remains unique in the large context of the local built environment.

With the plaza complex, individual buildings have been identified as notable examples of modern architecture, including the Wells Fargo building, the Bank of California/Sumitomo Bank building, the United California Bank building, and the Bank of America building and tower. These buildings individually contribute to the significance of the plaza complex. Each of these buildings also qualify individually under Criterion 3 of the CRHR and as Candidate City Landmarks. The Bank of California/Sumitomo Bank Building is also individually eligible for the NRHP under Criterion C. As proposed, the project would demolish all structures on the project site resulting in a significant impact on multiple historic resources.

Impact CUL-1: Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic resources, and together contribute to the historic significance of the Park Center Plaza.

Mitigation Measures

MM CUL-1.1: Prior to issuance of any grading, demolition, or building permits or any other approval that would allow disturbance of the project site, the project applicant shall prepare and submit, for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee in coordination with the City's Historic Preservation Officer, a Historic Resources Mitigation Action Plan (Action Plan) demonstrating that the following steps, actions, and documents have been satisfied for each of the four historic structures in accordance with the Action Plan timeline. The Action Plan shall include roles and responsibilities between the project applicant, City staff, and outside individuals, groups, firms, and consultants.

Documentation (HABS): The four structures and associated features on the project site shall be documented in accordance with the guidelines established for the Level III Historic American Building Survey (HABS) consistent with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and shall consist of the following components:

A. Drawings – Prepare sketch floor plans.

B. Photographs – Digital photographic documentation of the interior, exterior, and setting of the four buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.

C. Written Data – HABS written documentation.

An architectural historian and historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, research and written data.

The documentation shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval. The required documentation after approval shall be filed with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper and must first be reviewed and approved by the City's Historic Preservation Officer. Additional copies shall be made available to other local research institutions including History San José, and a copy with the City's Planning Division. Documents shall cover the entire Candidate City Landmark District and the four individual buildings, along with associated features, spaces, and landscaping.

Documentation (Digital Scans): The four structures and associated features on the project site shall be documented through a series of digital scans and video production.

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

If the project applicant or third party agrees to relocate one or more of the four structures, the following measures must be followed:

1. The Director of Planning, Building and Code Enforcement or Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is feasible for the building.
2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study that establishes the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved.
3. To protect the building during relocation, the project applicant shall engage a building mover who has experience moving similar historic

structures. A structural engineer shall also be engaged to determine how the building needs to be reinforced/stabilized before the move.

4. Once moved, the building shall be repaired and rehabilitated, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be retained in a manner that preserves the integrity of the building for the long-term preservation and reuse.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that work to the structure(s) were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and character-defining features were preserved. The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the relocation, repair, and reuse.

Salvage: If the project applicant and/or no third party agrees to relocate any of the four structures within the specified time, the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City's Historic Preservation Officer in accordance with the Action Plan. The project applicant must provide evidence to the City's Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

Deconstruction/Reverse Construction: All structures and associated features being salvaged and demolished shall be documented, photographed, and videoed showing in reverse the original methods of construction and use of materials.

Commemoration: The four structures and associated features on the project site, as well as the Park Center Plaza as a whole, shall be commemorated and curated to include:

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

The project applicant shall submit a memo report supplement to the Action Plan to the City's Historic Preservation Officer documenting the

commemorative actions.

Implementation of the proposed project would result in significant unavoidable impacts to historic resources. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**

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

Policy ER-10.1 of the General Plan states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will 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. The project site is located in proximity to Site CA-SCL-128/H which is known to contain prehistoric and historic cultural resources. The entire project site would be excavated to a depth of approximately 72 feet to accommodate the below-grade parking structure. These excavation activities have the potential to uncover subsurface archaeological resources.

Consistent with the Downtown Strategy 2040 FEIR, the following Standard Permit Conditions shall be applied to the project to reduce and avoid impacts to as yet unidentified archaeological resources:

Standard Permit Conditions:

The project applicant shall implement the following measures during construction:

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The

Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

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

With implementation of these standard permit conditions, impacts to unknown subsurface cultural resources would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

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

Refer to the discussion above. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

3.3.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cultural resources impact?

Historic Structures

Implementation of the proposed project would result in the loss of multiple historic structures and the Park Center Plaza which are representative of modernist commercial architecture of the 1970s. A

review of the City's Historic Resources Inventory does not show any specific buildings or group of buildings of the same architectural style, period of significance, and purpose within the downtown. Given that the project would demolish nine of the 10 buildings within this City block, the loss of these structures and the Park Center Plaza would be cumulatively considerable. **[New Cumulative Significant Unavoidable Impact (Cumulative Significant Unavoidable Impact)]**

Subsurface Resources

Impacts to subsurface resources would be mitigated to less than significant with implementation of the Downtown Strategy 2040 FEIR measures and identified mitigation. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not a have cumulatively considerable impact on subsurface archaeological resources. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

3.4 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared by *Path Forward Partners, Inc.* The Phase I ESA, dated November 21, 2018, is included in Appendix F of this document.

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials Overview

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

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

Cortese List

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements.

California Accidental Release Prevention Program

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

Asbestos-Containing Materials and Lead-Based Paint

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

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

Federal Aviation Administration Regulations

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

City of San José

Envision San José 2040 General Plan

The General Plan includes the following hazards and hazardous materials policies applicable to the proposed project.

General Plan Policies - Hazards and Hazardous Materials	
Policy EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, State and federal laws, regulations and guidelines.
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-6.7	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

General Plan Policies - Hazards and Hazardous Materials	
	without the incorporation of adequate mitigation or separation buffers between uses.
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-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, State and federal agencies prior to approval of a development or redevelopment project.
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-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Policy 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.
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.

General Plan Policies - Hazards and Hazardous Materials	
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.
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

3.4.1.2 *Existing Conditions*

The 8.1-acre project site is currently developed with nine buildings. Groundwater on-site is estimated at a depth of approximately 14 to 16 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns. Groundwater in the project area flows in a northeasterly direction.

Site History

The project site has a history of varied residential and industrial uses from the 1880s to the 1960s, including vehicle fueling and servicing, a laundry business, lumber yard and nursery, and blacksmiths. On-site demolition and construction has occurred frequently throughout the site's history. Records of site development date back to 1884 when the site was developed with residences and a lumber yard located at the southeast corner of West San Fernando Street and Almaden Avenue (formerly known as Orchard Street). From approximately 1891 to the 1950s, the site consisted of a mix of residential, commercial, and industrial developments. From the 1960s on, use of the site transitioned to primarily commercial uses. The site was redeveloped as Park Center Plaza in 1969 and construction occurred on-site intermittently until 1993, when the site was generally developed as it is today.

Environmental Conditions

<u>On-Site</u>

The Phase I ESA identified one recognized environmental condition (REC) on the site. A REC refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property; due to release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment. The REC identified on the site is related to the lengthy history of industrial uses on the project site. No subsurface investigation is known to have been performed on the project site prior to, or during, previous demolition, excavation and construction activities. Documentation of historical uses prior to the 1970s is limited and subsurface features may remain in association with historical uses. Therefore, the lengthy history of industrial uses of the project site is considered an REC.

The Phase I ESA identified one controlled recognized environmental condition (CREC) on the site. A CREC refers to a REC resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls. The building at 150 South Almaden Boulevard on the project site is equipped with

two sumps which operate continuously to discharge groundwater that enters the building's foundation dewatering system to prevent flooding into the lowest level of the parking garage in this portion of the site. The groundwater is treated under an NPDES permit under the regulatory oversight of the RWQCB due to the presence of contaminants, including tetrachloroethene (PCE), in the influent groundwater as it enters the dewatering system. PCE concentrations in the water have been consistently below the California and Federal Maximum Contaminant Level (MCL) for drinking water, which is five micrograms per liter. The origin of the PCE detected in groundwater is unknown, and records reviewed during the Phase I ESA indicate that the project site is not considered to be a source of the PCE in groundwater. Based on the continuing regulatory oversight of this condition, with the treatment system operating under a permit and concentrations of PCE remaining below drinking water standards, the presence of PCE in groundwater beneath the project site is considered a CREC. In addition, based on the detected concentrations of PCE and the presence of the subsurface parking garage beneath the project site, the condition is not considered to present a potential vapor intrusion concern.

The Phase I ESA identified two *de minimis* conditions on the site. A *de minimis* condition is an environmental condition that generally does not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. The project site is equipped with four diesel aboveground storage tanks (ASTs) in association with back-up generators; one of the ASTs is located on the rooftop of 150 South Almaden Boulevard. The total diesel fuel storage capacity on the project site is less than 1,000 gallons. In addition, one used oil collection AST containing food oil/grease associated with restaurant usage at 177 Park Avenue was observed during site reconnaissance completed by *Path Forward Partners, Inc.* A below-grade used food oil/grease underground storage tank (UST) exists within the sidewalk at 185 Park Avenue which is also associated with restaurant use. These used food oil/grease containers are routinely pumped out and the waste is transported to off-site recycling facilities. No indications of spills or released were noted in the records reviewed. Furthermore, these features were observed during site reconnaissance and were found to include adequate containment systems, and no leaks were evident. Based on the quantity stored, conditions observed, and regulatory status, the use of four diesel ASTSs and used food oil/grease AST/UST on the project site is considered to be *de minimis.*

Based on historical Building Department records, ACMs were removed several times from the site due to multiple renovation and tenant improvement events. In addition, most of the buildings on-site were developed prior to 1978 and may contain LBP. According to the Phase I ESA, the presence of ACMs and LBP in building materials is considered to be a *de minimis* condition.

Off-Site

Publicly available information from federal, State, tribal, and local databases was reviewed to determine the potential for nearby off-site sources of contamination to affect the project site. The regulatory databases reviewed found a total of 387 sites within ASTM-specified search distances from the project site. No sites were identified nearby and/or up- to cross-gradient with cases involving contaminated groundwater that may impact the project site. The identified cases involving groundwater are more than 500 feet from the project site, generally to the east and west, and based on their regulatory status would not impact the site.

3.4.1.3 *Other Hazards*

Airports

The Norman Y. Mineta San José International Airport is located approximately 1.8 miles northwest of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is located within the Airport Influence Area (AIA). Additionally, the proposed project is not located within a CLUP-defined safety zone or in the vicinity of a private airstrip.[29]

For the project site, however, FAR Part 77 would require any proposed structure higher than approximately 70 feet above ground to be submitted to the FAA for airspace safety review.

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, the analysis considers if the project would:

1) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?
2) 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?
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
4) 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?
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?
6) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

3.4.2.1 *Project Impacts*

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

Consistent with the Downtown Strategy 2040 FEIR, a Phase I ESA was conducted for the project site to identify potential impacts of the project on the existing environment. The Downtown Strategy 2040 FEIR identified that new businesses in the downtown area may include the use, storage, or disposal of hazardous materials. The proposed project is a commercial development which would

likely include the use and storage of cleaning supplies and maintenance chemicals in small quantities similar to operation of the existing buildings on-site. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. Based on the proposed use of the site, the project would not create a significant hazard to the public or environment from the use, transport, or storage of these chemicals. **[Same Impact as Approved Project (Less than Significant Impact)]**

Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

As discussed above, the project site contains one REC (related to the former industrial uses of the site), one CREC (related to two sumps for dewatering of contaminated groundwater underlying the building located at 150 South Almaden Boulevard), and two *de minimis conditions* (related to USTs/ASTs on-site). The project site has not been the subject of subsurface soil and groundwater investigations to determine the impacts that the former industrial uses may have had on the underlying soil and groundwater. Therefore, there is the potential that subsurface features may remain in association with historical uses, including petroleum products and/or concentrations of PCEs in groundwater. Construction activities, including demolition of existing buildings and excavation for below-grade parking, could expose construction workers and nearby land uses to hazardous materials. The proposed project would implement the following measures, in accordance with the Downtown Strategy 2040 FEIR, to reduce and avoid impacts related to on-site contamination.

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.

Mitigation Measure

MM HAZ-1.1: Prior to issuance of any grading or excavation permits, the project proponent shall retain a qualified professional to prepare a Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction. The SMP shall include, at a minimum: a description of the site background, a health and safety plan, procedures to address undiscovered contamination, regulatory notification procedures if underground tanks or sumps or significant soil and/or groundwater contamination is discovered, soil management and disposal protocols, emergency procedures and responsible personnel.

The SMP shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer in the Environmental Services Department for review and approval prior to issuance of grading or excavation permits.

MM HAZ-1.2: Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant shall obtain a NPDES permit obtained from the San Francisco Bay Regional Water Quality Control Board to modify the dewatering/treatment system to address groundwater seepage into the proposed underground parking areas, and to identify any improvements to the groundwater remediation system to address low levels of solvents in the groundwater that must be implemented to meet the NPDES discharge requirements.

MM HAZ-1.3: Prior to any Aboveground Storage Tank (AST) removal, the project applicant shall contact the San José Fire Department (SJFD) and the SCCDEH and coordinate any necessary field inspections, sampling (if required) and required permits and paperwork from both agencies. The project applicant shall also complete and submit an Aboveground Storage Tank System Closure Permit Application to the SCCDEH and an Aboveground Storage Tank System Closure Application (UN-003) to the SJFD. Additional permits (i.e., demolition permits, electrical permits, plumbing permits, etc.) may be required by the City of San José's Department of Planning, Building and Code Enforcement or other State or federal agencies.

The project applicant shall submit copies of all required permits and related paperwork to the Director of Planning, Building and Code Enforcement, or to the Director's designee prior to the issuance of any site demolition, grading, or excavation permits.

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Standard Permit Conditions:

- **Soil Management Plan.** For any site with the potential for encountering subsurface hazardous materials and/or where soil removal is required, the City or regulatory agencies may require preparation of a site-specific Soil Management Plan (or Waste Disposal Plan) to address the handling of impacted soils during site development. The plan would include the following elements:

  - procedures for transporting and disposing the waste material generated during removal activities,
  - procedures for stockpiling soil on-site,
  - provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities,
  - confirmation soil sampling to verify achievement of remediation goals,
  - procedures to ensure that fill and cap materials are verified as clean,
  - truck routes, and/or
  - staging and loading procedures and record keeping requirements.

  It is assumed that impacted soils will be appropriately characterized and transported off-site for disposal at a facility licensed to receive such waste.

- **Health and Safety Plan.** For any site where contamination has been identified, construction shall occur in accordance with a site-specific Health and Safety Plan (or "Construction Risk Management Plan") prepared by an environmental professional. The Health and Safety Plan may be separate from or part of the Soil Management Plan or Removal Action Workplan and shall include the following elements, as applicable:

  - provisions for personal protection and monitoring exposure to construction workers,
  - procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered,
  - procedures for the safe storage, stockpiling, and disposal of contaminated soils,
  - provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities, and
  - emergency procedures and responsible personnel.

  Construction workers at contaminated sites will be required to use proper protective equipment and receive hazardous materials training in accordance with State and federal regulations. Untrained workers and members of the public will be excluded from the area during work that involves contamination.

- **Groundwater.** To avoid the spread of harmful levels of contamination, the discharge of any water from dewatering activities will be required to comply with NPDES permit requirements or wastewater discharge permit conditions to the sanitary sewer, which may involve installation of a treatment system(s) at the dewatering location.

- **Review for Conformance.** All investigations and plans would be completed by a qualified hazardous materials consultant, in conformance with State and local guidelines and regulations. The investigations and plans would be subject to review and approval by the appropriate regulatory oversight agencies and the City's Environmental Compliance Officer through the City's development review process.

The measures described above would assure proper material handling and waste disposal of known and unknown contaminants that may be encountered during earthwork activities on-site. Preparation of a Health and Safety Plan would ensure that adverse effects to construction workers and adjacent uses do not occur during project construction.

In addition to the mitigation measures described above, the following Standard Permit Conditions would be implemented by the project to reduce impacts related to the demolition of structures constructed prior to 1980, which could contain ACMs and LBP. The project site has an existing Asbestos O&M plan; the proposed project would comply with the existing O&M plan and adhere to the City's Standard Permit Conditions for demolition of buildings on-site, as outlined below.

Standard Permit Conditions:

The project applicant shall implement the following conditions:

- Conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with State and local laws, to determine the presence of asbestos-containing

materials (ACMs) and/or lead-based paint (LBP) prior to the demolition of on-site building(s).

- Remove all building materials containing lead-based paint during demolition activities, in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Dispose any debris or soil containing lead-based paint or coatings at landfills that meet acceptance criteria for the type of lead being disposed.
- Remove all potentially friable asbestos containing materials (ACMs) in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. Undertake all demolition activities in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- Retain a registered asbestos abatement contractor 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 Bay Area Air Quality Management District (BAAQMD) regulations. Remove materials containing more than one-percent asbestos in accordance with BAAQMD requirements and notifications.
- Implement the following conditions in accordance with Cal/OSHA rules and regulations, to limit impacts to construction workers.
    - Prior to commencement of demolition activities, complete a building survey, including sampling and testing, to identify and quantify building materials containing lead-based paint.
    - During demolition activities, remove all building materials containing lead-based paint in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Dispose any debris or soil containing lead-based paint or coatings at landfills that meet acceptance criteria for the type of waste being disposed.

Implementation of the Standard Permit Conditions consistent with the Downtown Strategy 2040 FEIR, Mitigation Measures HAZ-1.1 to HAZ-1.3 and the City's Standard Permit Conditions for demolition of buildings containing ACMs and LBP, would reduce potential hazardous materials impacts to construction workers, adjacent uses, and the environment to a less than significant level.

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

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

The nearest school to the project site is San José State University, located approximately 0.4-mile east of the project site. Based on the proposed use of the site as a commercial development, the

proposed project would not result in hazardous emissions or hazardous materials being transported to and from the site, nor would hazardous waste be produced or disposed of upon implementation of the project. Therefore, the proposed project would not present a risk to the sensitive receptors located at the nearby school due to hazardous emissions, materials transport, or waste generation. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?

The proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.[30] Therefore, there would be no impact to the public or the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

Would the project be 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. The project would not result in a safety hazard or excessive noise for people residing or working in the project area?

The Norman Y. Mineta San José International Airport is located approximately 1.8 miles northwest of the project site. As mentioned, development within the AIA can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The maximum building height proposed by the project is 293 feet to the top of the parapet, which is above the height limit for objects constituting a potential obstruction to navigation, per FAR Part 77. The project site is within the AIA of the San José International Airport and the project would be subject to FAA review under FAR Part 77. The applicant would be required to implement the following Standard Permit Conditions to ensure that the project does not result in a safety hazard or excessive noise due to airport activities.

Standard Permit Conditions:

- Prior to the issuance of a development permit for any project structures that would exceed the FAA imaginary surface applicable to the project site, the following actions shall be accomplished (2040 General Plan Polices TR-14.2 and CD-5.8):
  - The applicant shall comply with the notification requirements of Federal Aviation Regulations, Part 77, and receive a "Determination of No Hazard" from the FAA.
  - Conditions set forth in the required FAA determination of No Hazard regarding roof-top lighting or marking shall be incorporated into the final design of the structure.
  - Avigation and/or "no build" easements shall be dedicated to the City of San José as a condition of approval (General Plan Policy TR-14.4).
- The applicant shall comply with safety and noise policies identified in the CLUP for the Norman Y. Mineta San José International Airport (General Plan Policy TR-14.3).

- The applicant shall design all new exterior lighting within the AIA in a manner that avoids interference with aircraft operations. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots (CLUP Policy G-7).

Implementation of the Standard Permit Conditions 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. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project, redevelopment of an urban, downtown site without modification to the existing roadway network, would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (Less than Significant Impact Impact)]**

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

The proposed project site is located in a heavily urbanized area of downtown San José. There are no areas susceptible to wildfire in the project vicinity. Therefore, the project would not expose people or structures to substantial risk as a result of potential wildfires. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.5 LAND USE AND PLANNING

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

City of San José

Envision San José 2040 General Plan

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

General Plan Policies - Land Use	
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-1.12	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-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level.

General Plan Policies - Land Use	
	5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.
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).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
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 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-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 avigation and “no build” easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

San José Zoning Ordinance

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

3.5.1.2 *Existing Conditions*

Existing Land Uses

The approximately 8.1-acre project site is comprised of six parcels (259-41-054, -057, -066, -067, -068, -070) located in an urbanized area of downtown San José. The site is bound by Park Avenue to the south, South Almaden Boulevard to the west, South Market Street to the east, and West San Fernando Street to the north. The project site is currently developed with nine buildings. Figure 2.4-3 shows an aerial of the project site and surrounding land uses. The project site is designated *Downtown* under the City's General Plan land use designation and is zoned *DC – Downtown Primary Commercial* and is within the Ground Floor Active Use (AUA) Overlay.

The *Downtown* land use designation allows for office, retail, service, residential, and entertainment uses in the downtown with building heights of three to 30 stories, an FAR of up to 30.0, and residential densities up to 800 dwelling units per acre.

Tenant spaces in the *AUA* overlay require "active uses," store front style façade design, and window transparency. Permitted uses include general retail, education and training, entertainment and recreation, food service, personal services but not financial services, medical and veterinary services, other general services, public, quasi-public and assembly. The project's Park Avenue and San Fernando Street frontages are subject to the AUA requirements.

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

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

Surrounding Land Uses

The project site is surrounded by a mix of commercial, entertainment, hotel, and office land uses, as well as a large park. Several commercial buildings and a surface parking lot are located to the north of the site, across West San Fernando Street. Plaza de César Chávez is located east of the site, across South Market Street, along with the San José Museum of Art and the Circle of Palms Plaza. South of the site, across Park Avenue, is the Tech Museum of Innovation, Parkside Hall, the City National Civic, and a hotel. West of the site, across South Almaden Boulevard, are three high-rise office

buildings and one mid-rise office building. The three high-rise buildings are over 225 feet tall and the mid-rise building is approximately 112 feet tall.

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, the analysis considers if the project would:

1) Physically divide an established community and/or
2) 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

Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. The project would construct three 19-story office buildings with ground floor retail which would place jobs within close proximity to housing, transit, and other services within the downtown area. Based on the Downtown Strategy 2040 FEIR, future development under the Downtown Strategy 2040 would not substantially change allowed land uses in the Downtown and would generally continue and reinforce the patterns of land use currently in place. In addition, the Downtown Strategy 2040 states that no new land uses are proposed for the greater downtown area that would conflict with established or proposed uses. The proposed project would complement the existing uses in the project area and, would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

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

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

The project would construct three 19-story office buildings with ground floor retail at a maximum height of 293 feet to the top of the parapet. 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 3.5-1 below provides data for 9:00 AM, noon, and 3:00 PM for March 21, June 21, 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).

As shown in Figure 3.5-2, the proposed project would shade the Plaza de César Chávez in March, June, September, and December at 3:00 PM by more than 10 percent. The net increase in shadow cast would be above the 10 percent threshold for a significant shade and shadow impact. Consistent with the Downtown Strategy 2040 FEIR, the project shall implement the following measures to reduce shade and shadow impacts.

Required Downtown Strategy 2040 FEIR Measures:

- Proposed projects on sites directly south, east, and west of the six major open space areas in Downtown shall prepare a project-specific shade and shadow analysis. The shade and shadow analysis must demonstrate that the proposed development would not result in a 10 percent or greater increase in the shadow cast onto the open space area.
- If the shade and shadow analysis shows that the project would result in a 10 percent or greater increase in the shadow cast onto the open space area, the project design shall be revised to reduce the increase in shadow to less than 10 percent.

Redesigning the project to reduce the height, so that the shadow would not exceed the 10-percent threshold specified in the Downtown Strategy 2040 FEIR, would not provide the office space that is desired by the Downtown Strategy 2040 and the Envision San José General Plan for this prime downtown location.

The proposed project would have a significant unavoidable shade and shadow impact. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**

SHADE & SHADOW - EXISTING CONDITIONS

FIGURE 3.5-1

SHADE & SHADOW - PROJECT CONDITIONS

FIGURE 3.5-2

3.6 NOISE

The following discussion is based upon a Noise and Vibration Assessment[31] prepared by *Illingworth & Rodkin, Inc*. in February 2020. A copy of this report is attached in Appendix F of this document.

3.6.1 Environmental Setting

3.6.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[32] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

[31] The retail square footage has increased from 15,449 square feet to 32,500 square feet and the office space has been reduced from 3,648,584 square feet to 3,574,533 square feet since the noise assessment was completed. The total building square footage would remain the same. Since the square footage has not changed, there would be no substantial changes to the conclusions of the analysis.

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

3.6.1.2 *Regulatory Framework*

State

California Building Standards Code

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

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The State requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Transportation and Construction Guidance Manual

The California Department of Transportation published a Transportation and Construction Guidance Manual (Manual) in 2013. The Manual consists of various vibration criteria to assess the damage potential of structures and effects upon people. The table below summarizes the guideline criteria.

Table 3.6-1: Vibration Guideline Criteria

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

Regional

Santa Clara County Airport Land Use Commission Comprehensive Land Use Plan

Policy N-3: Noise impacts shall be evaluated according to the Aircraft Noise Contours presented on Figure 5 of the Airport's CLUP.

Policy N-3: Noise level compatibility standards for other types of land uses shall be applied in the same manner as the above residential noise level criteria. Table 4-1 presents acceptable noise levels for other land uses in the vicinity of the Airport.

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.6-2 below.

Table 3.6-2: General Plan Land Use Compatibility Guidelines (General Plan Table EC-1)

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

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

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

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

In addition, various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

General Plan Policies – Noise and Vibration	
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

General Plan Policies – Noise and Vibration	
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

City of San José Municipal Code

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit.

Chapter 20.100.450 of the City of San José Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. and 7:00 p.m. Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

3.6.1.3 *Existing Conditions*

Noise levels on-site and in the surrounding area result primarily from vehicular traffic along local roadways, SR 87, and aircraft associated with the Norman Y. Mineta San José International Airport. In addition, two Santa Clara Valley Transportation Authority (VTA) light rail train (LRT) routes run along West San Carlos Street, approximately 630 feet south of the site. Although LRT bell sounds can be heard on West San Carlos Street, the noise assessment concluded that LRT operations are not a significant contributor to the noise environment on-site.

A noise monitoring survey was completed in the vicinity of the project site in December 2019 to supplement a monitoring survey completed in October 2017. The 2019 survey included four short-term noise measurements (ST-1 to ST-4) and the 2017 survey included two long-term noise measurements (LT-1 and LT-2) and two short term noise measurements (ST-5 and ST-6).

Table 3.6-3 and 3.6-4 below summarizes the short-term and long-term acoustical locations and measurements, respectively. Refer to Figure 3.6-1 for the noise monitoring locations.

Table 3.6-3: Summary of Short-Term Noise Measurements (dBA)

Measurement	Location	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	L_{eq}	Calculated DNL, dBA
ST-1	Approximately 70 feet east of the 150 South Almaden centerline	68	63	60	66	69
ST-2	Approximately 50 feet south of the 110 West San Fernando Street centerline	68	62	59	65	68
ST-3	Approximately 50 feet west of the 125 South Market Street centerline	67	60	57	63	66
ST-4	Approximately 60 feet north of the 177 Park Avenue centerline	67	59	55	65	69
ST-5	Approximately 75 feet north of the 185 Park Avenue centerline	67	60	58	64	68
		69	60	58	65	
ST-6	Approximately 85 feet east of the 134 South Almaden Boulevard centerline	67	62	58	65	67
		66	60	57	63	

NOISE MONITORING LOCATIONS | FIGURE 3.6-1

Table 3.6-4: Summary of Long-Term Noise Measurements (dBA)				
Measurement	**Location**	**Daytime Level (dBA L_{eq})**	**Night-Time Level (dBA L_{eq})**	**Average Noise Level (dBA DNL)**
LT-1	Approximately 75 feet from the center of South Almaden Boulevard	65-68	57-65	69
LT-2	Approximately 85 feet from the center of Park Avenue	64-66	58-65	68

The Norman Y. Mineta San José International Airport is located approximately 1.8 miles northwest of the project site. The site is located within the AIA, as defined by the Airport's CLUP.

3.6.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, in the analysis considers if the project would:

1) Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies
2) Generate of excessive groundborne vibration or groundborne noise levels, and/or
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Per City of San José Policy EC-1.2, project generated noise level increases of 3.0 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the "Normally Acceptable" noise level standard. Where noise levels will remain at or below the "Normally Acceptable" noise level standard with the project, a noise level increase of 5.0 dBA DNL or greater is considered significant.

City of San José Standards

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

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5.0 dBA L_{eq} or more and exceed the "Normally Acceptable" levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational or Permanent Noise

Development allowed by the General Plan would result in increased traffic volumes along roadways throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or 5.0 dBA DNL or more where noise levels would remain "Normally Acceptable".

Construction Vibration

The City of San José relies on guidance developed by Caltrans[33] to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

3.6.2.1 *Project Impacts*

Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Operational Noise Impacts

Project-Generated Traffic Noise Impacts

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is 5.0 dBA DNL or greater where ambient noise levels are at or below the "Normally Acceptable" noise level standard, or b) the noise level increase is 3.0 dBA DNL or greater where ambient noise levels exceed the "Normally Acceptable" noise level standard. As defined by the City's General Plan, the maximum "Normally Acceptable" outdoor noise level standard for hotels, churches, museums, and meeting halls would be 60 dBA DNL. Parks, including the Plaza de César Chávez, would have a maximum "Normally Acceptable" outdoor noise level standard of 65 dBA DNL. Commercial and office land uses have a maximum "Normally Acceptable" outdoor noise level standard of 70 dBA DNL.

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

Existing ambient noise levels in the project vicinity range from 65 to 70 dBA DNL. To determine the effect of project-generated traffic on the nearby residences, the existing plus project traffic volumes were compared to the existing traffic volumes. The project would increase the ambient noise level by 3.0 dBA DNL on East San Fernando Street, 3.0 dBA DNL along Park Avenue, and 4.0 dBA DNL along South Market Street. Therefore, implementation of the proposed project would result in a permanent noise increase of 3.0 dBA DNL or more on surrounding land uses.

Impact NOI-1a: Implementation of the project would result in a permanent traffic noise level increase in the project vicinity.

The Downtown Strategy 2040 FEIR includes the following options to reduce traffic noise.

- Construct noise barriers along the perimeter of the park to provide noise attenuation.
- Implement traffic calming to reduce noise levels expected with the project. Each five-mile per hour reduction in average speed provides approximately one a-weighted decibel (dBA) of noise reduction on an average basis (Leq/DNL).

Mitigation Measures

It is not feasible for an individual development to implement public improvements such those listed [in the Downtown Strategy 2040 FEIR], and no feasible mitigation measures have been identified to lessen this significant impact. Therefore, the project would have a significant unavoidable impact on traffic noise.

Truck Deliveries

Truck deliveries would occur along the western and northern building façades. The western loading dock would be shielded by the existing buildings to the north and the proposed office building to the south. The proposed development would provide greater shielding at northern dock compared to the western loading dock and would not exceed ambient noise levels. Therefore, analysis of the northern loading dock is not needed.

For the purposes of this analysis, it was assumed that truck deliveries (including maintenance activities) would occur during standard daytime business hours. All trucks making deliveries to the westernmost office building would access the loading zone from South Almaden Boulevard and Park Avenue. Trucks would access the loading zone of the central and eastern office buildings via a driveway along East San Fernando Street. At a distance of approximately 35 feet from the centerline of the driveway, a heavy truck pass-by would generate noise levels ranging from 68 to 70 dBA and would last for less than five minutes.

Trucks making deliveries at the loading docks would generate a combination of engine, exhaust, and tire noise, as well as back-up alarms and release of compressed air. Heavy trucks used for deliveries typically generate noise levels ranging from 70 to 75 dBA L_{max} at a distance of 50 feet. The noise

levels of back-up alarms typically generate noise levels ranging from 65 to 75 dBA L_{max} at a distance of 50 feet. The buildings that would be exposed to truck maneuvering in the loading zones would be the office buildings located approximately 200 feet west of the site. Assuming up to two deliveries per day at the westernmost office building, the adjacent office buildings to the west would be exposed to a noise level of approximately 49 dBA DNL. Truck deliveries on-site would not generate noise levels exceeding 50 dBA DNL or existing ambient noise conditions at nearby noise-sensitive land uses such as the interim housing to the north, and the Plaza de César Chávez park to the east.

Mechanical Equipment

The proposed project would include various mechanical equipment for heating, ventilation, and air-conditioning (HVAC) that could increase ambient noise levels in the immediate project vicinity. Based on the plan set provided by the applicant, each building would have rooms for HVAC equipment, electrical equipment, and emergency generators located on the rooftop. At the time the noise and vibration assessment was completed, specific details such as manufacturer's noise data for such equipment was not available. It was noted that the generators would have enclosures which would reduce generator noise levels by 25 dBA. For the purposes of this analysis, noise data for HVAC equipment and generators from similar facilities were used. The analysis assumed three rooftop generators with sound power levels of 110 dBA and five rooftop chillers with sound power levels of 107 dBA. With the noise attenuation from the equipment enclosures, noise levels at receiving noise-sensitive land uses would reach a maximum of 50 dBA DNL which would not exceed 55 dBA DNL (General Plan Policy EC-1.3).

Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses. In accordance with the Downtown Strategy 2040 FEIR, the proposed project would be required to implement the following measure as a Condition of Project Approval:

Condition of Project Approval:

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

With implementation of the Condition of Project Approval, the project would have a less than significant operational noise impact from mechanical equipment.

Construction Noise Impacts

Construction of the project is anticipated to occur over a period of 69 months for 24 hours a day and would generate considerable amounts of noise, especially during earthmoving activities when heavy equipment is used. Pile driving is not proposed. Noise sensitive uses surrounding the site would include an interim housing building and commercial and office buildings at distances ranging from 90 feet to 550 feet from the site. The City has approved two residential tower projects which would be located approximately 200 and 500 feet north of the site along San Pedro Street.

Table 3.6-5 below lists the equipment that would be used during construction and the estimated construction noise levels at nearby land uses. Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor. Noise levels in shielded areas would be 5 to 20 dB lower.

Table 3.6-5: Estimated Construction Noise Levels at Nearby Land Uses

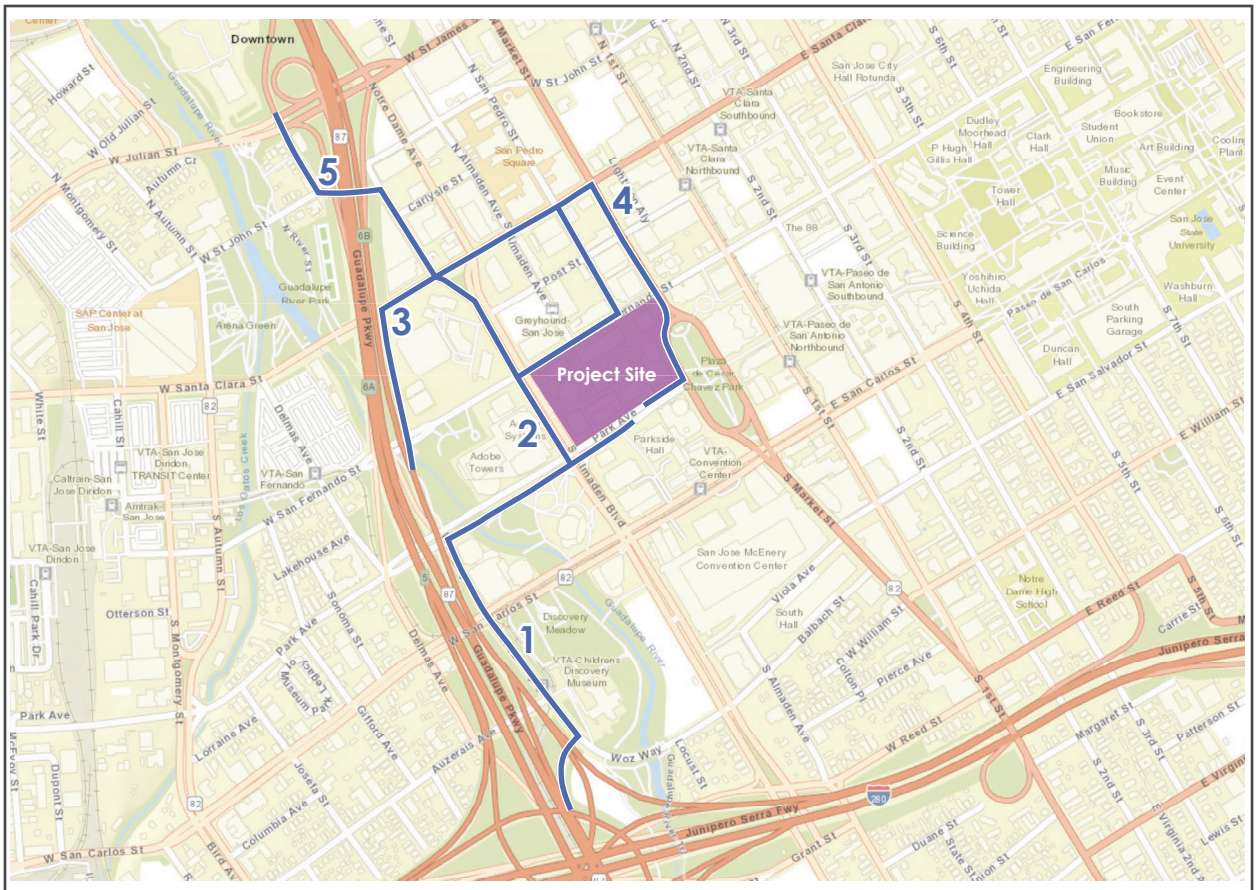
Phase of Construction	Calculated Hourly Average Noise Levels, L_{eq} (dBA)			
	Commercial, Office, and Interim Housing Uses to the North (300 feet)	Convention Center and Museum to the South (400 feet)	Office to the West (500 feet)	Hotel, Museum, Commercial Uses to the East (650 feet)
Demolition	76	74	72	69
Site Preparation	74	72	70	67
Shoring	72	70	68	65
Grading/Excavation	73	71	69	66
Building Exterior/Interior	74	72	70	67
Paving/Hardscape	70	67	65	63

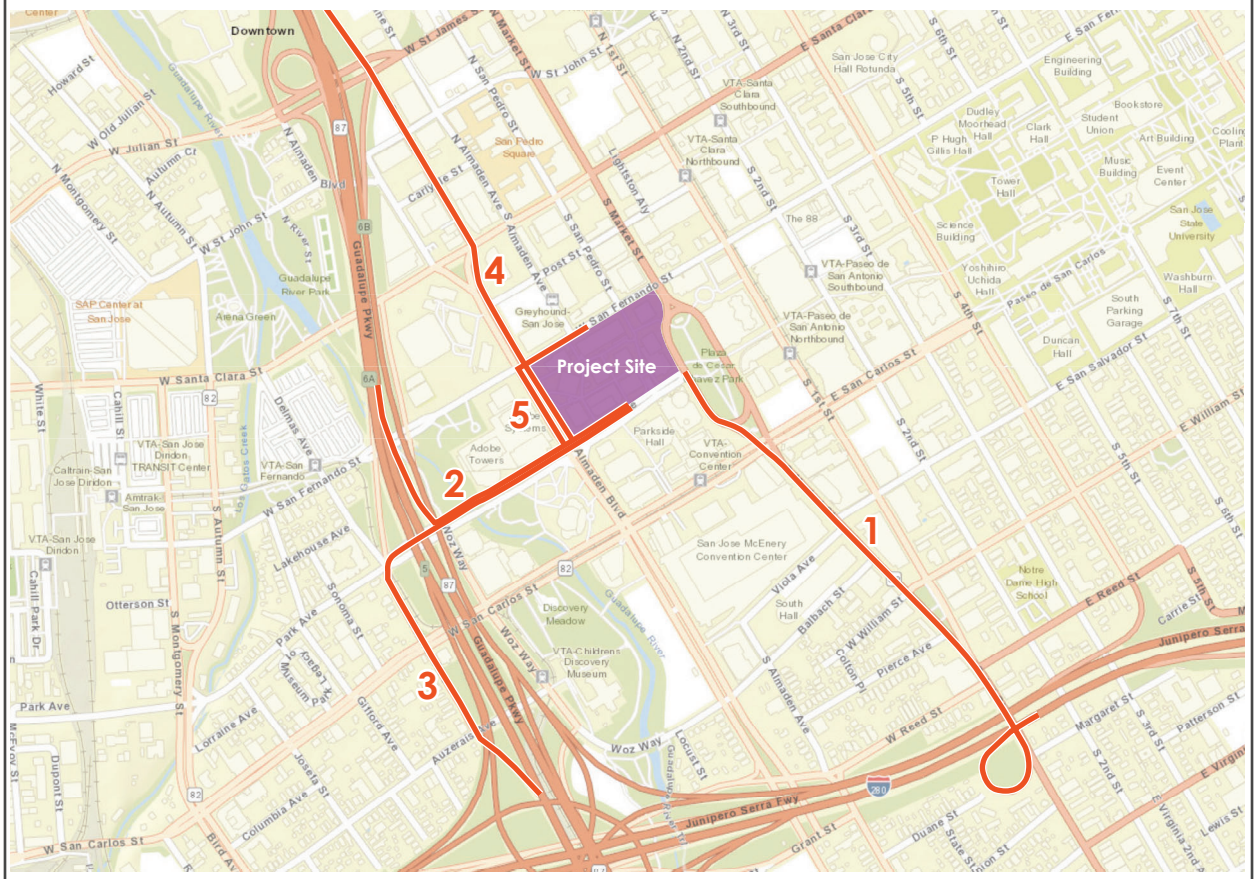
Note: The construction noise levels were calculated using the Federal Highway Administration (FHWA) software – Roadway Construction Noise Model (RCNM).
Please note the distances listed above represents the approximate distance from the center of the project site to the adjacent uses. This distance is used to determine the average noise level throughout the course of construction as it occurs throughout the site.

Ambient noise levels in the surrounding areas range from 65 to 68 dBA L_{eq} during daytime hours and from 55 to 65 dBA L_{eq} during nighttime hours. Construction activities would occur for more than 12 months and would exceed ambient noise levels at nearby noise-sensitive land uses. Figure 3.6-2 shows the construction hauling route maps. Due to the large amount of demolition and excavation activities that would be required, it is estimated that 138,368 haul truck trips (see Table 2.2-3) would be needed which would result in an increase in traffic noise in the immediate area during construction. Implementation of the proposed project would result in a significant construction noise impact.

Extended Construction Hours

The project proposes extended construction hours which would include Monday to Sunday work for 24 hours a day and 24-hour concrete pours on up to 20 days over the course of the entire construction period (69 months). Nighttime construction could affect operations at nearby hotels (east and south





HAULING ROUTES | FIGURE 3.6-2

of the site), as well as the interim housing building, and future residences of approved nearby projects (if the buildings ae constructed and operational at the time of project construction). The hotel located approximately 110 feet north of the site was converted to an interim housing facility in 2017 and tenants are expected to stay from three to six months. The interim housing building is shielded from the project site by a commercial building. Taking into account the 4.0 dBA reduction from shielding, heavy construction activities occurring on the project site's northern boundary would expose the interim housing to a noise level of approximately 81 dBA L_{eq} which represents the worst-case noise level. Typical construction levels would range from 65 to 69 dBA L_{eq} at the building's western façade.

The hotel is located approximately 350 feet east of the nearest site property line. The hotel's western façade would be exposed to a worst-case noise level of approximately 75 dBA L_{eq} when heavy construction activities occur along the site's eastern boundary. Typical construction levels would range from 63 to 69 dBA L_{eq} at the hotel's western façade.

Another hotel is located approximately 550 feet south of the project site. The hotel's northern façade would be exposed to a worst-case noise level of approximately 71 dBA L_{eq} when heavy construction activities occur along the site's southern boundary. Typical construction levels would range from 62 to 68 dBA L_{eq} at the hotel's northern façade.

As mentioned previously, two residential projects have been approved approximately 200 and 500 feet north of the site along San Pedro Street. The construction and operational timeframe for these projects is not known. The closest residential tower's southern façade would be exposed to a worst-case noise level of approximately 79 dBA L_{eq} when heavy construction activities occur along the site's northern boundary.

Standard residential or hotel construction with windows closed provides approximately 25 dBA in exterior-to-interior noise reduction. At the hotel to the east, construction noise levels within the hotel rooms located along the western façade would reach 50 dBA L_{eq} assuming worst-case construction conditions and between 38 to 44 dBA L_{eq} during typical conditions. At the hotel to the south, construction noise levels within the hotel rooms located along the northern façade would reach 46 dBA L_{eq} assuming worst-case construction conditions and between 36 to 42 dBA L_{eq} during typical conditions. Construction noise levels within the rooms located along the western façade of the interim housing building to the north would reach 56 dBA L_{eq} assuming worst-case construction conditions and between 40 to 44 dBA L_{eq} during typical conditions.

Steady noise levels above approximately 35 dBA and fluctuating noise levels above approximately 45 dBA have been shown to negatively affect sleep. The project's proposed nighttime construction hours could interfere with the hotel guests and interim housing residents' ability to sleep. Additionally, the approved residential towers to the north along San Pedro Street would also be affected by the extended nighttime construction hours if operational during the project construction period. Since project construction would last for 69 months and is within 200 and 500 feet of existing commercial and planned residential uses, respectively, the project would result in a significant construction noise impact. The proposed nighttime construction would result in a significant unavoidable impact to the hotels located east and south of the site and the residents of the interim housing and planned future residences.

Impact NOI-1b: Project construction would last for a period of more than 12 months and nighttime construction would exceed steady noise levels of approximately 35 dBA and fluctuating noise levels of approximately 45 dBA which would impact hotel guests, interim housing residents, and future residents.

Mitigation Measures

MM NOI-1.1b: Consistent with the Municipal Code and in accordance with the Downtown Strategy 2040 FEIR, particularly Policy EC-1.7, a qualified acoustic consultant shall prepare a construction noise logistics plan which includes the following Best Management Practices and other site-specific measures during all phases of construction on the project site to reduce noise levels as much as possible during construction activities:

- The construction noise logistics plan shall include, at a minimum:
    - A list of all activities that would use heavy construction equipment and high vibratory equipment (jackhammers, hoe rams, etc.)
    - A list of the equipment used for each activity
    - The anticipated duration for each activity
    - The method used to ensure that equipment does not exceed the noise thresholds
    - A procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
    - Submit the construction noise logistics plan 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 or grading permit.
- Construct solid plywood fences around construction sites adjacent to operational businesses, residences, and other noise-sensitive land uses.
- Strictly prohibit unnecessary idling of internal combustion engines.
- Use 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If necessary, erect a temporary noise control blanket along building façades facing the construction sites.
- Designate a "noise disturbance coordinator" to respond to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. The notice sent to neighbors regarding the construction schedule shall be included in the posted sign.

Implementation of Mitigation Measure NOI-1.1b would reduce construction noise levels by 5.0 to 10 dBA. Hotel guests, residents of the interim housing building, and future residences of the approved projects would be exposed to interior noise levels greater than 40 dBA L_{eq} during nighttime construction and the project would result in a significant unavoidable impact.

[New Significant Unavoidable Impact (Significant Unavoidable Impact)]

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

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.20 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used is used to minimize the potential for cosmetic damage to historic structures.

Based on the City of San José Historic Resources Inventory, there are eight historic structures located within 500 feet of the project site which include the Old Post Office, the Alameda French Bakery, the San José Center for the Performing Arts, the Civic Auditorium, St. Joseph's Church, the Market Post Tower, Hotel Metropole, and the Berger Building. These buildings would be classified as Category 5 and the 0.25 in/sec PPV threshold criteria would apply (refer to Table 3.6-1). The remaining buildings adjacent to the site would be classified as Category 7 for commercial and modern structures and the 0.5 in/sec PPV would apply.

Construction activities would include demolition of the existing buildings, site preparation, foundation work, new building framing and finishing, and paving. The project does not propose pile driving. Construction vibration levels that could be expected from construction equipment is summarized below in Table 3.66-6.

Table 3.66-6: Vibration Levels at Nearby Land Uses					
Equipment		**PPV (in/sec)**			
		10 feet	**25 feet**	**70 feet**	**115 feet**
Clam shovel drop		0.533	0.202	0.065	0.038
Hydromill (slurry wall)	in soil	0.022	0.008	0.003	0.001
	in rock	0.047	0.017	0.005	0.003
Vibratory Roller		0.575	0.210	0.068	0.039
Hoe Ram		0.244	0.089	0.029	0.017
Large bulldozer		0.244	0.089	0.029	0.017
Caisson drilling		0.244	0.089	0.029	0.017
Loaded trucks		0.208	0.076	0.024	0.014
Jackhammer		0.096	0.035	0.011	0.007
Small bulldozer		0.008	0.003	0.001	0.001

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006.

The nearest historic building, the Old Post Office, is located approximately 115 feet east of the project site. At approximately 115 feet, vibration levels would not exceed the 0.25 in/sec PPV threshold for historic and old structures. In addition, the City's 0.08 in/sec PPV threshold for historic structures would not be exceeded.

Vibratory rollers and clam shovel drops would produce vibration levels greater than 0.5 in/sec PPV within approximately 12 feet of construction. The 190 Park Avenue building is located within 12 feet of the site and would be exposed to a vibration level of 0.6 in/sec PPV exceeding the 0.5 in/sec PPV threshold for modern commercial structures. The project shall implement the following Standard Permit Conditions consistent with the Downtown Strategy 2040 FEIR to reduce construction-related groundborne vibration impacts to a less than significant level.

Standard Permit Conditions:

- Submit a construction vibration monitoring plan for the use of all heavy construction equipment that are known to produce high vibration levels (e.g., jackhammers, hoe rams, clam shovel drop, large bulldozers, caisson drillings, loaded trucks, and vibratory roller, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of demolition or grading permits. This plan shall be used to define the level of effort required for continuous vibration monitoring. Where possible, the use of heavy vibration-generating construction equipment shall be prohibited within 25 feet of any adjacent building. The plan shall include, but not be limited to the following actions:
    - Limit the use of vibratory rollers and avoid clam shovel drops within 15 feet of the property lines shared with 190 Park Avenue.
    - Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.

- Use smaller equipment to minimize vibration levels below the limits.
- Select demolition methods not involving impact tools.
- Avoid dropping heavy objects or materials.

- Implement the approved construction vibration-monitoring plan and document conditions at the 190 Park Avenue building prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:
  - Conduct a vibration survey of the 190 Park Avenue building to identify the building's sensitivity to groundborne vibration and submit the results of the survey to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.
  - Perform a photo survey, elevation survey, and crack monitoring survey for the 190 Park Avenue building. Surveys shall be performed prior to and after completion of vibration generating construction activities located within 25 feet of the structure. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure. Submit the results of the surveys to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.
  - Summarize the results of the vibration monitoring and submit a report to the Director of Planning, Building and Code Enforcement or the Director's designee, after substantial completion of each phase identified in the project schedule (prior to, during, and after vibration generating construction activities). The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceed vibration limits shall be included together with proper documentation supporting any such claims.
  - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
  - Conduct a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.

With implementation of the required measures, the project would have a less than significant construction vibration impact.

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

Would the project be 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. The project would not expose people residing or working in the project area to excessive noise levels?

The Norman Y. Mineta San José International Airport is located approximately 1.8 miles northwest of the project site. The western half of the project site lies within the 2027 65 dBA CNEL noise contour while the rest of the site lies within the 60 dBA CNEL noise contour. Per the Airport's CLUP, aircraft noise levels between 60 and 65 dBA CNEL are considered "Generally Acceptable" for office land uses. Based on the General Plan, noise levels up to 70 dBA CNEL/DNL for office buildings are considered "Normally Acceptable". Based on the above, the proposed project would not expose people working in the project area to excessive noise levels. **[Same Impact as Approved Project (Less Than Significant Impact)]**

3.6.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant noise impact?

Construction

The project's noise and vibration impacts are localized; therefore, the geographic study area is the project site and surrounding area (within 1,000 feet of the project site). Construction of the proposed project could potentially occur at the same time as the following projects:

- Museum Place development (approximately 175 feet south)
- 200 Park Avenue Office (approximately 150 feet south)
- San José Tribute Hotel (approximately 566 feet east)
- 335 West San Fernando Street (approximately 555 feet northwest)
- Adobe North Tower (approximately 555 feet northwest)
- Greyhound Residential Development (approximately 190 feet north)
- South Almaden Office (approximately 993 feet south)

Of the projects located within 1,000 feet of the project site, 200 Park Avenue and the Adobe North Tower have begun construction. Construction activities for projects within 1,000 feet would last more than 12 months. All other pending projects are outside the impact area for cumulative construction noise. The combined construction noise at nearby noise-sensitive land uses.

All seven projects would individually impact the nearby residential receptors. Combined, the project would have a cumulative considerable noise impact. As with the project-level impact, the duration of project construction (approximately 69 months) would result in a significant and unavoidable impact. As a result, even with implementation of the identified mitigation measures for reducing construction noise, the cumulative construction noise impact would be significant and unavoidable.

[Same Impact as Approved Project (Significant Unavoidable Cumulative Impact)]

3.6.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project. General Plan Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, State and City noise standards and guidelines as a part of new development review.

Future Exterior Noise Levels

The exterior noise threshold for office land uses is 70 dBA DNL for usable outdoor activity areas. Based on the plan set provided by the applicant, outdoor spaces including a ground floor plaza and terraces are proposed.

According to the City's projected 2027 noise contours for Norman Y. Mineta San José International Airport, the project site is located within the 60 to 65 CNEL/DNL noise contour.[34] A portion of the western half of the site is within the 65 dBA CNEL contour while the remainder of the site is located within the 60 dBA CNEL contour. For the purposes of this analysis, it is assumed that the site is exposed to aircraft noise levels of up to 65 dBA CNEL.[35] Table 3.6-7 summarizes the traffic, aircraft, and total DNL noise exposure at the outdoor use areas.

Table 3.6-7: Future Noise Exposure at Outdoor Use Areas

Location	Future Noise Exposure by Source (dBA DNL)		
	Traffic	Aircraft Activity	Total
East Terraces – Easternmost Office Building	50-65	65	65-68
West Terraces – Easternmost Office Building	59	65	66
East Bridge Terraces	39-53	65	65
Central Office Building Terraces	54-63	65	65-68
West Bridge Terraces	45-54	65	65
East Terraces – Westernmost Office Building	56	65	66
West Terraces – Westernmost Office Building	56-69	65	65-70
Ground Floor Plaza	47-58	65	65-66

As shown in Table 3.6-7, future traffic and aircraft noise levels would not exceed the City's "Normally Acceptable" outdoor noise level standard of 70 dBA DNL. Exterior noise levels at the site would be compatible with the proposed office land uses consistent with General Plan Policy EC-1.1.

[34] Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. November 2016.
[35] This represents the worst-case scenario.

Future Interior Noise Levels

The exterior noise exposure from aircraft and traffic at the building façades would range from 66 to 70 dBA DNL (refer to Table 3.6-7). Based on the LT-1 and LT-2 noise measurements, the loudest noise levels are approximately two dBA below the corresponding DNL levels. Applying this relationship to the modeled results, it is estimated that the loudest exterior noise exposure of the building façades would range from 64 to 68 dBA L_{eq}.

Standard modern construction, with closed windows, would provide approximately 20 to 25 dBA of noise reduction from exterior noise sources. With the inclusion of adequate forced-air mechanical ventilation systems, the interior noise levels would range from 39 to 48 dBA L_{eq} during the loudest hours of traffic and aircraft activity. The proposed project would be of standard modern construction and would comply with CALGreen's acceptable interior noise level of 50 dBA $L_{eq(1\text{-}hr)}$. The proposed project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1.

SECTION 4.0 GROWTH-INDUCING IMPACTS

The project proposes to increase office development by approximately 2,556,687 square feet on an 8.1-acre site in the downtown area. The project site is in a developed area fully served by public utilities. There are no undeveloped areas adjacent or in the immediate vicinity of the project site. The project would not remove any obstacles that would help facilitate growth that could significantly affect the physical environment.

Indirect population growth associated with the proposed project could occur because of the jobs generated by construction of the proposed project. In addition, the increase in office space would generate more employees. However, the jobs created during construction and operation of the project would be consistent with the planned growth in the Downtown Strategy 2040. The project does not include residences; therefore, it would not directly result in an increase in the residential population, but indirectly, the project could bring some new residents into the downtown and surrounding areas.

The project would occur on an infill site in an urbanized area of the City. The project would not require the expansion of utilities or roads. Because of the project's location in the downtown and proximity to various modes of transit, any growth that would occur because of the project, would be a beneficial impact.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

The proposed project would redevelop a currently developed site. The project would not result in significant and irreversible environmental changes to the project site.

Future development on-site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants would use non-renewable fuels to heat the buildings. The proposed project would also result in the increased consumption of water and the loss of pervious surfaces.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance. In addition, the project would be constructed consistent with City Council Policy 6-29 and the Regional Water Quality Control Board Municipal Regional Stormwater National Pollution Discharge Elimination System Permit to avoid impacts to waterways from any increase in impervious surfaces. Lastly, the site provides an increase in jobs in proximity to existing transportation networks. The proposed project would, therefore, facilitate a more efficient use of resources over the lifetime of the project.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

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

- Air Quality: Construction activities associated with the proposed project would result in NO_X emissions in excess of BAAQMD thresholds.
- Air Quality: Operation of the project would exceed ROG, NO_x, and PM_{10} emission thresholds.
- Air Quality: BAAQMD's significance thresholds for cancer risk and $PM_{2.5}$ concentration would be exceeded.
- Cultural Resources: Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic and contributors to the historic significance of the Park Center Plaza.
- Land Use: The proposed project would have a significant unavoidable shade and shadow impact on Plaza de César Chávez.
- Noise: Implementation of the project would result in a permanent traffic noise level increase at existing sensitive land uses in the project vicinity.
- Noise: Construction of the project would expose residential and business receptors to continuous construction for a period of over 12 months and nighttime construction.

SECTION 7.0 ALTERNATIVES

7.1 Overview

CEQA requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

> **Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project.** An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
>
> **Section 15126.6(b). Purpose.** Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.2 SIGNIFICANT IMPACTS FROM THE PROJECT

The CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve most of the project objectives. Impacts that would be significant include:

- Air Quality: Construction activities associated with the proposed project would result in NO_X and PM (both PM_{10} and $PM_{2.5}$) emissions in excess of BAAQMD thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**

- Air Quality: Operation of the project would exceed ROG, NO_x, and PM_{10} emission thresholds. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**
- Air Quality: BAAQMD's significance thresholds for cancer risk and $PM_{2.5}$ concentration would be exceeded. **[Same Impact as Approved Project (Significant Unavoidable Impact)]**
- Biological Resources: The birds in the vicinity of the project site could collide with the proposed bridges connecting the towers. **[New Less Than Significant Impact with Mitigation (Less than Significant Impact with Mitigation Incorporated)]**
- Cultural Resources: Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic and contributors to the historic significance of the Park Center Plaza. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**
- Hazardous Materials: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**
- Land Use: The proposed project would have a significant unavoidable shade and shadow impact on Plaza de César Chávez. **[New Significant Unavoidable Impact (Significant Unavoidable Impact)]**
- Noise: Implementation of the project would result in a permanent traffic noise level increase at existing sensitive land uses in the project vicinity. **[New Significant and Unavoidable Impact (Significant Unavoidable Impact)]**
- Noise: Construction of the project would expose residential and business receptors to continuous construction for a period of over 12 months and nighttime construction. **[New Significant and Unavoidable Impact (Significant Unavoidable Impact)]**

7.3 PROJECT OBJECTIVES

While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The objectives of the proposed project are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density development on a downtown site near transit.

2. Create an attractive new building adding to the City's skyline, and activating the ground floor with pedestrian paseos and a connected commercial complex.

3. Create a modern Class A office project to attract the best tenants and support the City's economic development goals.

4. Support San Jose's Environmental Stewardship goals by providing a modern LEED building with sustainable energy and water usage, natural ventilation, EV parking, strengthened urban forest and reduced heat island.

5. Adding economic development growth in a transit centric location served by various modes of public transportation such as bikeways, VTA light rail and buses, and planned BART extension.

6. Promote the City's goal of a multi-modal future by enhancing existing pedestrian networks, revisioning Park Ave as a pedestrian paseo, enhancing the existing cycling network, providing secure bike storage and shower facilities, and designating drop-off facilities for public and private shuttle systems.

7.4 ALTERNATIVES

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project – No New Development
- Preservation Alternative 1 – Preservation of all Historic Resources On-Site
- Preservation Alternative 2 – Relocation of Historic Resources
- Preservation Alternative 3 – Preservation of all Buildings Extant in 1974
- Preservation Alternative 4 – Preservation of Candidate Landmark Buildings
- Preservation Alternative 5 – Preservation of the Wells Fargo Building
- Preservation Alternative 6 – Preservation of the Cesar Pelli Buildings
- Reduced Development Alternative 1 – Square Footage Reduction
- Reduced Development Alternative 2 – Reduced Parking
- Reduced Development Alternative 3 – Height Reduction for East Tower

For the Preservation Alternatives, the historic buildings are referenced by name and number consistent with the discussion in *Section 3.3, Cultural Resources*. A list of the historic buildings by name and number is provided and corresponds to the figure below.

- Building 1 – Landmark Building and Plaza Pavilion Buildings (104 and 130)
- Building 2 – Wells Fargo Building
- Building 3 – Bank of America and Tower
- Building 4 – United California Bank (Morton's Steakhouse)
- Building 5 – Bank of California (Sumitomo Bank/Family Court)

7.4.1 Project Alternatives

7.4.1.1 *Considered & Rejected*

Location Alternative

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[36] The project proposes to construct three, 19-story office buildings (approximately 3,574,553 square feet) with ground floor retail on an approximately 8.1-acre site in the downtown area.

Other properties in the downtown area are not large enough to support the office development proposed on-site. Due to the size of the project and existing land uses in the area, construction-related impacts would be the same in any location within the downtown. This alternative was not considered further because of the lack of available land to support the proposed project within the downtown area.

Preservation Alternative 1 – Preservation of all Historic Resources On-Site

As noted in *Section 7.4.1.1*, the Park Center Plaza has been identified as a historic resource and four buildings within the plaza identified as individually historic structures. Preservation of the entire plaza would be the same as the No Project – No Development Alternative (see *Section 7.4.1.2* below) and is not discussed further. Preservation of one of more of the historic structures would be feasible with a redesign of the project as discussed in Preservation Alternatives 3-6 below. Given the locations of the four buildings within the plaza, preservation of all four building would preclude any substantive redevelopment of the site and would be inconsistent with the project objectives.

Preservation Alternative 2 – Relocation of Historic Resources

The historic report identified the Park Center Plaza as a potential historic district and four buildings within the plaza as individually historic structures that contribute to the potential historic district. It would be infeasible for all the historic buildings to be relocated, and/or to be relocated together to maintain the historic district.

Individual buildings can be relocated in many circumstances, depending on structural condition, building materials, location, and the availability of a receiver site. The historic report identified the Wells Fargo building, the Sumitomo Bank building, the United California Bank building, and the Bank of America building and tower as individual historic resources. As outlined in Section 3.2, these buildings are of concrete construction and with significant overhangs, covered walkways incorporated into the structures, and decorative features (such as the large columns on the entrance of the Sumitomo Bank building). Relocation of these buildings would not be feasible without substantive dismantling of the buildings which would damage the historic fabric of the buildings. For this reason, this alternative was not considered further.

[36] CEQA Guidelines Section 15126.6(f)(2)(A)

7.4.1.2 *No-Project – No Development Alternative*

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

The No Project – No Development Alternative would retain the existing land uses on-site as is. If the project site were to remain as is, the significant impacts of the project would not occur, however, this alternative would not meet any of the project objectives. The City would lose the opportunity to redevelop an underutilized site downtown, and to meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040 by locating high density office development on a downtown site near transit.

It is possible that in the future an alternative development proposal may be presented for the project site. Based on the zoning district for the project site, *DC – Downtown Primary Commercial District*, permitted uses include offices and financial services, general retail, education and training, entertainment and recreation, food services, general services, public and quasi-public uses such as religious assembly and community centers, and residential. Any future proposals for the site would require review and approval by the City of San José.

7.4.1.3 *Preservation Alternative 3 – Preservation of all Buildings Extant in 1974*

Preservation Alternative 3 would retain Buildings 1-5 and the original plaza around Building 2. Buildings 6 and 7, which are not historic, would be demolished to allow for infill construction in those locations. Buildings 1-4 are currently occupied by offices and restaurants and could continue with their current use or be occupied with comparable uses without damage to the historic fabric of the buildings or plaza. Building 5 was originally a bank and then housed the Santa Clara County Family Court. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building.

By retaining Buildings 1-5, the available space for new construction would be significantly reduced. As such, this alternative assumes the new building(s) would be built to the maximum allowable height to maximize the space. Given the area available for new construction under this alternative, it is estimated that the total new development square footage would be approximately one-third or less of the proposed project (approximately 1.2 million square feet). Preservation of Buildings 1, 3, and 5 would alter the site access and operations as two driveways are proposed on San Fernando Street, along with the primary locking docks, one driveway is proposed on Market Street, and one driveway is proposed in the location of the bank building on Almaden Boulevard. This alternative would also allow for the retention of the existing driveway on Park Avenue, which is inconsistent with the City proposed roadway improvement plan for Park Avenue. Under Preservation Alternative 3 expansion of the underground parking structure would be limited and parking may be insufficient to support the total development that would be on-site.

Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that the construction air quality and noise impacts would be reduced to less than significant with the mitigation included in the proposed

project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. By retaining Building 3, the significant unavoidable shading impact on Cesar Chavez Plaza would be avoided. Preservation Alternative 3 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

The historic structures that would be preserved on-site would be required to be maintained and reused in an appropriate manner. In addition, any redesign of the project to incorporate these historic buildings would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

This alternative generally meets the project objectives.

7.4.1.4 *Preservation Alternative 4 – Preservation of Candidate Landmark Buildings*

Preservation Alternative 4 would retain two or more of Buildings 2-5 or, alternatively, would specifically retain the Pelli buildings (Buildings 3, 4, and 5).[37] Buildings 2-4 are currently occupied by offices and restaurants and could continue with their current use or be occupied with comparable uses without damage to the historic fabric of the buildings or plaza. Building 5 was originally a bank and then housed the Santa Clara County Family Court. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building.

Preservation of either building along Market Street (Buildings 2 and 3) would require the easternmost tower to be substantially reduced in size, or in the case of both buildings being preserved, removed entirely from the project. This would result in the loss of approximately 731,542 to 1,463,083 square feet of new development. It would also alter the site access as one of the site driveways is proposed in the location of the Bank of America building.

Preservation of Building 4 would require reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also allow for the retention of the existing driveway on Park Avenue, which is inconsistent with the City proposed roadway improvement plan for Park Avenue. Preservation of Building 5 would also require reducing the office square footage of the proposed project by approximately 386,210 square feet. It would also alter the site access as one of the site driveways is proposed in the location of the bank building.

Preservation of Buildings 3-5 specifically would result in the loss of approximately 1,747,808 square feet of office space. It would also alter the site access as noted above.

Under Preservation Alternative 4, expansion of the underground parking structure would be limited, and parking may be insufficient to support the total development that would be on-site.
Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that any project on-site that is more than 1.5 million square feet of new development would continue to have significant and unavoidable construction air quality and noise impacts even with the mitigation included in the proposed project.

[37] The Pelli buildings all have a unified theme of modern interpretations of ancient temples.

Operational noise and air quality impacts would be reduced, but not to a less than significant level. By retaining Building 3, the significant unavoidable shading impact on Cesar Chavez Plaza would be avoided. Preservation Alternative 4 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

The historic structures that would be preserved on-site would be required to be maintained and reused in an appropriate manner. In addition, any redesign of the project to incorporate these historic buildings would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

The loss of approximately 772,420 to 2,235,503 square feet of office space would not, by itself, be inconsistent with the project objectives. This alternative generally meets the project objectives.

7.4.1.5 *Preservation Alternative 5 – Preservation of the Wells Fargo Building*

Preservation Alternative 5 would retain Building 2 and the original plaza around Building 2. The building has been occupied by offices and a bank and could continue with these uses or be occupied with comparable uses without damage to the historic fabric of the building or plaza. The building could also be used as assembly or event space. Refer to Figure 7.4-1 for a rendering of Preservation Alternative 5.

Given the area available for new construction under this alternative, it is estimated that preservation of the Wells Fargo building would reduce the total square footage of new development by approximately 347,657 square feet and reduce total below-grade parking by 600 spaces.[38] This would equate to approximately 3,226,876 million square feet of total new development square footage on-site. Preservation of Building 2 would not alter the site access and operations compared to the proposed project.

Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to estimate that the construction air quality and noise impacts would be reduced but would continue to be significant and unavoidable with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. The significant unavoidable shading impact to Cesar Chavez Plaza would remain. Preservation Alternative 5 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would be reduced to a less than significant level.

Final design of the project to incorporate Building 2 would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

[38] Personal Communication: Britt Lindberg, Gensler, February 11, 2020.

PRESERVATION ALTERNATIVE 5 RENDERING | FIGURE 7.4-1

The loss of approximately 347,657 square feet of office space would not, by itself, be inconsistent with the project objectives. This alternative generally meets the project objectives but to a lesser degree than the proposed project.

7.4.1.6 *Preservation Alternative 6 – Preservation of the Sumitomo Bank Building*

Building 5 is located at the southwestern corner of the project site. Preservation of this building would reduce the significant and unavoidable impact to a potential NRHP historic resource, but would not eliminate the significant and unavoidable impacts to CRHR and City historic resources. The building is currently vacant, but was originally a bank and then housed the Santa Clara County Family Court. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building. Refer to Figure 7.4-2 for a rendering of Preservation Alternative 6.

The project applicant has indicated that preservation of the Sumitomo Bank building would also require retention of the existing tower immediately north of the bank building (150 Almaden Boulevard). By retaining both buildings, only two of the three proposed towers could be constructed, a loss of approximately 1,211,916 square feet in new office development and 2,061 parking spaces.[39] This would result in 2,362,617 square feet of new development on-site. If retention of the office tower was not required, then this alternative would result in a loss of approximately 605,958 square feet in new office development. This would result in 2,968,575 square feet of new development on-site. The new building at 150 Almaden would not be able to be connected to the other new towers with an elevated pedestrian bridge. Preservation of the Sumitomo Bank building and adjacent office tower would require altering the site access as one of the site driveways is proposed in the location of the bank building.

Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to assume that the construction air quality and noise impacts would be reduced but would continue to be significant and unavoidable with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. The significant unavoidable shading impact to Cesar Chavez Plaza would remain. Preservation Alternative 6 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would remain less than significant.

Preservation of this building on-site would require the building to be maintained and reused in an appropriate manner. In addition, the new development would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

The loss of approximately 605,958 to 1,211,916 square feet of office space would not, by itself, be inconsistent with the project objectives. This alternative generally meets the project objectives but to a lesser degree than the proposed project.

[39] Personal Communication: Britt Lindberg, Gensler, February 11, 2020.

PRESERVATION ALTERNATIVE 6 RENDERING

FIGURE 7.4-2

7.4.1.7 *Reduced Development Alternative 1– Square Footage Reduction*

The proposed project would have significant and unavoidable noise and air quality impacts during construction. The only way to reduce construction impacts would be to reduce the size of the project. Any development scenario with a smaller project of any size would involve a shorter construction timeframe, less excavation for parking, and less heavy equipment on-site, which would lessen the significant unavoidable air quality and noise impacts as compared to the proposed project.

The Greyhound Residential Project (File No. SP16-021 & T16-017) is located just north of the project site. The project proposed two residential towers totaling 1,029,065 square feet. The air quality analysis for the project concluded that criteria pollutant emissions would be less than significant. Child cancer risk from TACs was calculated to be 36.5 cases per million but was reduced to 6.0 cases per million (below the 10 per million threshold) with mitigation comparable to the mitigation identified in this EIR for the proposed project.

Extrapolating the data from the Greyhound Residential Project FEIR, the proposed project would need to be reduced in size from 3,648,584 to approximately 1,500,000 square feet to avoid the construction air quality impacts, resulting in a reduction of 59 percent of the proposed project. That would result in a total reduce of 2,148,584 square feet. Given the length of time required to construction of project of this size, and assuming the project would still have extended construction hours, the significant unavoidable noise impact would remain.

Under this alternative the significant and unavoidable construction air quality impact would be reduced to a less than significant level. However, the significant and unavoidable construction noise impact would remain. In addition, the other significant and unavoidable impacts of the proposed project would also remain.

While the size of the project would be substantially reduced, the Reduced Development Alternative 1 would generally meet the project objectives but to a lesser degree than the proposed project.

7.4.1.8 *Reduced Development Alternative 2 – Reduced Parking*

In accordance with the City of San Jose Downtown Zoning Regulations (Table 20-140), the project is required to provide 7,718 off-street parking spaces for the office space. No parking is required for the commercial retail space. Taking into account the 20 percent parking reduction allowed for transit-oriented development, the parking requirement would be reduced to 6,175 spaces. Under special circumstances, projects within the downtown may qualify for parking reductions up to 50 percent. With a 50 percent reduction, the parking requirement would be reduced to 3,859 spaces.

As proposed, the project would include 6,245 parking spaces of which 6,230 spaces would be located in a five-level below grade parking garage. The remaining 15 spaces would be located in a surface parking lot on-site.

With the 50 percent parking reduction, the total number of parking levels would be reduced from five to four. Using the parking summary for the proposed project, the surface lot would have 15 spaces, basement level 1 would have 764 spaces, basement levels 2 and 3 would have 899 each, basement level 4 would have 1,826, and basement level 5 would have 1,842 spaces. Assuming the same

number of parking spaces per level, Reduced Development Alternative 2 would require basement levels 1-3 and a portion of level 4 to construct 3,589 spaces. Basement level 4 could possibly be eliminated if stackers and/or valet options were included to increase parking capacity on levels 1-3.

The elimination of one to two levels of below-grade parking would reduce the necessary excavation and construction, thereby reducing the number and duration of heavy equipment usage to needed to build the garage. Construction equipment usage and duration for all phases of the project would remain the same.

The reduction in parking levels would not reduce the significant and unavoidable construction air quality and noise impacts, even with the mitigation proposed by the project. All other impacts would be the same as the proposed project.

The Reduced Development Alternative 2 would meet the project objectives.

7.4.1.9 *Reduced Development Alternative 3 – Height Reduction for East Tower*

As proposed, the project would result in a significant and unavoidable shading impact to Cesar Chavez Plaza. The Reduced Development Alternative 3 would reduce the height of the east tower from 19 stories to 12 stories (refer to Figures 7.4-3 to 7.4-5). This would result in a reduction in building size of 174,958 square feet. With this reduction in the height of the east tower, the project would have a less than significant shading impact on Cesar Chavez Plaza. All other impacts would be the same as the proposed project with all identified mitigation measures, Conditions of Approval, and Standard Permit Conditions.

The Reduced Development Alternative 3 would meet the project objectives to a lesser degree than the proposed project.

SHADE & SHADOW - REDUCED DEVELOPMENT ALTERNATIVE 3

FIGURE 7.4-3

SHADE & SHADOW - EXISTING CONDITIONS

FIGURE 7.4-4

SHADE & SHADOW - PROJECT CONDITIONS

FIGURE 7.4-5

7.4.2 Comparison of Environmental Impacts for Alternatives to the Project

A comparison of alternatives based upon whether they avoid or substantially lessen the significant environmental effects is shown in the table below.

Significant Project Impacts	Proposed Project	No Project Alternative	Preservation Alternatives				Reduced Development Alternatives		
			3	4	5	6	1	2	3
Construction activities associated with the proposed project would result in NO_X and PM (both PM_{10} and $PM_{2.5}$) emissions in excess of BAAQMD thresholds.	SU	**NI**	**LTSM**	SU	SU	SU	**LTSM**	SU	SU
Operation of the project would exceed ROG, NO_x, and PM_{10} emission thresholds.	SU	**NI**	**LTSM**	SU	SU	SU	SU	SU	SU
BAAQMD's significance thresholds for cancer risk and $PM_{2.5}$ concentration would be exceeded.	SU	**NI**	**LTSM**	SU	SU	SU	**LTSM**	SU	SU
The birds in the vicinity of the project site could collide with the proposed bridges connecting the towers.	LTSM	**NI**	**LTS**	LTSM	LTSM	LTSM	LTSM	LTSM	LTSM
Implementation of the proposed project would result in the demolition of the historic Park Center Plaza, including four buildings which are individually historic and contributors to the historic significance of the Park Center Plaza.	SU	**NI**	**LTS**	SU	SU	SU	SU	SU	SU

The proposed project would have a significant unavoidable shade and shadow impact on Plaza de César Chávez.	SU	**NI**	**NI**	SU	SU	SU	SU	SU	**LTS**
Implementation of the project would result in a permanent traffic noise level increase at existing sensitive land uses in the project vicinity.	SU	**NI**	**NI**	SU	SU	SU	SU	SU	SU
Construction of the project would expose residential and business receptors to continuous construction for a period of over 12 months and nighttime construction.	SU	**NI**	**LTS**	SU	SU	SU	SU	SU	SU

NI – No Impact
LTS – Less Than Significant Impact
LTSM – Less Than Significant Impact with Mitigation
SU – Significant Unavoidable

Bolded text indicates impacts that are lesser than the impacts of the proposed project.

7.4.3 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).

Based on the above discussion, the environmentally superior alternative is the No Project Alternative – No Development Alternative. However, this alternative would achieve none of the project objectives. Beyond the No Project – No Development Alternative, the Preservation Alternative 3 would be the environmentally superior alternative.

Preservation Alternative 3 would have less than significant construction and operational noise and air quality impacts, would avoid the shade and shadow impact, and would avoid demolition of the historic structures compared to the proposed project. Preservation Alternative 3 would meet some of the objectives of the proposed project, but it would be approximately one-third or less of the proposed project (approximately 1.2 million square feet) as discussed above. This alternative would

not provide the office space that is desired by the Downtown Strategy 2040 and the Envision San José General Plan for this prime downtown location.

SECTION 8.0 REFERENCES

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

Archives & Architecture. *Historic Resource Project Assessment*. Revised February 7, 2020.

BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Bay Area Air Quality Management District, 2017. *CEQA Air Quality Guidelines*. May 2017.

Bay Area Air Quality Management District. "Annual Bay Area Air Quality Summaries". Accessed December 5, 2019. http://www.baaqmd.gov/about-air-quality/air-quality-summaries.

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

California Legislative Information. *Public Resources Code*. https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=PRC&tocTitle=+Public+Resources+Code+-+PRC.

CARB. "Overview: Diesel Exhaust and Health." Accessed December 12, 2019. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.

City of San José. Envision San José 2040 General Plan. November 2011.

City of San José. Integrated Final Environmental Impact Report Downtown Strategy 2040. December 2018.

City of San José. Municipal Code.

City of San José *San José Downtown Strategy 2040 EIR.* December 2018.

HMH. *Arborist Report*. December 5, 2019.

H.T. Harvey & Associates. *CityView Plaza – Revised Avian Collision Risk Assessment*. February 7, 2020.

Illingworth & Rodkin, Inc. *CityView Plaza Air Quality and Greenhouse Gas Emission Assessment*. February 7, 2020.

Illingworth & Rodkin, Inc. *CityView Plaza Environmental Noise and Vibration Assessment*. February 11, 2020.

Lindberg, Britt. Senior Associate, Gensler. February 11, 2020.

Lindberg, Britt. Senior Associate, Gensler. July 29, 2019.

Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. November 2016.

Santa Clara County. *Final Santa Clara Valley Habitat Plan*. August 2012.

Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed May 10, 2019. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.

Sowa, Bill. HMH. Personal communications. February 5, 2020.

Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006

United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed March 28, 2019. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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Ryan Osako, *Graphic Artist*

SECTION 10.0 ACRONYMS AND ABBREVIATIONS

µm	micrometers
2017 CAP	Bay Area 2017 Clean Air Plan
AASHTO	American Association of State Highway Transportation Officials
AB	Assembly Bill
AB 939	Assembly Bill 939
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos Containing Material
ADT	Average Daily Trips
AFY	acre-feet per year
AIA	Airport Influence Area
ALUC	Airport Land Use Commission
AP	Alquist-Priolo Earthquake Fault Zoning Act
AST	aboveground storage tank
ATCM	Air Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
bgs	below ground surface
BMP	Best Management Practices
Cal/OSHA	California Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
Cal Fire	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards Code
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act

CFCs	chlorofluorocarbons
CGS	California Geological Survey
CH_4	methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CO	carbon monoxide
CO_2e	CO_2 equivalents
CO_2e/SP	carbon dioxide equivalent per service population
CREC	Controlled Recognized Environmental Condition
CRHR	California Register of Historical Resources
CT-EMFAC2017	California Department of Transportation EMFAC2017 model
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
DPM	diesel particulate matter
DSOD	Division of Safety of Dams
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	floor area ratio
FAR Part 77	Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
FRAP	Fire and Resource Assessment Program
GHG	greenhouse gas emissions
GHGRS	Greenhouse Gas Reduction Strategy
gpd	gallons per day
GWP	Global Warming Potential
HABS	Historic American Building Survey

HFCs	hydrofluorocarbons
HI	Hazard Index
HMP	Hydromodification Management Plan
HOV	High-Occupancy Vehicle
HVAC	Heating, Ventilation, and Air-Conditioning
I-280	Interstate 280
I-80	Interstate 80
in/sec	inches/second
ITE	Institute of Transportation Engineers'
IWMP	Integrated Waste Management Plan
LBP	lead-based paint
LID	Low Impact Development
LOS	level of service
LRT	Light Rail Train
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
MCL	Maximum Contaminant Level
MEI	Maximum Exposed Individual
MLD	Most Likely Descendants
mm/sec	millimeters per second
$MMTCO_2e$	million metric tons of CO_2e
MND	Mitigated Negative Declaration
mpg	miles per gallon
mph	miles per hour
MRP	Municipal Regional Stormwater NPDES Permit46F
MT	metric tons
MTC	Metropolitan Transportation Commission
NAHC	Native American Heritage Commission
NCCP	Natural Community Conservation Plan
NFIP	National Flood Insurance Program
NESHAP	National Emission Standards for Hazardous Air Pollutants
NHPA	National Historic Preservation Act
NISL	Newby Island Sanitary Landfill

N_2O	nitrous oxide
NO_2	nitrogen dioxide
NO_x	nitrogen oxides
NOD	Notice of Determination
NOI	Notice of Intent
NOP	Notice of Preparation
NOT	Notice of Termination
NPDES	National Pollution Discharge Elimination System
NWIC	Northwest Information Center
NRHP	National Register of Historic Places
O_3	ground-level ozone
OITC	Outdoor-Indoor Transmission Class
OPR	Office of Planning and Research
PCE	tetrachloroethene
PDAs	Priority Development Areas
PFCs	perfluorocarbons
PG&E	Pacific Gas and Electric Company
PM	particulate matter
$PM_{2.5}$	fine particulate matter
PPV	peak particle velocity
RCNM	Roadway Construction Noise Model
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
RPS	Renewables Portfolio Standard
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCP	Site Cleanup Program
SCS	Sustainable Communities Strategy
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SEIR	Supplemental Environmental Impact Report
SF_6	sulfur hexafluoride
SFHA	Special Flood Hazard Areas

SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJUSD	San José Unified School District
SMARA	Surface Mining and Reclamation Act
SMP	Site Management Plan
SR	State Route
STC	Sound Transmission Class
SWRCB	State Water Resources Control Board
TACs	Toxic Air Contaminants
TCMs	Treatment Control Measures
TDM	Transportation Demand Management
TCRs	Tribal Cultural Resources
SCVHP	Santa Clara Valley Habitat Plan
SWPPP	Storm Water Pollution Prevention Plan
ULSD	Ultra-low Sulfur Diesel
U.S. 101	Highway 101
USFWS	United States Fish and Wildlife Service
UST	Underground Storage Tanks
UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VTA	Valley Transportation Authority
Williamson Act	California Land Conservation Act