Draft Supplemental Environmental Impact Report

(SCH# 2021070529)

19 North Second Street Mixed-Use

File Nos. SP21-044 & HP21-001

August 2022

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

Table of Contents

Figures

Tables

Appendices

SUMMARY

Introduction

The City of San José, as the Lead Agency, has prepared this Draft Supplemental Environmental Impact Report (SEIR) to the Final Environmental Impact Report for the Downtown Strategy 2040 Plan for the 19 North Second Street Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

Summary of the Project

The project site is located on an approximately 0.22-acre lot at 19 North Second Street in downtown San José. The project site is located on the west side of North Second Street, approximately 120 feet north of East Santa Clara Street.

The project includes a Special Use Permit and Historic Preservation Permit to partially demolish the Realty Building, a City Landmark, by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. The project would construct a 22-story building addition with one below-grade basement level. Approximately 18,643 square feet of commercial uses would be located on the first and second floors, including a possible health clinic on the second floor, and a total of 220 affordable senior housing units would be located on the third through 22nd floors. The basement would be used for utilities and bicycle parking. A rooftop deck is also proposed for residential community open space. The Special Use Permit would consider the creation of commercial condominiums for the commercial space and the Historic Preservation Permit would review the proposed changes to the Realty Building, an historic City Landmark.

Summary of Significant Impacts and Mitigation Measures

The following table summarizes the significant environmental effects of the proposed project on the environment and mitigation measures proposed to reduce these effects. A significant effect on the environment is a substantial, or potentially substantial, adverse change on the environment. Impacts that are less than significant are not described in this summary and can be found in the text of the Supplemental Environmental Impact Report (SEIR). A complete description of the project, its impacts, and proposed mitigation measures can be found in the text of the SEIR.

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
Air Quality	
Impact AQ-1: Development of the project would result in 14.51 (infant) cancer cases per one million, which exceeds the maximum single-source unmitigated cancer risk threshold of 10 in one million established by the BAAQMD.	**MM AQ-1** Prior to the issuance of any grading or demolition permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by a qualified air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleet-wide average of a 35 percent reduction or more in diesel particulate matter (DPM) exhaust emissions which would reduce DPM emissions below the BAAQMD threshold. Specifically, this plan shall include, but is not limited to, the measures identified below: • All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 60 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination). • Use of electrical or non-diesel fueled equipment. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first). **Less Than Significant Impact with Mitigation**
Cultural Resources	
Impact CR-1: The project's partial demolition of the Realty Building, a designated City Landmark, and construction of a new 22-story building would cause a substantial adverse change to this historical resource and, therefore, the project would have a significant impact. The mitigation measures identified below would reduce, but not fully avoid, the substantial loss of a historical resource and the impact would remain significant and unavoidable.	**MM CR-1a Protection Measures**. Protection measures for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby of the designated City Landmark shall be implemented as follows: Prepare and implement an Onsite Historical Resource Protection Plan (HRPP) to protect the historic fabric of the designated City Landmark on the site during construction activities. Prior to the commencement of construction activities, including demolition, the project applicant shall retain a qualified historic architect and structural engineer to prepare an Onsite HRPP to establish procedures to protect and stabilize the resource. The Onsite HRPP shall be submitted to the City's

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	Historic Preservation Officer for review and approval. Following City approval, the project applicant shall ensure the contractor follows the Onsite HRPP while working in/near the historical resource. At a minimum, the Onsite HRPP shall include: • Guidelines for operation of construction equipment adjacent to the onsite historic resource, • Requirements for monitoring and documenting compliance with the Onsite HRPP, and, • Education/training of construction workers on the implementation of the Onsite HRPP and their responsibilities. **MM CR-1b HABS-Level Documentation**. Prior to the issuance of a demolition permit to remove any part of the City Landmark, the building shall be documented and recorded following Historic American Buildings Survey (HABS)[1] specifications. This documentation shall include: • Drawings – sketch floor plans of the buildings and a site plan. • Photographs – digital photographs meeting the National Register Photo Policy Factsheet (updated 5/15/2013). • Written data – a historical report or the DPR 523 forms featuring the property description, history of the property, and historical significance evaluation. An architectural historian meeting the qualifications in the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, and written data. The documentation shall be reviewed and approved by the City's Historic Preservation Officer. After City review and approval, the documentation shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee of the City of San José and to History San José. Proof of receipt by History San José shall be submitted to the City following submittal. **MM CR-1c Commemoration and Public Interpretation**. The project applicant shall retain a qualified historic resources consultant to develop and design a commemorative interpretive program, exhibit, display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. The display shall be placed in a suitable publicly accessible location on the project site.

[1] "HABS Guidelines," National Park Service, https://www.nps.gov/hdp/standards/habsguidelines.htm (accessed February 19, 2021).

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	Commemoration and interpretation shall be designed by a qualified consultant and implemented by the project applicant in coordination with the City. The proposal and preliminary design shall be reviewed and approved the City's Historic Preservation Officer. The proposal and design of the proposed commemoration and public interpretation shall be submitted to the City of San José Historic Preservation Officer for review and approval. Following City review and approval, the final product shall be implemented in a suitable publicly accessible location on the site as determined by the City. **MM CR-1d Salvage Interior Architectural Features**. Prior to demolition of the building on the site, interior architectural features shall be identified for salvage and preferably incorporated into the new design or used as part of interpretive program or made available to museums, archives, curation facilities, the public, and nonprofit organizations to preserve, interpret, and display the history of the historical resource. No materials shall be salvaged or removed until HABS recordation and documentation are completed, and an inventory of key interior features and materials is completed by qualified historic architect or historic resources consultant. The salvage program shall be reviewed and approved by the Director of Planning Building and Code Enforcement or Director's designee prior to implementation. **Significant Unavoidable Impact**
Impact CR-2: The project site has a high possibility for historic-era buried and pre-contact archaeological deposits, therefore, excavation for project construction could result in potentially significant impacts on archaeological resources.	**MM CR-2 Cultural Sensitivity Training**. Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), construction personnel shall meet with a qualified archaeologist and a qualified Native American representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally affiliated with the geographic area prior to the start of any-ground disturbing activities for at least one cultural sensitivity training and to review the cultural resource management protocols and coordinate the field effort. **On-site Monitoring**. In areas where ground disturbing activities are expected to occur, archaeological monitoring shall be conducted by a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Monitoring is intended to ensure that appropriate cultural protective measures are effective prior to initiation of construction activities and to document and protect cultural resources from inadvertent damage. During ground-disturbing

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	activities that may impact cultural resources, at least one archaeological monitor and one Native American monitor shall be on-site. Archaeological monitors have the authority to halt construction with the finding of an archaeological discovery and to authorize construction to resume. Construction that requires monitoring includes but is not limited to demolition activities that could disturb native soil, any earthmoving, (e.g., grading or excavation for foundations, footings, and trenching for underground utilities). Monitoring shall continue until the monitor has determined that excavation has reached the maximum depth at which archaeological remains could be expected to occur. To facilitate project planning the following must be furnished by the applicant: 1) plans, blueprints, conceptual drawings, etc., detailing proposed impacts to the project site (grading or excavation prints will normally be sufficient); and 2) the proposed construction schedule or activity to be monitored, with types of excavation and/or earth-moving identified. The results of the monitoring shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee within 14 days of completion of monitoring activities. 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, and the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified. The on-site archaeologist and Native American representative 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 reinterment of artifacts and materials, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move away any cultural materials. **Less Than Significant Impact with Mitigation**
Hazards and Hazardous Materials	
Impact HAZ-1: Construction of the proposed project could potentially expose construction workers and the public to HVOCs and heavy metals during the construction phase of the project.	**MM HAZ-1** Prior to demolition or issuance of grading permits, the project applicant shall retain a qualified environmental professional to evaluate potential contamination issues identified in the Phase I Environmental Site Assessment by performing a Phase II soil, soil gas, and groundwater contamination investigation. The results shall be compared to

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	established construction worker safety and regulatory residential environmental screening levels. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above the appropriate regulatory screening levels for the project, the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substance Control) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The Plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and occupants. The results of Phase II investigation and evidence of regulatory oversight and the appropriate plan, e.g., SMP, RAP, or equivalent document, shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee. **Less Than Significant Impact with Mitigation**
Noise and Vibration	
Impact NSE-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year, which exceeds City thresholds defined in General Plan Policy EC-1.7, within 500 feet of residential uses or 200 feet of commercial or office uses. in the vicinity of residential and commercial uses.	**MM NSE-1** Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and the construction noise logistics plan implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval, whichever occurs first. Consistent with the Downtown Strategy 2040 FEIR, the construction noise logistics plan shall include but is not limited to the following measures: • The project contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	• The project contractor shall locate staging areas and construction material areas as far away as possible from adjacent land uses. **Significant Unavoidable Impact**
Impact NSE-2: Project construction would generate vibration levels exceeding the General Plan Policy EC-2.3 threshold of 0.08 in/sec PPV at historic properties within 60 feet of the project site and 0.2 in/sec PPV at conventional buildings within 30 feet of the site. Such vibration levels would be capable of cosmetically damaging the adjacent historic and commercial buildings.	**MM NSE-2** Prior to the issuance of any demolition, grading, or building permits, the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The Plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer (HPO) for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures: • A description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period. • Use of heavy vibration-generating construction equipment shall be prohibited within 61 feet of historic buildings and buildings eligible for listing as historic, if feasible. • Document conditions at all historic structures located within 61 feet of construction and at all conventional structures within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed

Summary of Impacts and Mitigation Measures	
Impacts	**Mitigation Measures**
	Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically: o Vibration limits shall be applied to vibration-sensitive structures located within 61 feet of any construction activities identified as sources of high vibration levels. o Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 61 feet and for each conventional structure within 30 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures. • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits. • If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures. • 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-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey will be submitted to the City of San José's Director of Planning, Building and Code Enforcement or the Director's designee. **Less Than Significant Impact with Mitigation**

Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines Section 15126.6 states 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 the project alternatives, including considered but rejected alternatives, is provided in Section 8 Alternatives of this EIR. The alternatives considered in this alternatives analysis are as follows:

1. No Project Alternative
2. Preservation/Adaptive Reuse Alternative
3. Reduced Alternative
4. Decreased Alternative

No Project Alternative

The No Project Alternative leaves the site intact. Because the No Project Alternative would not result in any redevelopment of the project site, this alternative would avoid all of the environmental impacts from the project, in the areas of air quality (construction TACs), cultural resources (historic and archaeologic), hazardous materials, land use/planning, and construction vibration.

It is possible that in the future, an alternative development may be proposed at the project site. Based on the General Plan designation of *Downtown*, other permitted uses could include high intensity mixed-use residential and commercial. Future development that proposes an addition of more than two stories that is not setback from the Realty Building façade and does not meet the Standards would likely result in a significant impact to the City Landmark on the property. Note that any future use on the site would require review and approval by the City of San José, including CEQA evaluation.

Implementation of the No Project – No Development Alternative would avoid all the significant environmental impacts of the project, as identified in this EIR. In addition, any future proposal to develop the site with a different project would be subject to review by the City of San José. The No Project Alternative would not meet any of the project objectives to provide high density affordable senior housing and commercial uses in the downtown area of the City of San José.

Preservation/Adaptive Reuse Alternative

This alternative consists of the adaptive reuse of the historic Realty Building. Adaptive reuse refers to the process of taking an existing structure and updating or adapting it for a new use or purpose. Given the square footage of the existing building (15,000 gross square feet), approximately 20 residential units could be accommodated.[2] However, modifications may be required to make the structure habitable; this alternative assumes that these alterations would be to the interior and comply with the Standards for Rehabilitation and other relevant Design Guidelines.

Implementation of the Preservation/Adaptive Reuse Alternative would avoid all the significant environmental impacts of the project. However, the Preservation Alternative would not meet any of

[2] This assumes 80% usable square footage (12,000 square feet) and residential units of approximately 600 square feet.

the project objectives to provide high density affordable senior housing and commercial uses in the downtown area of the City of San José.

Reduced Alternative

The Reduced Alternative is a design option that would consist of a maximum two-story addition on top of the City Landmark that is set back 15 feet from the front façade of the building. This Alternative would maintain the City Landmark, but result in the removal of the existing interior staircase to the second floor of the building. The Reduced Alternative could accommodate an estimated approximately 55 residential units[1] and 5,000 square feet of commercial space on the ground floor. Compared to the proposed project, the Reduced Alternative would result in a reduction of 165 residential units and an approximately 75 percent reduction in gross building square footage.

The Reduced Alternative would result in similar impacts of the proposed project but may avoid the significant impacts to historic resources and the associated land use impact. This alternative would meet the project objectives to provide housing near the light rail, assist the City in meeting its capital regional housing needs allocation (to a lesser degree than the proposed project), and provide bicycle parking for residents. However, this alternative does not meet the project objectives to develop 220 affordable senior housing units in the downtown core, since it reduces the size of the proposed project by 160 units and reduces the proposed commercial space by 13,500 square feet.

Decreased Alternative

The Decreased Alternative would consist of a 22-story tower with 120 residential units. Compared to the proposed project, this Alternative would result in a reduction of 100 residential units and an approximately 56 percent reduction in gross building square footage. The exterior walls of the Realty Building would be retained along with its historic façade. The interior core of walls, stairs, and entry would also be retained, as would the existing second-floor roof diaphragm. The new building would be set back approximately 58 feet from the front façade of the Realty Building, thus preserving the historic integrity of the general massing of the two-story portion of the City Landmark that is visible from the street.

The Decreased Alternative would result in environmental impacts comparable to the proposed project, although it would improve the proposed project's conformance with the Standards for Rehabilitation, but not to a less than significant level. The Decreased Alternative does not meet all the project objectives to develop 220 affordable senior housing units in the downtown core, since it reduces the size of the proposed project by 100 units and may also reduce the proposed commercial space to accommodate a maximum of 120 units in a smaller structure.

Environmentally Superior Alternative

The environmentally superior alternative would be the No Project Alternative, which would avoid the identified significant impacts of the proposed project. CEQA requires that another alternative be chosen when the No Project Alternative is environmentally superior. The Preservation/Adaptive Reuse Alternative would eliminate the significant unavoidable impacts to historic resources and associated land use/planning effects. However, the alternative would not meet the primary project objective to provide 220 affordable senior housing units and 18,500 square feet of commercial space in downtown.

[1] This assumes 80% usable square footage for the upper floor floors and residential units of approximately 600 square feet.

Areas of Public Controversy

The following area of concern was identified during the EIR scoping process. These concerns are addressed in the SEIR, as follows: Historic Preservation (*3.3 Cultural Resources*) and Land Use and Planning (*3.11 Land Use and Planning*).

SECTION 1 INTRODUCTION

1.1 Purpose of the Supplemental Environmental Impact Report

The City of San José, as the Lead Agency, has prepared this Draft SEIR for the 19 North Second Street Mixed-Use Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

This SEIR is a Supplemental EIR to the Downtown Strategy 2040 Final Environmental Impact Report (Downtown Strategy 2040 FEIR) certified by the San José City Council in December 2018. 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 of San José is required to consider the information in the SEIR (the Draft SEIR and Final SEIR), along with any other available information in deciding whether to approve the proposed project. Section 1.2 below provides additional discussion of the EIR process. The basic requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, alternatives, growth-inducing impacts, and cumulative impacts. 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. The Downtown Strategy 2040 FEIR provides project-level approval for traffic and traffic-related air quality and noise impacts if the proposed development does not exceed the overall development analyzed. Therefore, analysis of these topics is not required for the proposed project. An SEIR is required for this project because project-specific information was not available at the time the Downtown Strategy 2040 FEIR was prepared. This SEIR is a "Project EIR," pursuant to CEQA Guidelines Section 15161. A Project EIR examines the environmental impacts of a specific development. This type of EIR focuses on the changes in the environment that would result from implementation of the project, including construction and operation of the proposed action. The environmental issues associated with the project are discussed in Chapter 3 of this SEIR.

1.2 EIR Process

On December 18, 2018, the City Council certified the Downtown Strategy 2040 FEIR (Resolution No. 78942) and adopted the Downtown Strategy 2040, which updated the Downtown Strategy 2000 to be consistent with the Envision San José 2040 General Plan (General Plan). This update included an increase in the amount of new commercial office and residential development capacities and revised development phasing to extend the horizon (buildout) year to 2040. The Downtown Strategy 2040 increased the amount of new commercial office by an additional three million square feet (approximately 10,000 jobs) to be transferred from other areas of the City, consistent with the General Plan Four-Year Review recommendations. The amount of commercial office development would be 14.2 million square feet by the year 2040. The residential capacity of Downtown was increased to 14,360 units. The amount of new retail development of 1.4 million square feet, and 3,600 hotel rooms identified in the Downtown Strategy 2000 would be maintained.

The 220 senior housing units and approximately 18,500 square feet of commercial space proposed by the project are included in the analyses of the Downtown Strategy 2000 and the Downtown Strategy 2040. In addition, the broad recommendations and guiding principles of Downtown Strategy 2000 remain generally pertinent to the overall vision for Downtown and were carried over to the Downtown Strategy 2040.

The Downtown Strategy 2040 FEIR evaluated the traffic and traffic-related air quality and noise impacts of Downtown development projects consistent with the General Plan land use designations and Downtown zoning districts up to the year 2040. The Downtown Strategy 2040 FEIR evaluated all remaining resource areas at a program level for site-specific conditions, including construction-related impacts that could not be feasibly evaluated in the absence of specific development project details.

The Downtown Strategy 2040 FEIR identified measures to minimize impacts and adopted statements of overriding consideration for all identified impacts resulting from the maximum level of proposed development. All subsequent development that occurs as part of the Downtown Strategy 2040 are required to have project-level, site-specific environmental review.

This SEIR has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy 2040 and the General Plan.

1.2.1 Notice of Preparation and Scoping

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to the public, including local and State agencies, on July 28, 2021. The 30-day comment period concluded on August 27, 2021. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. Appendix A of this SEIR includes the NOP and comments received in response to the NOP. The table below lists the commenters and a brief summary of their comments, in order of the date received.

Date	Commenter	Summary of Comments
8/5/2021	California Geological Survey	The SEIR should discuss liquefaction as the project is in an identified liquefaction zone. The SEIR should include a description of regional geologic history and description of the rock types in the project area. The SEIR should include a summary of soils present in the project area and discussion of soil characteristics as pertinent to development.
8/20/2021	Valley Water	Even though a Water Supply Assessment is not required, SEIR should include discussion of City's determination of whether the proposed project is accounted for in the City's General Plan and San Jose Water Company's Urban Water Management Plan. Valley Water provides some guidance to help avoid or reduce impacts to water supply.

Date	Commenter	Summary of Comments
		Valley Water notes wells on the project site must either be protected or officially destroyed. Valley Water notes that the project site is in Flood Zone D and that the agency has no right of ways or facilities at the project site and that an encroachment permit is not required from Valley Water.
8/27/2021	Santa Clara Valley Transportation Authority	VTA requests consultation on any potential service interruptions to adjacent light rail service as a result of construction activities and requests analysis of temporary construction impacts in the SEIR. VTA points out proximity of planned BART station and potential effects on the project. VTA states that they will implement their Historic Building Investigation and Monitoring Processes for the project site. VTA requests that development plans and details related to foundation system, shoring, and excavation plans be shared with VTA at the City's earliest convenience. VTA requests that the SEIR acknowledge the planned Downtown San Jose Light Rail Safety Enhancements Pilot Project that will be implemented along Second Street.
8/27/2021	Preservation Action Council of San Jose (PAC*SJ)	PAC*SJ states their overall opposition to the project. PAC*SJ requests that the SEIR include a detailed analysis of several project alternatives that would reduce or eliminate the demolition of the existing historic fabric. PAC*SJ notes that the applicant controls adjacent development parcels and suggests that these areas can be part of the alternative design considerations.

1.2.2 Tiering from Previous EIRs

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

> **Section 15152 – Tiering.** (a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the EIR or negative declaration solely on the issues specific to the later project.
>
> (b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a

general plan, policy or program to an EIR or negative declaration for another plan, policy or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

1.2.3 Draft SEIR Public Review and Comment Period

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

City of San José, Department of Planning, Building and Code Enforcement
Attn: Maira Blanco, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Email: Maira.Blanco@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 the following:

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

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

SECTION 2 PROJECT DESCRIPTION

2.1 Baseline Condition

Pursuant to CEQA Guidelines Section 15125, CEQA mandates that "an EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." The baseline conditions described and used for the impact analysis in this SEIR are the physical environmental conditions that existed when the Notice of Preparation (NOP) was published, in accordance with CEQA Section 15125(a)(1).

2.2 Project Location and Existing Setting

The project site is located on an approximately 9,375-square foot (0.22-acre) parcel at 19 North Second Street in downtown San José (refer to Figure 1). The property is located on Assessor's Parcel Number (APN) 467-21-028, as presented in Figure 2. The project site is located in the Downtown area and is surrounded by a mix of residential and commercial land uses, with nearby buildings ranging from two to fourteen stories in height. An aerial vicinity map showing the subject property and surrounding uses is presented in Figure 3. The project site is currently occupied by an existing 2-story commercial building that is listed in the City's Historic Resources Inventory, and is a designated City Landmark (HL01-136) eligible for listing in the California Register of Historical Places and the National Register of Historic Places.

2.3 Project Description

The project includes a Special Use Permit (File No. SP21-044) and Historic Preservation Permit (HP21-001) to partially demolish the Realty Building, a designated City Landmark. The project would remove the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. The project proposes to construct a 146,458-gross square foot, 22-story building with one below-grade basement level.

Approximately 18,643 square feet of commercial uses would be located on the first and second floors and a total of 220 affordable senior housing units would be located on the third through 22nd floors. The basement would be used for utilities and bicycle storage for the residents, and would include a backup generator for use in the event of a power outage. A rooftop deck is also proposed to be used as residential common open space. The total building height would be approximately 239 feet (to top of elevator shaft). The Special Use Permit would consider the creation of commercial condominiums for the commercial space.

The project would incorporate the existing North Second Street façade into the new building. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay would extend through the center of the front façade. Typical openings would be aluminum-sash, rectangular in shape.

The project proposes to implement a Preservation Plan prepared by M. Sandoval Architects, Inc. (January 25, 2022). This plan is included as part of Appendix C. The purpose of a Preservation Plan for a historic property is to serve as a planning and management tool that provides information about

the historic resource to address existing issues and concerns that may adversely impact the resource. The plan also serves as a proactive guide in the implementation of corrective measures designed to protect a historic resource from further deterioration. The proposed Preservation Plan for the project identifies strategies for corrective repairs and intervention measures. These corrective repairs and intervention measures would be reviewed and approved by a structural engineer experienced with historic structures, a historic architect, and the City before the work commences. Methods, preservation treatments, and protocols would be implemented in a manner consistent with the recommendations outlined in the Secretary of the Interior's Standards for the Treatment of Historic Properties and with the Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings.

The conceptual site plan is presented in Figure 4 and floor plans are provided in Figures 5a-5j. Elevations are shown in Figure 6. Project details are described below.

Lighting. Exterior lighting would be provided for the building for site recognition and security. All outdoor lighting plans would be subject to City review.

Utilities. The project includes the provision of services and utilities to serve the proposed mixed-use development, including water, wastewater disposal, and solid waste disposal.

Grading. Development of the project would involve the excavation and export of approximately 7,000 cubic yards (CY) of material. The grading/drainage plan for the project is presented in Figure 7. A stormwater control plan is presented in Figure 8.

Landscaping. The proposed project would include landscaping on the third floor and roof deck. Landscape plans are provided in Figure 9. No tree removal is proposed as part of the project.

Design. The proposed project would incorporate the existing North Second Street façade into the new building. The new building's front façade would step back approximately 19 feet from the front parcel line and the historic façade above the second floor. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay runs at the center of the front façade. Typical openings would be aluminum-sash and rectangular. Figure 10 shows an architectural rendering of the proposed project. Visual simulations of the project from the vantage point along North Second Street were prepared for the site, as shown in Figure 11.

Construction Staging. At this time, construction materials are planned to be stored offsite at 82 North Second Street an onsite tower crane would be used to load material for the building. A detailed construction staging and construction haul route plan would be required as part of the Grading Permit process. The construction schedule assumes a start-up date of early 2023 with construction occurring over a period of approximately 29 months.

2.3.1 General Plan and Zoning

2.3.1.1 *General Plan*

The project site is designated *Downtown* in the City's *2040 Envision General Plan*. The *Downtown* designation supports high-density development in the office, retail, service, residential, and entertainment use categories in the Downtown area, at very high intensities unless incompatible with other major policies within the Envision General Plan. Development within this designation should enhance the downtown community, support pedestrian and bicycle circulation, and increase transit

ridership. Under this designation, allowed density is up to 800 du/ac, allowed floor area ratio is up to 30.0, and allowable building heights are 3 – 30 stories.

2.3.1.2 *Zoning*

The project site is located in the DC – Downtown Primary Commercial Zoning District. The DC Downtown Primary Commercial Zoning District allows a range of uses, including residential, commercial, entertainment, education, retail and mixed-use residential and commercial.

2.3.2 Residential Development

The proposed development involves the construction of 220 residential units in a 22-story building. Residential units would be comprised of a mix of one-bedroom and studio configurations. A community rooftop deck for the residential use is also proposed. The general architectural design of the proposed building is modern, with glass, stucco, concrete, and metal facades. The project applicant is applying for a density bonus to allow a 25% increase in the density permitted on-site. A density bonus of up to 50% increased density could be permitted under Assembly Bill (AB) 2345, as the project would proposes 100% affordable units for senior housing. The project's residential density would equate to approximately 1,000 dwelling units per acre.

2.3.3 Commercial/Office Development

The proposed development involves the construction of approximately 9,322 square feet of ground floor commercial space, as well as an additional approximately 9,321 square feet of 2nd floor office space, for possible use as a medical clinic[3], for a total of 18,643 square feet of commercial/office space. The project also includes a request for a Special Use Permit to permit commercial condominiums.

2.3.4 Parking

The project does not include any parking for automobiles. The project includes 62 bicycle parking spaces 12 bicycle parking spaces for the proposed commercial use located in the basement, and six (6) short-term bicycle parking spaces located on the project frontage outside of the proposed building.

2.3.5 Site Access

2.3.5.1 *Vehicle Access*

As discussed above, the project would not include any automobile parking, and no direct automobile access driveways are proposed as part of the project. The project has frontage on North Second Street. The project's density bonus request includes a waiver request to remove the on-site loading requirement; therefore, no loading spaces are proposed on-site.

2.3.5.2 *Bicycle, Pedestrian, and Transit Access*

Pedestrian and bicycle access to the proposed project site is provided through sidewalks along North Second Street. A street-facing entrance for pedestrians and bicyclists is located in the middle of the proposed building's façade, see Figure 5b. Short-term bicycle storage facilities are provided on the project frontage's sidewalk as shown on Figure 5b and long-term bicycle storage rooms for residential

[3] Subject to all Santa Clara County Health Department and other permits.

and commercials bicyclists is located in the basement, accessible through the elevator, shown on Figure 5a. In addition, a Valley Transportation Authority light rail transit system operates along the project frontage on North Second Street the nearest stop is across East Santa Clara Street, approximately 300 feet of the site.

2.4 Project Objectives

The proposed project would contribute to the job growth and residential development as envisioned in the Downtown Strategy 2040 and General Plan by accommodating the demand for affordable senior housing in downtown San José as well as the provision of commercial uses. Specifically, the objectives of the proposed project are as follows:

- Contribute to the job growth and the development of affordable housing as envisioned in the Downtown Strategy 2040 and the General Plan by providing a high density housing project of approximately 220 affordable senior housing units and approximately 18,500 square feet of commercial space.

- Locate high density development near transit corridors.

- Provide high density affordable housing close to light rail to encourage future residents to take public transit, thereby reducing traffic congestion.

- Provide on-site community benefits for the residents including a rooftop deck.

- Provide bicycle parking for residents to help support the goals of the Envision San José 2040 General Plan in promoting San José as a thriving bicycling community.

- Assist the City of San José to satisfy its capital regional housing needs allocation for below market rate housing.

- Align with the following broad goals and objectives of the Downtown Strategy 2040 and General Plan:

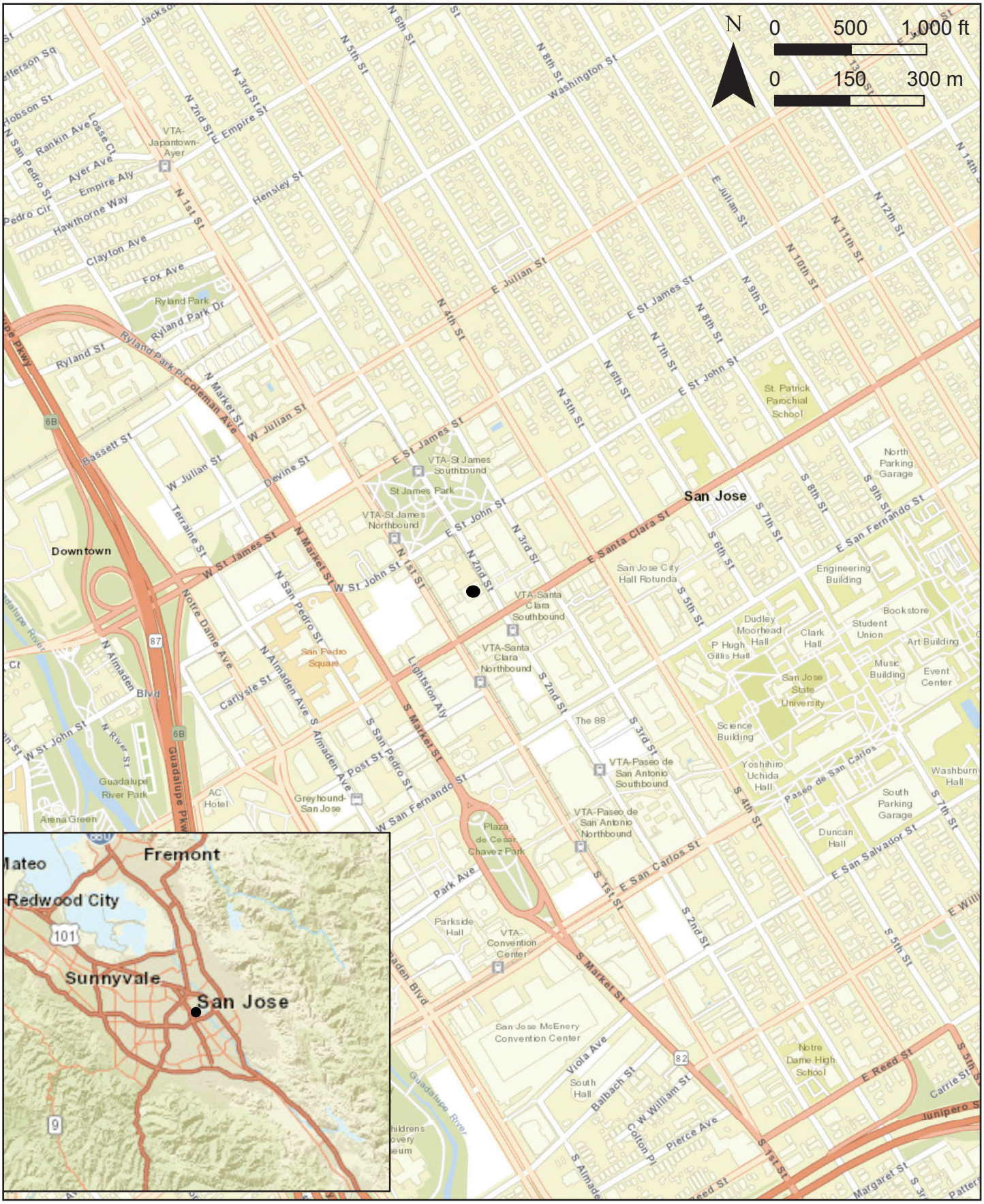
    - Make Downtown a memorable and creative metropolitan center where people live, work, learn, play, shop, dine, and engage in public life;
    - Enhance the identity of Downtown San José as the urban and cultural center of Silicon Valley, and further enhance San José as an international city;
    - Create an accessible, walkable, bike-friendly, and transit-rich Downtown; and
    - Promote and prioritize development that serves the needs of the entire city, valley, and Bay Area region.

2.4.1.1 *Project-Related Approvals, Permits, and Clearances*

The City of San José is the Lead Agency under CEQA. This SEIR will be relied upon for the following project-specific discretionary approvals necessary to implement the project as proposed:

1. Historic Preservation Permit
2. Special Use Permit and Density Bonus

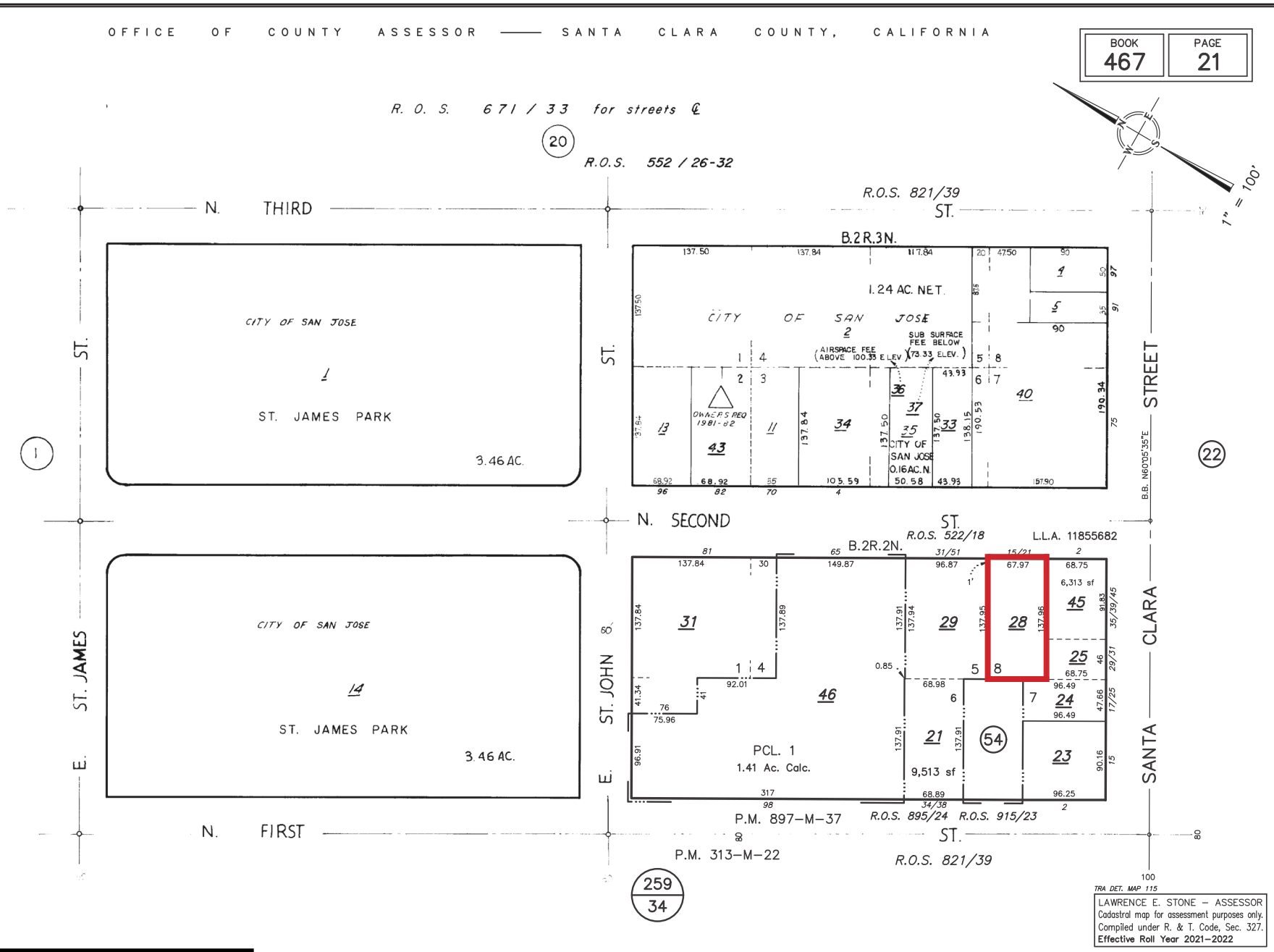
3. Public Works Clearances, including Encroachment Permits and Grading Permits
4. Subdivision Actions such as Lot Line Adjustment or Parcel Map
5. Building and Demolition Permit



Location Map

19 N. 2nd Street Mixed-Use SEIR

Figure 1



Source: Santa Clara County Office of the Assessor, July 2021

Parcel Map

19 N. 2nd Street Mixed-Use SEIR

Figure 2

Aerial Vicinity Map

19 N. 2nd Street Mixed-Use SEIR

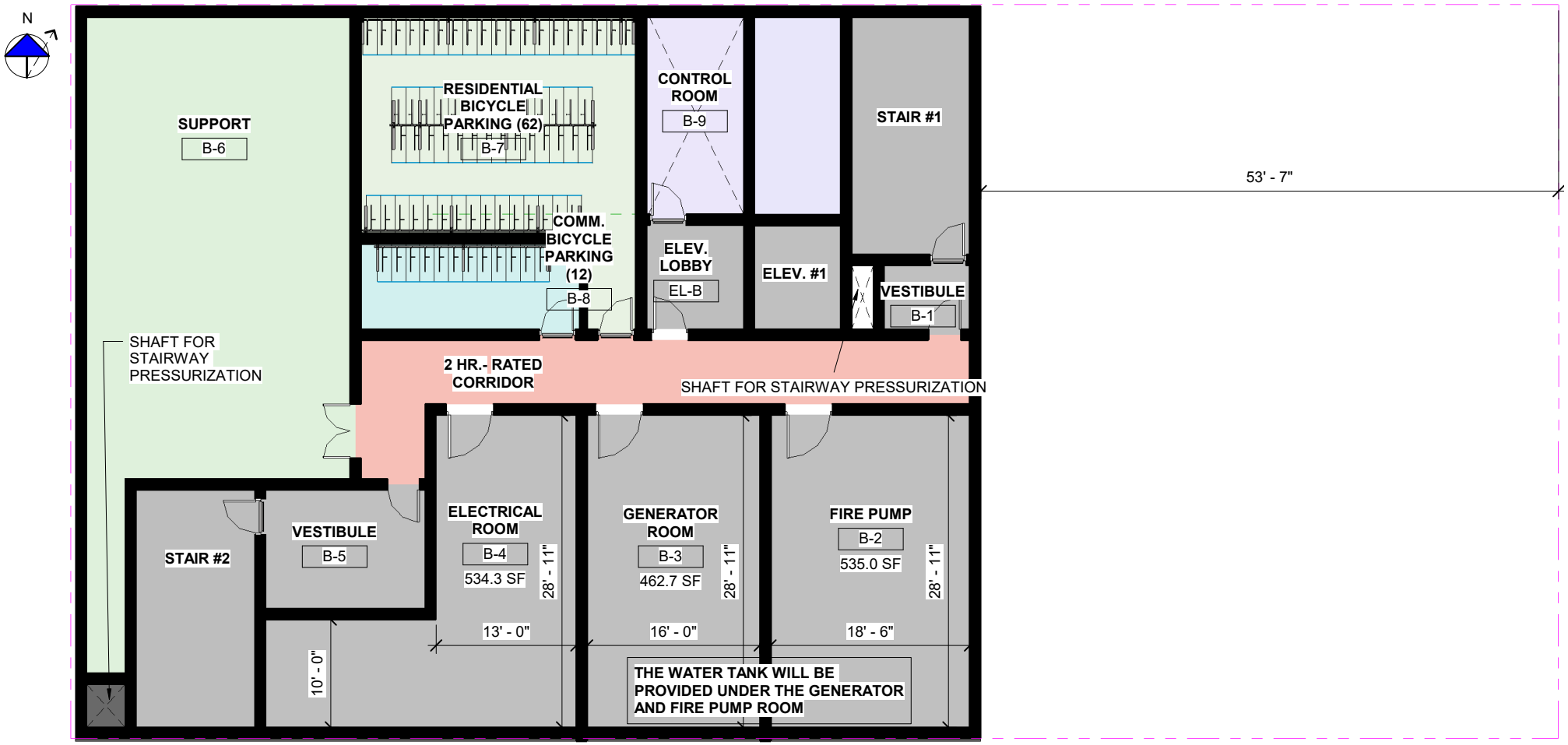
Figure 3

Source: Anderson Architects, May 2022

Conceptual Site Plan

19 N. 2nd Street Mixed-Use SEIR

Figure 4



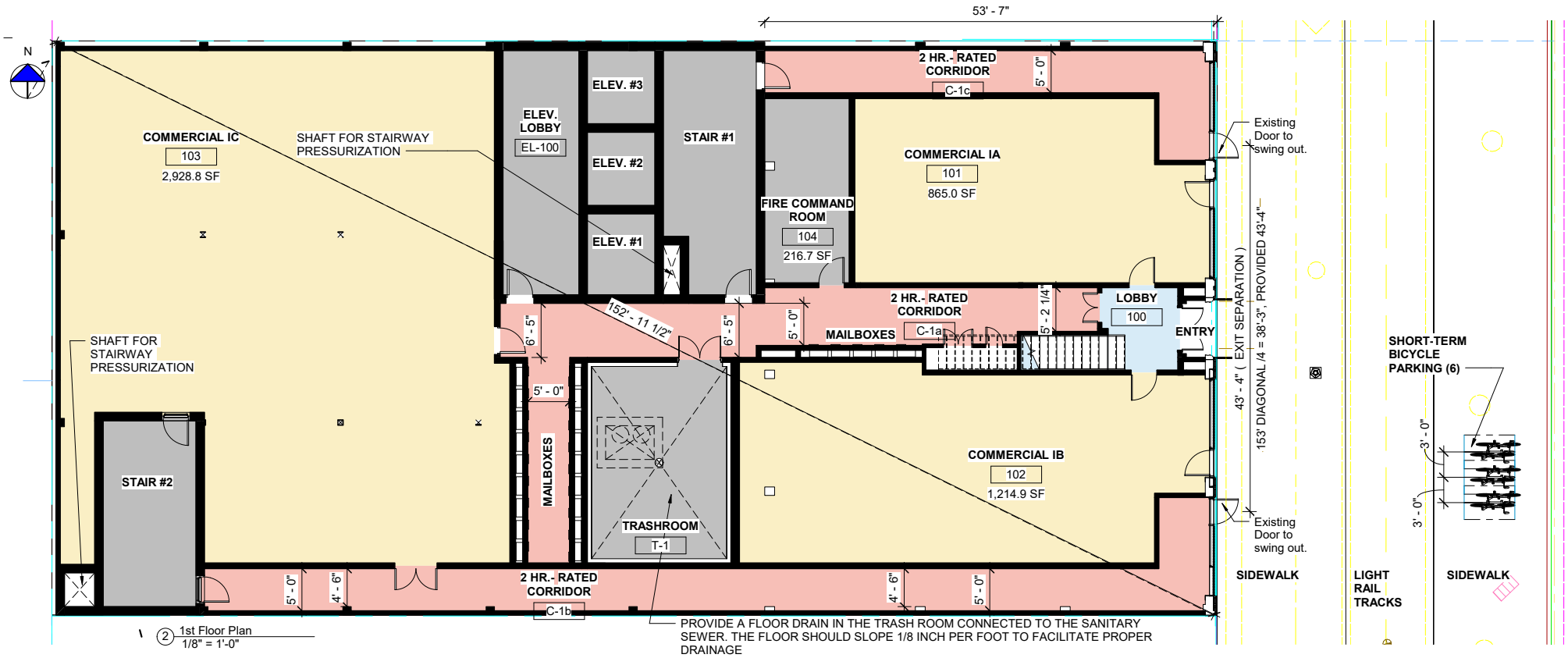
1 Basement
1/8" = 1'-0"

Source: Anderson Architects, May 2022

Floor Plan - Basement

19 N. 2nd Street Mixed-Use SEIR

Figure 5a

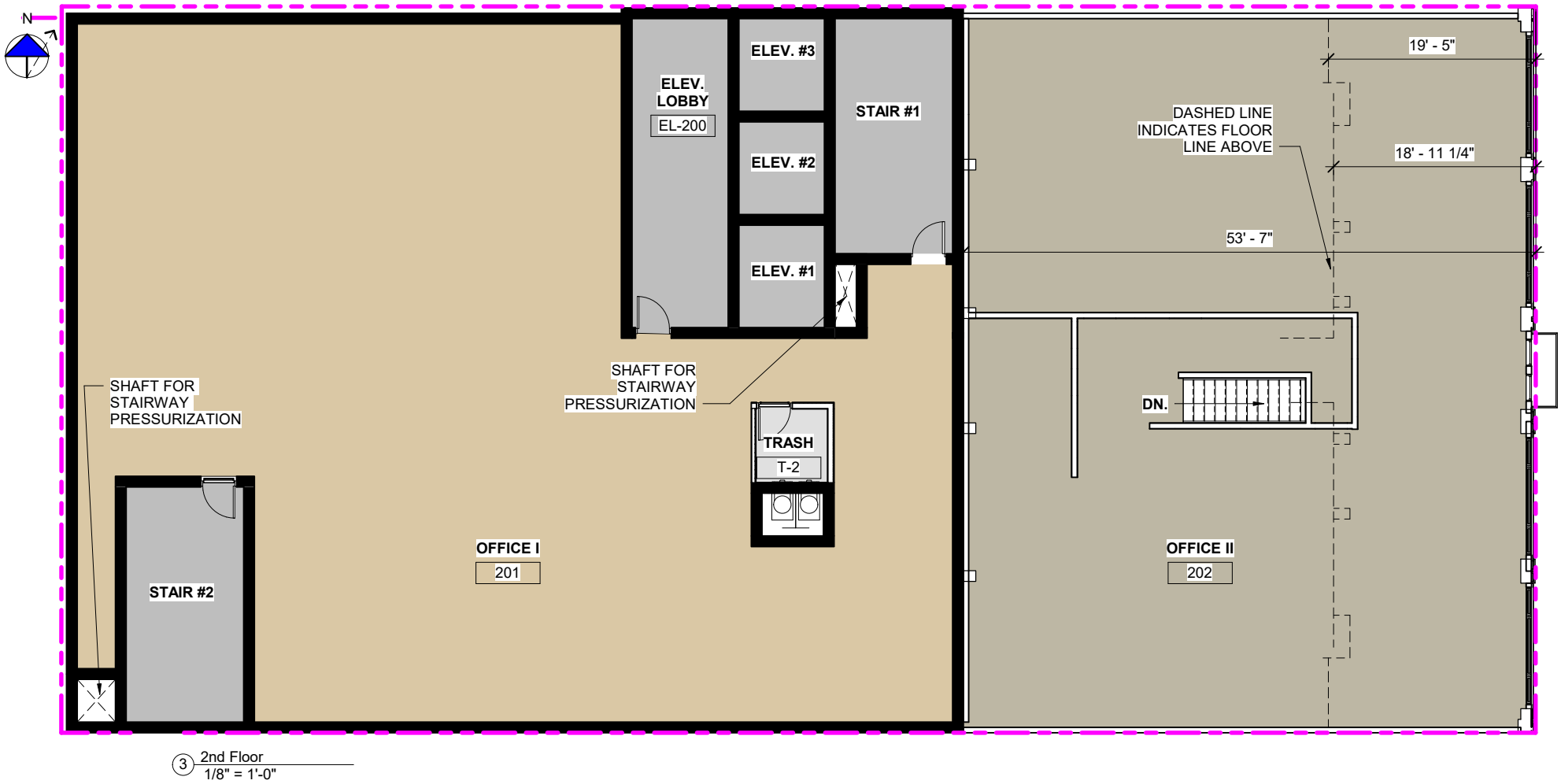


Source: Anderson Architects, May 2022

Floor Plan - First Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5b



Source: Anderson Architects, May 2022

Floor Plan - Second Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5c

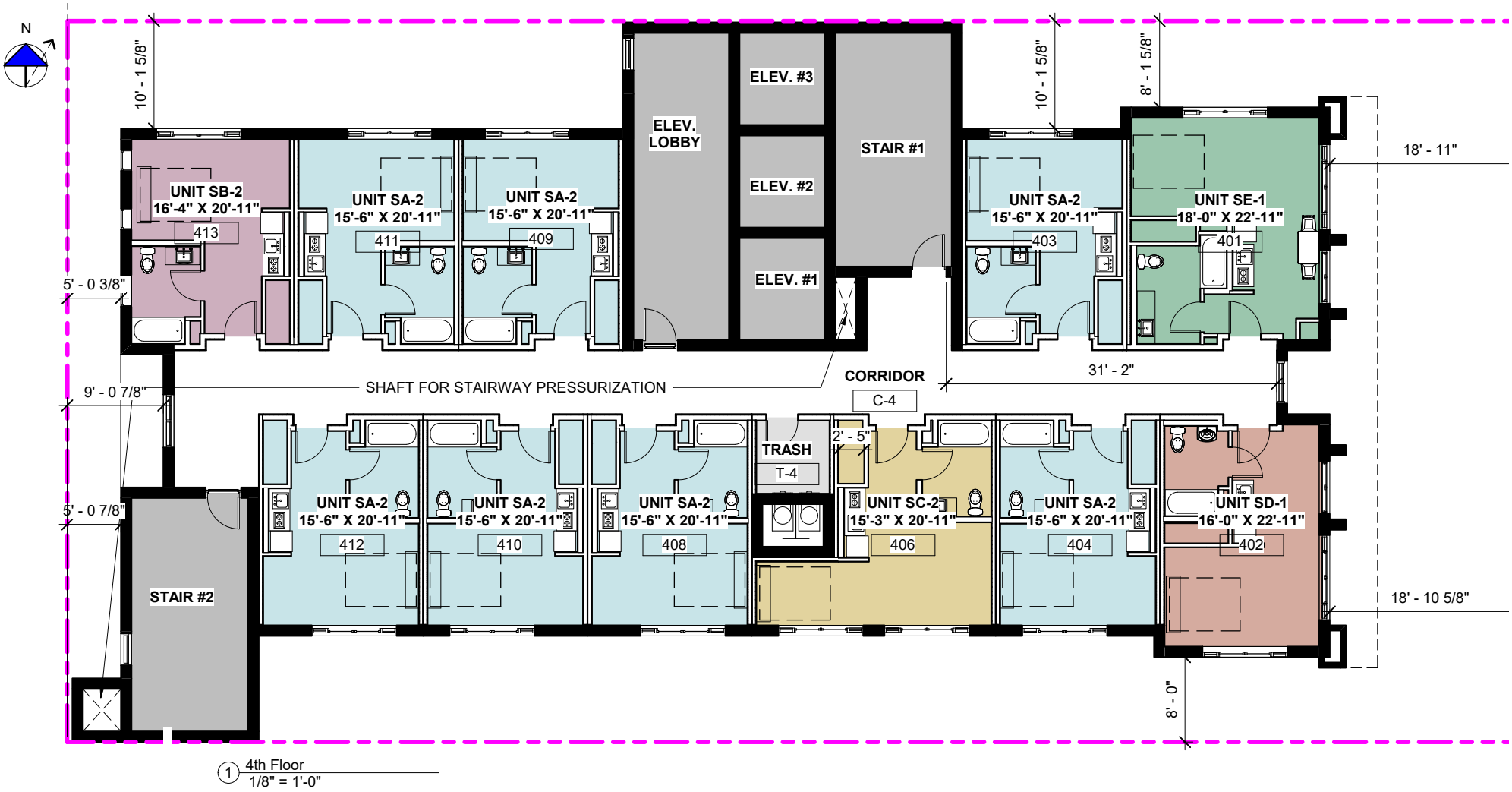
2 3rd Floor Plan
1/8" = 1'-0"

Source: Anderson Architects, May 2022

Floor Plan - Third Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5d

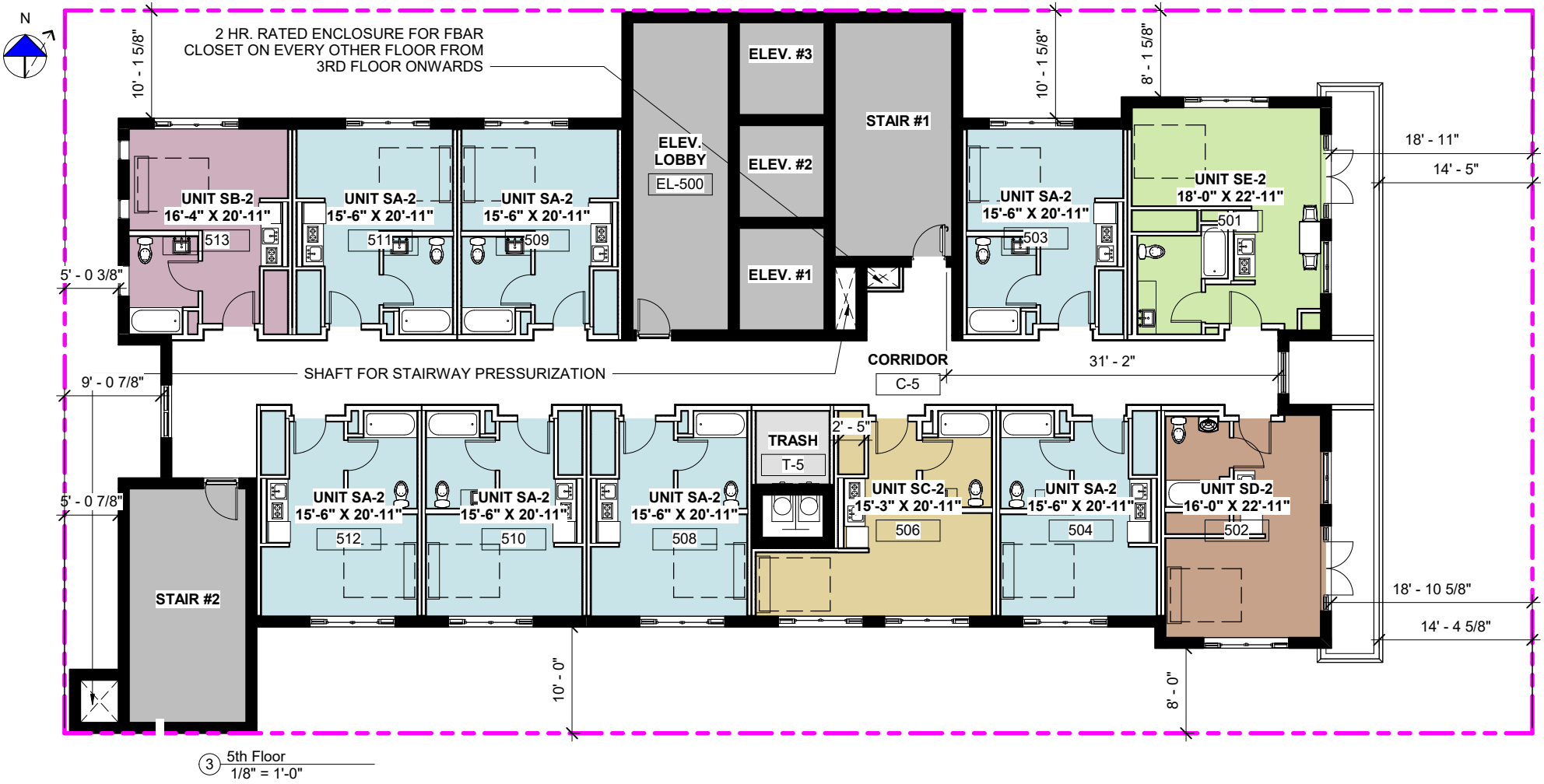


Source: Anderson Architects, May 2022

Floor Plan - Fourth Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5e

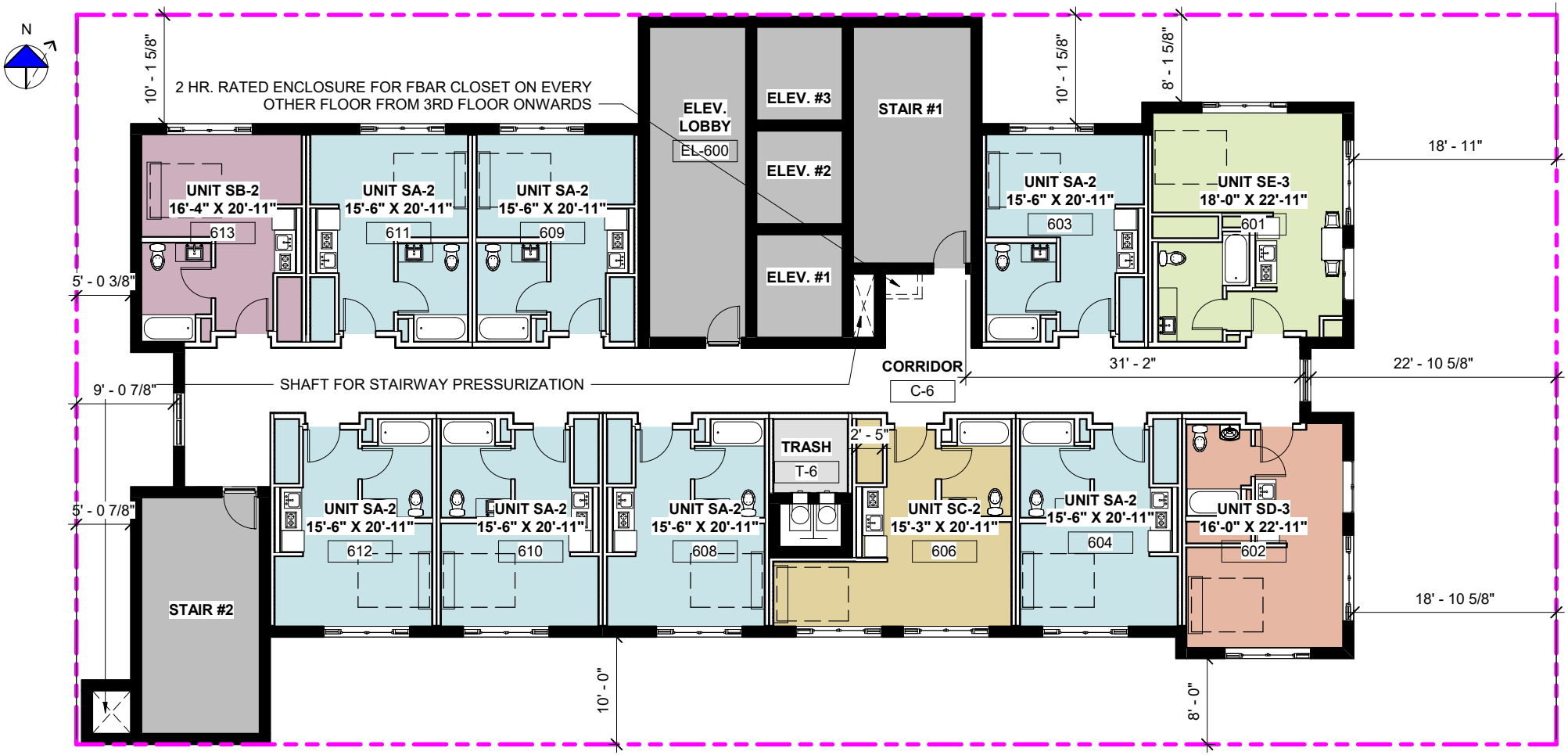


Source: Anderson Architects, May 2022

Floor Plan - Fifth Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5f



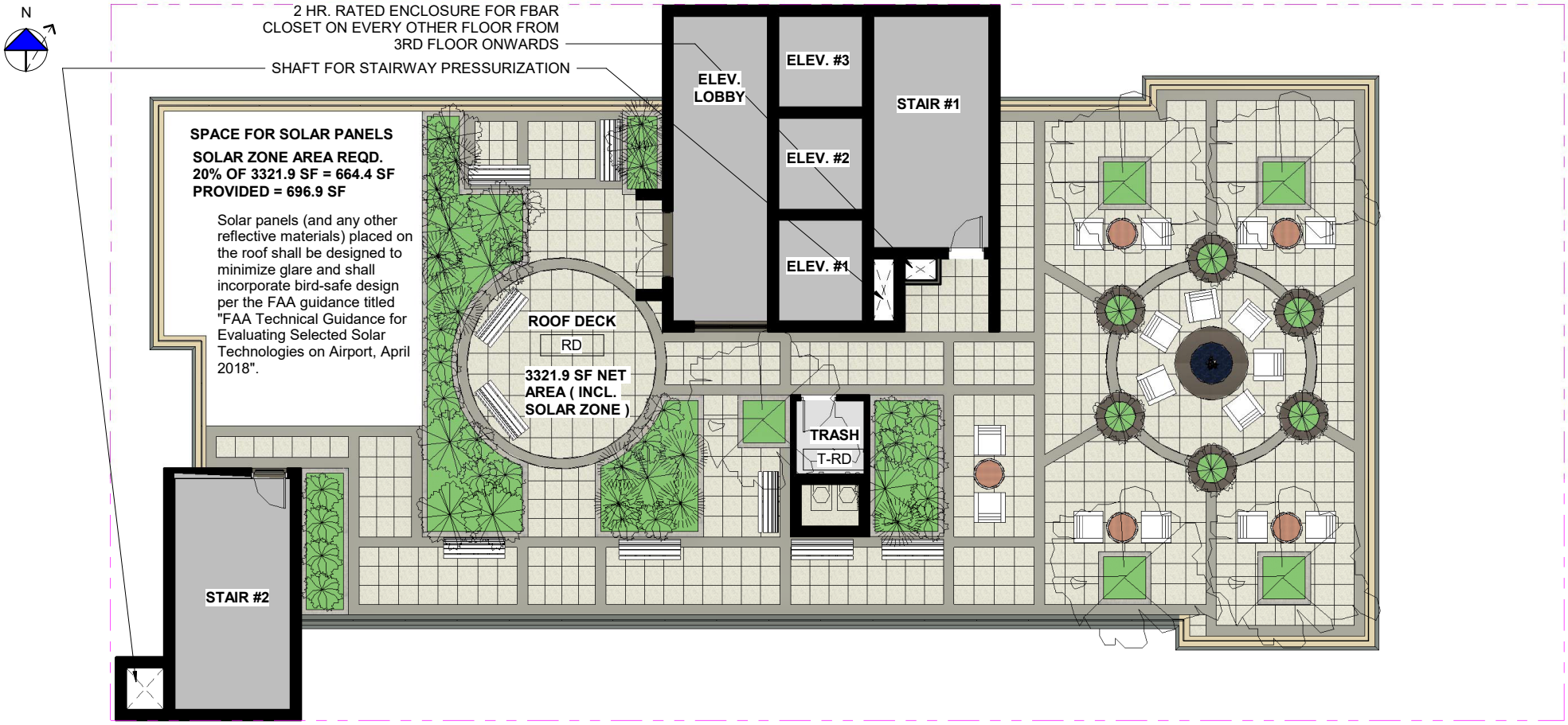
1 6th Floor through 22nd Floor
1/8" = 1'-0"

Source: Anderson Architects, May 2022

Floor Plan - Sixth through 22nd Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 5g



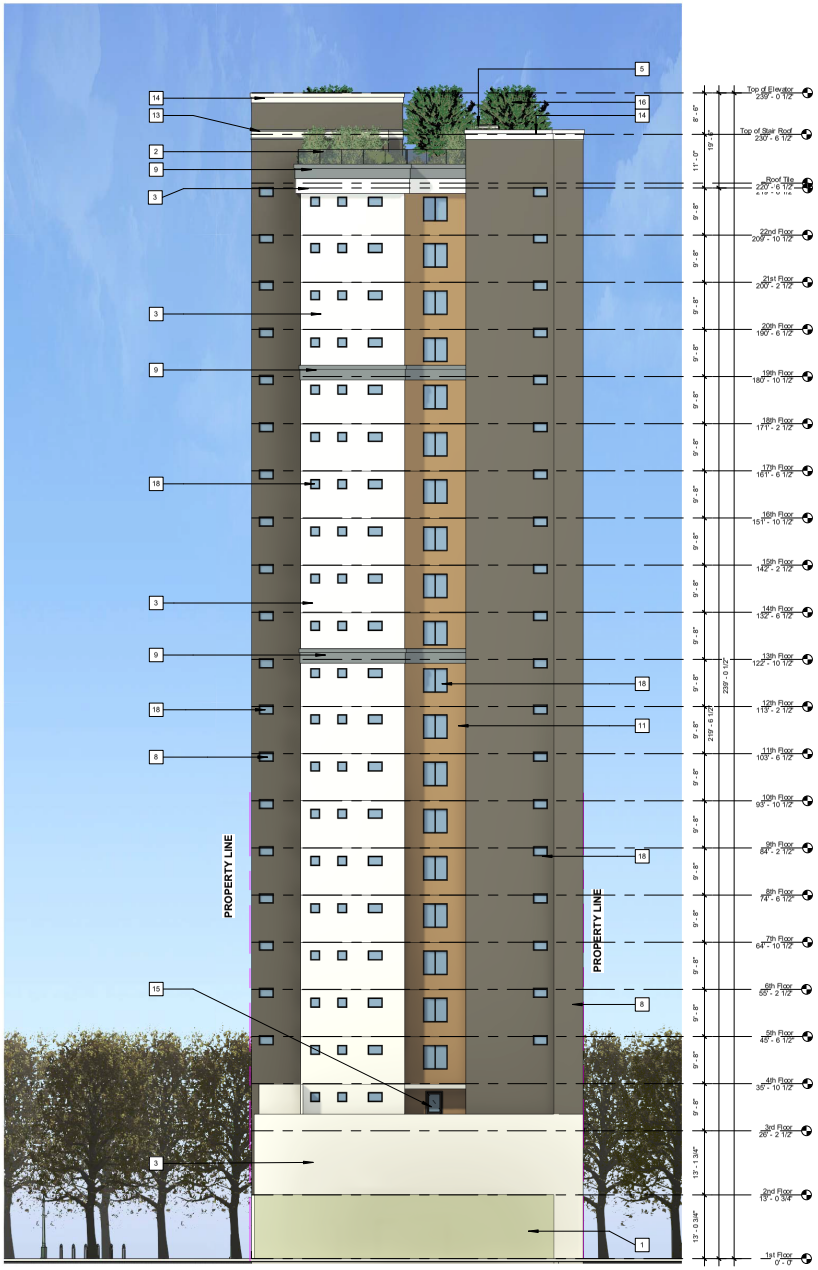
2 Roof Level
1/8" = 1'-0"

Source: Anderson Architects, May 2022

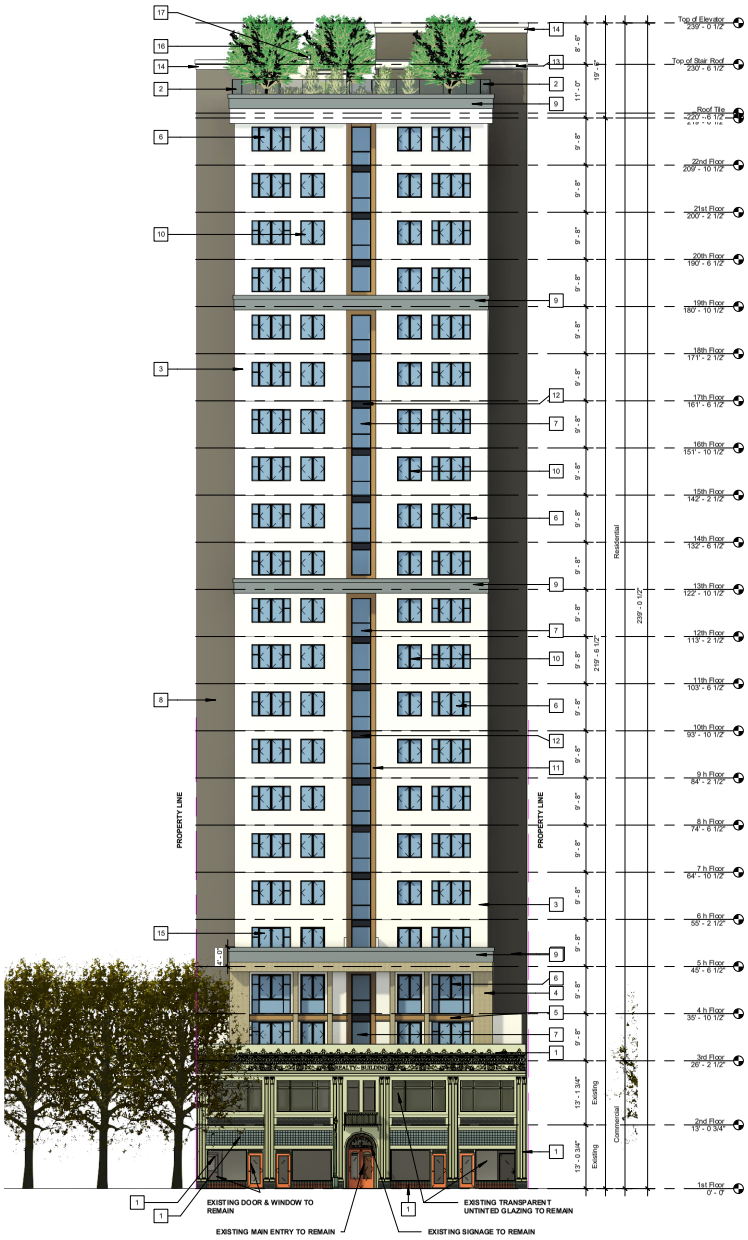
Floor Plan - Roof

19 N. 2nd Street Mixed-Use SEIR

Figure 5h



② West
1/16" = 1'-0"



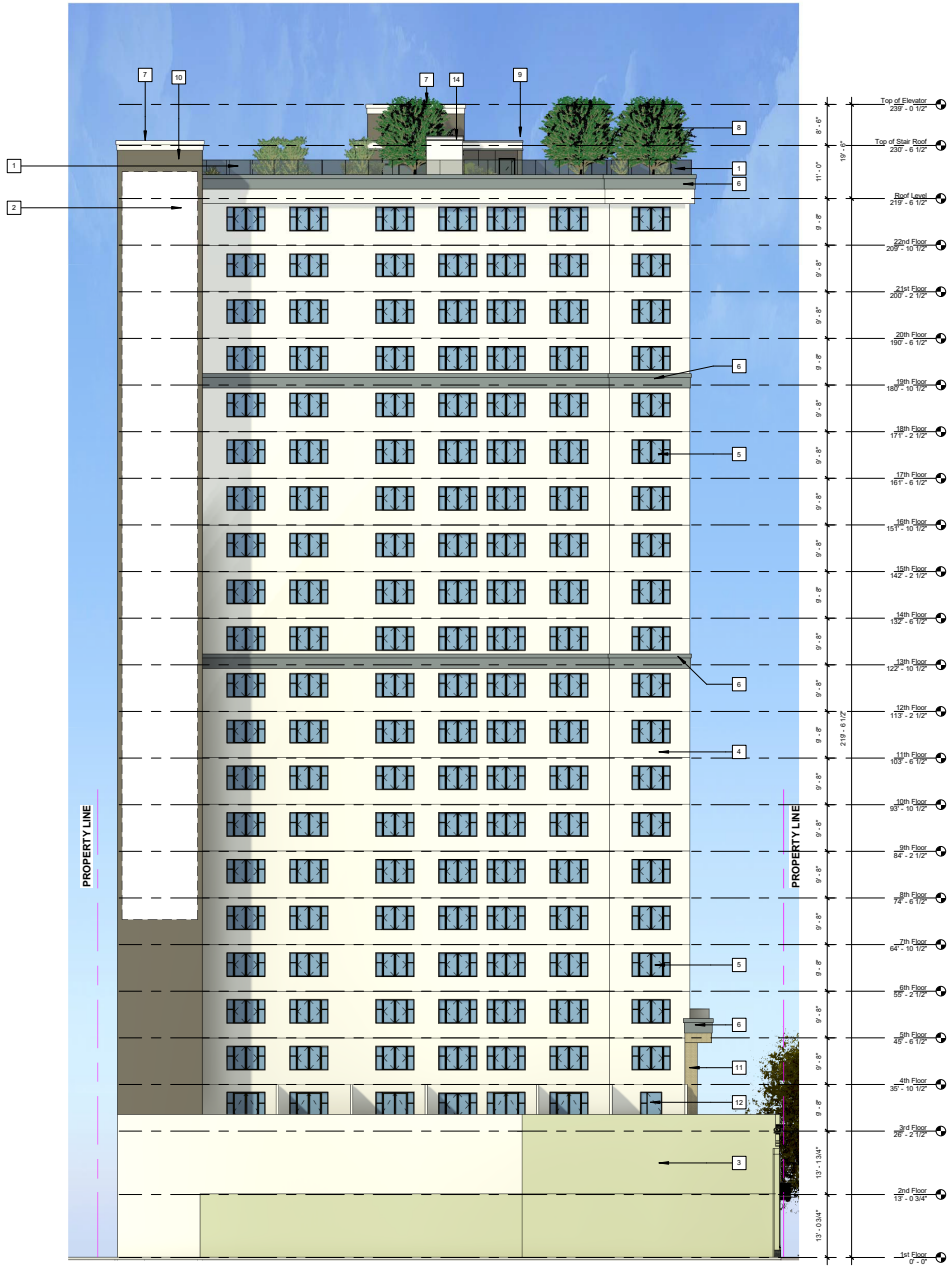
① East
1/16" = 1'-0"

Source: Anderson Architects, May 2022

Elevations - East & West

19 N. 2nd Street Mixed-Use SEIR

Figure 6a



② South
1/16" = 1'-0"

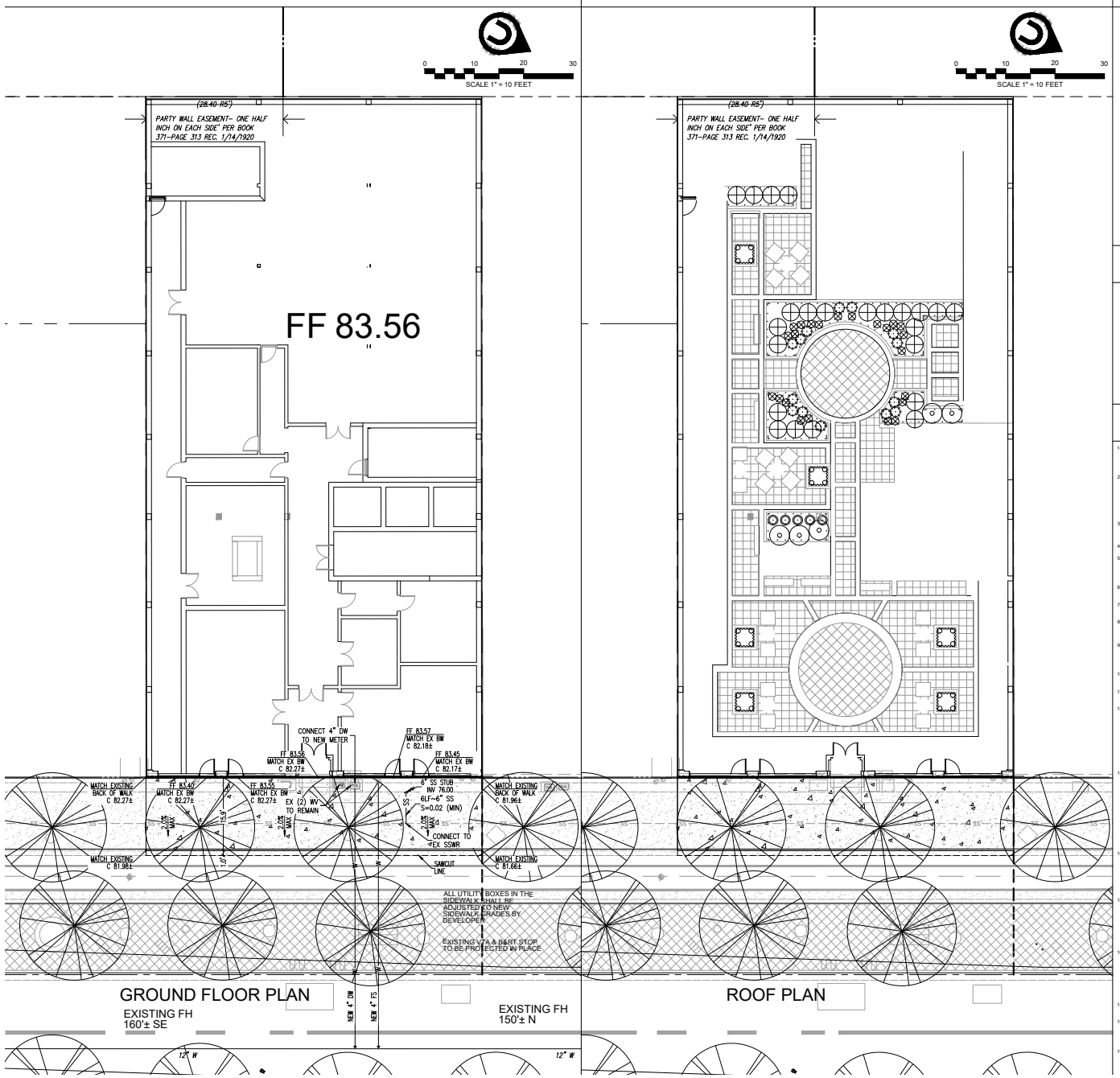
① North
1/16" = 1'-0"

Source: Anderson Architects, May 2022

Elevations - North & South

19 N. 2nd Street Mixed-Use SEIR

Figure 6b



LEGEND

EXISTING	(Symbol Size May Vary)	PROPOSED
	Property Boundary	
	Lot Line	
	Easement Line	
	Building Line	
	Grade Break	GB
	Curb & Gutter	
SS	Sanitary Sewer Line	SS
W	Water Line	W
E	Electric Line	
	City Standard Curb Inlet	
	Field Inlet / Flat Grate Inlet	
	Sanitary Sewer Clean Out	
	Water Valve	
	Streetlighting / Utility Box	
	Water Valve	

ABBREVIATIONS

BW	BACK OF WALK	INV	INVERT ELEVATION
CO	CLEAN OUT TO GRADE	MIN	MINIMUM
C	CONCRETE	PL	PROPERTY LINE
DW	DOMESTIC WATER	PV	PAVEMENT
EX	EXISTING	SD	STORM DRAIN
FC	FACE OF CURB	SDMH	STORM DRAIN MANHOLE
FF	FINISH FLOOR	SL	STREET LIGHT
FG	FINISH GRADE	SS	SANITARY SEWER
FS	FIRE SERVICE or FINISH SURFACE	SSCO	SANITARY SEWER CLEAN OUT
GB	GRADE BREAK	TC	TOP OF CURB
HP	HIGH POINT	UB	UTILITY BOX

CSJ GRADING & DRAINAGE NOTES

1. ALL GRADING IS SUBJECT TO OBSERVATION BY THE CITY. PERMITTEE OR REPRESENTATIVE SHALL NOTIFY THE CITY OF SAN JOSE DEPARTMENT OF PUBLIC WORKS PROJECT INSPECTOR AT LEAST 48 HOURS BEFORE START OF ANY GRADING.

   THE PROJECT INSPECTOR IS _____ VOICEMAIL NO. (408) 975-_____

2. APPROVAL OF THIS PLAN APPLIES ONLY TO (A) THE EXCAVATION, PLACEMENT, AND COMPACTION OF NATURAL EARTH MATERIALS, (B) THE INSTALLATION OF ON-SITE (I.E. PRIVATE PROPERTY) STORM WATER CONVEYANCE AND TREATMENT FACILITIES THAT ARE OUTSIDE OF THE 5-FOOT BUILDING ENVELOPE, AND (C) THE INSTALLATION OF RETAINING STRUCTURES. THIS APPROVAL DOES NOT CONFER ANY RIGHTS OF ENTRY TO EITHER PUBLIC PROPERTY OR THE PRIVATE PROPERTY OF OTHERS. APPROVAL OF THIS PLAN ALSO DOES NOT CONSTITUTE APPROVAL OF ANY IMPROVEMENTS WITH THE EXCEPTION OF THOSE LISTED ABOVE. PROPOSED IMPROVEMENTS, WITH THE EXCEPTION OF THOSE LISTED ABOVE, ARE SUBJECT TO REVIEW AND APPROVAL BY THE RESPONSIBLE AUTHORITIES AND ALL OTHER REQUIRED PERMITS SHALL BE OBTAINED.

3. UNLESS OTHERWISE NOTED ON THE PLAN, ANY DEPICTION OF A RETAINING STRUCTURE ON THIS PLAN SHALL NOT CONSTITUTE APPROVAL FOR CONSTRUCTION OF THE RETAINING STRUCTURE UNLESS A SEPARATE STRUCTURAL REVIEW, BY THE DEPARTMENT OF PUBLIC WORKS IS COMPLETED AND APPROVED

4. IT SHALL BE THE RESPONSIBILITY OF THE PERMITTEE OR AGENT TO IDENTIFY, LOCATE AND PROTECT ALL UNDERGROUND FACILITIES.

5. THE PERMITTEE OR AGENT SHALL MAINTAIN THE STREETS, SIDEWALKS AND ALL OTHER PUBLIC RIGHTS-OF-WAY IN A CLEAN, SAFE AND USABLE CONDITION. ALL SPILLS OF SOIL, ROCK OR CONSTRUCTION DEBRIS SHALL BE REMOVED FROM THE PUBLICLY OWNED PROPERTY DURING CONSTRUCTION AND UPON COMPLETION OF THE PROJECT. ALL ADJACENT PROPERTY, PRIVATE OR PUBLIC SHALL BE MAINTAINED IN A CLEAN, SAFE AND USABLE CONDITION.

6. ALL GRADING SHALL BE PERFORMED IN SUCH A MANNER AS TO COMPLY WITH THE STANDARDS ESTABLISHED BY THE AIR QUALITY MANAGEMENT DISTRICT FOR AIRBORNE PARTICULATES.

7. THIS PROJECT HAS BEEN DESIGNED TO COMPLY WITH THE FLOOD HAZARD AREA REGULATIONS AS STATED IN CHAPTER 17.08 OF THE SAN JOSE MUNICIPAL CODE.

8. ALL KNOWN WELL LOCATIONS ON THE SITE HAVE BEEN INCLUDED AND SUCH WELLS SHALL BE MAINTAINED OR ABANDONED ACCORDING TO CURRENT REGULATIONS ADMINISTERED BY THE SANTA CLARA VALLEY WATER DISTRICT. CALL (408) 265-2600 EXTENSION 2660 TO ARRANGE FOR DISTRICT OBSERVATION OF ALL WELL ABANDONMENTS.

9. IN THE EVENT THAT HUMAN REMAINS AND/OR CULTURAL MATERIALS ARE FOUND, ALL PROJECT-RELATED CONSTRUCTION SHOULD CEASE WITHIN A 100-FOOT RADIUS. THE CONTRACTOR SHALL, PURSUANT TO SECTION 7050.5 OF THE HEALTH AND SAFETY CODE, AND SECTION 5097.94 OF THE PUBLIC RESOURCES CODE OF THE STATE OF CALIFORNIA, NOTIFY THE SANTA CLARA COUNTY CORONER IMMEDIATELY.

10. THIS PLAN DOES NOT APPROVE THE REMOVAL OF TREES. APPROPRIATE TREE REMOVAL PERMITS AND METHODS OF TREE PRESERVATION SHOULD BE OBTAINED FROM THE CITY'S PLANNING DEPARTMENT AND THE CITY ARBORIST.

11. FOR NON-RESIDENTIAL PROJECTS, ANY NON-HAZARDOUS EXPORT RESULTING FROM PROJECT RELATED EXCAVATION OR LAND CLEARING SHALL BE 100% REUSED AND RECYCLED PER CALIFORNIA GREEN BUILDING STANDARDS CODE SECTION 5.408.

12. CIVIL ENGINEER INFORMATION AND STATEMENTS:
    A. THE CIVIL ENGINEER FOR THIS PROJECT IS: (NAME AND ADDRESS)
       DAVE VOORHES, 1295 E. DUNNE AVE #230 MORGAN HILL, CA 95037.
    B. THIS ROUGH GRADING PLAN HAS BEEN PREPARED UNDER THE DIRECTION OF A LICENSED ENGINEER AND DESIGNED BASED ON THE RECOMMENDATIONS OF THE REFERENCED PROJECT GEOTECHNICAL REPORT.
    C. THE STORMWATER CONVEYANCE SYSTEM HAS BEEN DESIGNED IN ACCORDANCE WITH THE APPROPRIATE BUILDING AND PLUMBING CODES OR HAS BEEN PROVEN TO BE DESIGNED WITH ADEQUATE CAPACITY THROUGH SIGNED AND SEALED HYDRAULIC CALCULATIONS.

13. SOILS ENGINEER INFORMATION AND REQUIREMENTS:
    A. THE SOIL ENGINEER FOR THIS PROJECT IS: (NAME AND ADDRESS)
    B. THE GEOTECHNICAL REPORT FOR THIS PROJECT IS:
    C. ALL GRADING WORK SHALL CONFORM TO THE RECOMMENDATIONS OF THE PROJECT GEOTECHNICAL REPORT AND/OR THE PROJECT SOIL ENGINEER.
    D. ALL GRADING WORK SHALL BE OBSERVED AND APPROVED BY THE SOIL ENGINEER. THE SOIL ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS BEFORE BEGINNING ANY GRADING. UNOBSERVED AND/OR UNAPPROVED GRADING WORK SHALL BE REMOVED AND REPLACED UNDER OBSERVATION.

14. A POST CONSTRUCTION "FINAL" REPORT IS REQUIRED BY THE DIRECTOR OF PUBLIC WORKS FROM A CIVIL ENGINEER RETAINED BY THE OWNER TO OBSERVE THE CONSTRUCTION STATING:
    A. "THAT THE CONSTRUCTION CONFORMS TO THE LINES AND GRADES ON THE APPROVED PLANS;" OR
    B. "THAT ALL SIGNIFICANT CHANGES WERE REVIEWED AND APPROVED IN ADVANCE BY THE DEPARTMENT OF PUBLIC WORKS" AND THE CIVIL ENGINEER SHALL SUBMIT A "RECORD DRAWING" PLAN.

15. A POST CONSTRUCTION "FINAL" REPORT IS REQUIRED BY THE DIRECTOR OF PUBLIC WORKS FROM A SOIL ENGINEER, AND ALSO FROM AN ENGINEERING GEOLOGIST IF THE PROJECT IS IN A GEOLOGIC HAZARD ZONE, STATING:
    A. "THAT THE ANTICIPATED CONDITIONS AND MATERIALS AND ACTUAL SITE CONDITIONS AND MATERIALS WERE COMPATIBLE;" AND SUPPLY SUPPORTING DATA; OR
    B. "THAT THE DESIGN WAS MODIFIED TO MEET THE NEW CONDITIONS AND WAS REVIEWED AND APPROVED IN ADVANCE BY THE DEPARTMENT OF PUBLIC WORKS;" AND PROVIDE SUPPORTING DATA FOR THESE STATEMENTS.

16. ACCORDING TO THE CITY'S WASTE WATER ORDINANCE, THE USE OF POTABLE (PIPED OR HYDRANT) WATER FOR BUILDING OR CONSTRUCTION PURPOSES INCLUDING CONSOLIDATION OF BACKFILL OR DUST CONTROL IS PROHIBITED.

    RECLAIMED WATER IS AVAILABLE AT MULTIPLE LOCATIONS ACROSS THE CITY. TO CERTIFY FOR A RECYCLED WATER METER, PLEASE CALL LYLE FROHMAN AT (408) 794-6805.

    AN APPLICATION FOR AN EXCEPTION PERMIT TO APPROVE USE OF HYDRANT WATER CAN BE CONSIDERED IN THE PW DEVELOPMENT SERVICES OFFICE. FAX-BACK SERVICE IS PROVIDED FOR THIS PERMIT APPLICATION – CONTACT (408) 535-7802.

17. A HAUL ROUTE PERMIT IS REQUIRED FOR ALL PROJECTS MOVING MORE THAN 10,000 C.Y. OF EARTH. THIS GRADING PERMIT IS INVALID WITHOUT THE HAUL ROUTE PERMIT. HAUL ROUTE PERMITS SHOULD BE OBTAINED FROM THE CITY'S TRANSPORTATION DEPARTMENT.

18. GRADING WILL NOT BE ALLOWED BETWEEN OCTOBER 1ST AND APRIL 30TH OF ANY YEAR WITHOUT EROSION CONTROL PLANS AND MEASURES APPROVED BY THE DIRECTOR OF PUBLIC WORKS. STORMWATER POLLUTION PREVENTION MEASURES IN ACCORDANCE WITH CITY SPECIFICATIONS AND WITH THE DOCUMENT "CLEAN BAY BLUEPRINT" SHALL BE IMPLEMENTED THROUGHOUT THE YEAR TO THE SATISFACTION OF THE DIRECTOR OF PUBLIC WORKS.

19. A POST CONSTRUCTION "AS-BUILT" PLAN IS REQUIRED BY THE DIRECTOR OF PUBLIC WORKS FROM A CIVIL OR SOILS ENGINEER RETAINED BY THE OWNER TO PROVIDE THE FINAL HORIZONTAL AND VERTICAL LOCATIONS OF THE IMPROVEMENTS APPROVED WITH THIS PLAN SUCH AS SUBDRAINS, ON-SITE STORM WATER CONVEYANCE AND TREATMENT SYSTEMS, AND ON-SITE RETAINING STRUCTURES.

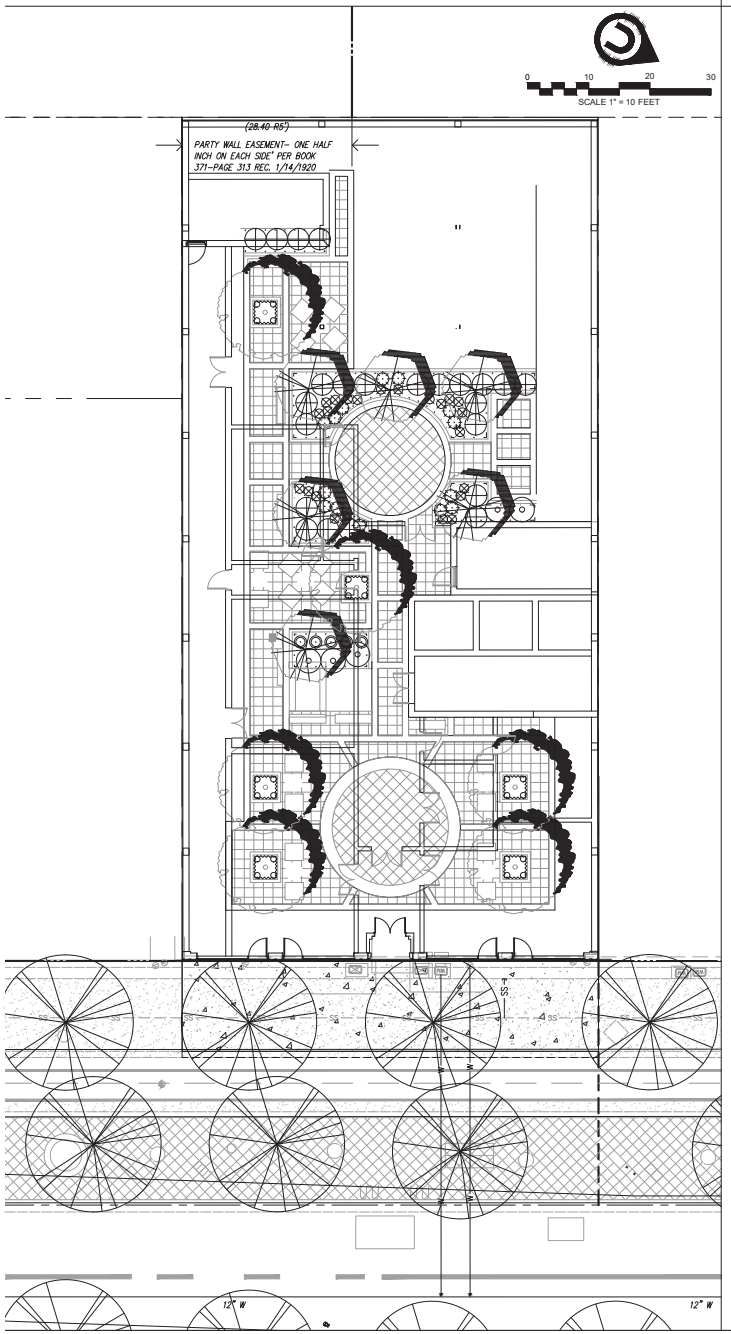
Source: V&H Engineering, May 2022

Preliminary Grading and Drainage Plan

19 N. 2nd Street Mixed-Use SEIR

Figure 7

GROUND LEVEL



PROJECT SITE INFORMATION TABLES

PROJECT SITE INFORMATION:

1. SOILS TYPE: D
2. GROUND WATER DEPTH: 30-50 FEET
3. NAME OF RECEIVING BODY: GUADALUPE
4. FLOOD ZONE: ZONE D
5. FLOOD ELEVATION (IF APPLICABLE): N/A

OPERATION AND MAINTENANCE INFORMATION:

I. PROPERTY INFORMATION:

I.A. PROPERTY ADDRESS:
19 N 2nd STREET
SAN JOSE, CA 95113

I.B. PROPERTY OWNER:
ROYGBIV RED

II. RESPONSIBLE PARTY FOR MAINTENANCE:

II.A. CONTACT: LOIDA KIRKLEY

II.B. PHONE NUMBER OF CONTACT:
650-397-1013

II.C. EMAIL:
ROYGBIVRED@GMAIL.COM

II.D. ADDRESS:
5861 KILLARNEY CIRCLE
SAN JOSE, CA 95138

SITE DESIGN MEASURES:

1. PARKING NOT PROVIDED IN EXCESS OF CODE.

SOURCE CONTROL MEASURES:

1. BENEFICIAL LANDSCAPING
2. USE OF WATER EFFICIENT IRRIGATION SYSTEMS.
3. CONNECT THE FOLLOWING FEATURES TO SANITARY SEWER:
   a. COVERED TRASH/ RECYCLING ENCLOSURES.
2. MAINTENANCE (PAVEMENT SWEEPING, CATCH BASIN CLEANING, GOOD HOUSEKEEPING).
4. STORM DRAIN LABELING.
5. OTHER:

TREATMENT NOTES

STANDARD STORMWATER CONTROL NOTES:

- STANDING WATER SHALL NOT REMAIN IN THE TREATMENT MEASURES FOR MORE THAN FIVE DAYS, TO PREVENT MOSQUITO GENERATION. SHOULD ANY MOSQUITO ISSUES ARISE, CONTACT THE SANTA CLARA VALLEY VECTOR CONTROL DISTRICT (DISTRICT). MOSQUITO LARVICIDES SHALL BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY, AS INDICATED BY THE DISTRICT, AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR. CONTACT INFORMATION FOR THE DISTRICT IS PROVIDED BELOW.
- DO NOT USE PESTICIDES OR OTHER CHEMICAL APPLICATIONS TO TREAT DISEASED PLANTS, CONTROL WEEDS OR REMOVED UNWANTED GROWTH. EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) TO TREAT A PEST PROBLEM. PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR. PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.

OVERALL SITE SURFACES

2.a Enter the Project Phase Number (1, 2, 3, etc. or N/A if Not Applicable):		N/A
2.b Total area of site:	0.22 acres	
2.c Total area of site that will be disturbed:	0.22 acres	

COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT PROJECT SITE:

2.d IMPERVIOUS AREAS - IA	Pre-Project Existing IA sq. ft.	Existing IA Retained As-Is[1] sq. ft.	Existing IA Replaced with IA[2] sq. ft.	New IA Created[2] sq. ft.	Total Post Project IA sq. ft.
Site Totals					
Total IA	d.1 9391	d.2 0	d.3 9361	d.4 0	d.5 (d.2+d.3+d.4) 9361
Total New and Replaced IA			d.6 (d.3+d.4) 9361		
Public Street Totals					
Total Public Streets IA[3]	d.8 0	d.9 0	d.10 0	d.11 0	d.12 (d.9+d.10+d.11) 0
Total New and Replaced Public Streets IA			d.13 (d.10+d.11) 0		
Total Site and Public Streets IA	d.14 (d.1+d.8)				d.15 (d.5+d.12) 9361
Percent Replacement of IA in Redevelopment Projects (d.3+d.1) x 100:					d.16 100 %

2.e PERVIOUS AREAS - PA	Pre-Project Existing PA sq. ft.	Total Post Project PA sq. ft.
Total PA[4]	e.1 0	e.2 30
2.f Total Area (IA + PA)	f.1 (d.14 + e.1) 9391	f.2 (d.15 + e.2) 9391

FOOTNOTES

1. "Retained" in box 2.d.2 means to leave existing IA in place. An IA that goes through maintenance (e.g., pavement resurfacing/slurry seal/grind), but no change in grade is considered "retained."
2. The "replaced" and "new" IA in boxes 2.d.3. and 2.d.4 are based on the total area of the site and not specific locations on site. For example, impervious parking created over a pervious area is not "new" IA if an equal amount of pervious area replaces IA somewhere else on the site. Constructed IA on a site that does not exceed the Total Pre-Project IA in box 2.d.1. will be considered "replaced" IA. **A site will have "new" IA only if the Total Post-Project IA in box 2.d.5. exceeds the Total Pre-Project IA (2.d.5 - 2.d.1 = 2.d.4).**

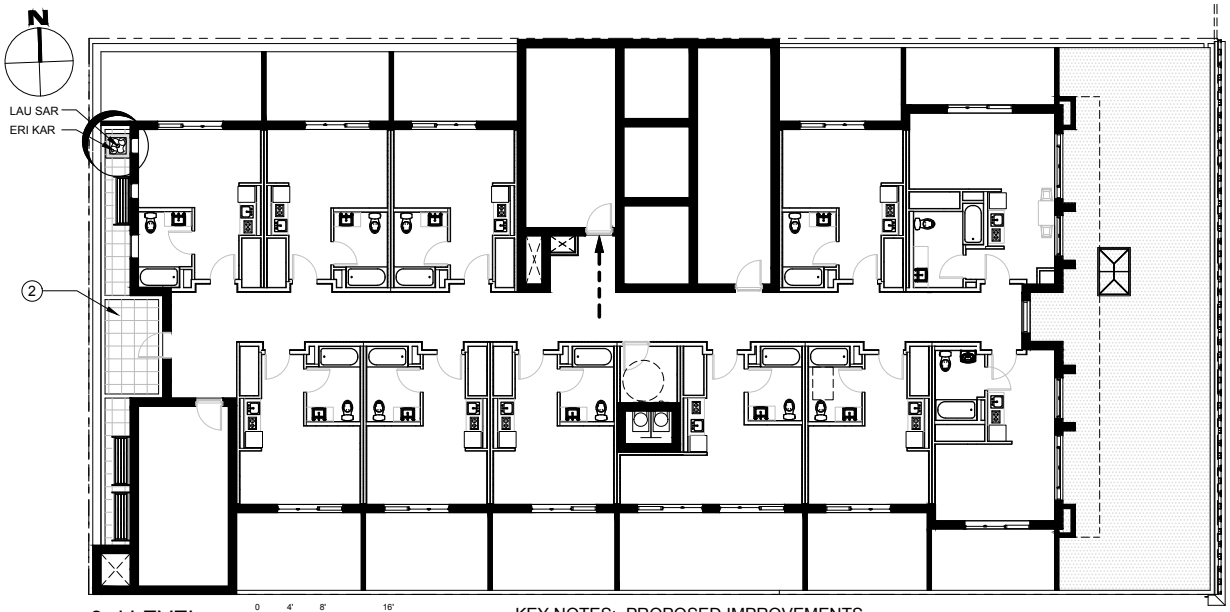
PLAN LEGEND

Source: V&H Engineering, May 2022

Stormwater Control Plan

19 N. 2nd Street Mixed-Use SEIR

Figure 8



3rd LEVEL

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

KEY NOTES: PROPOSED IMPROVEMENTS

1. CONTAINER PLANTERS
2. CONCRETE PEDESTAL PAVING SYSTEM WITH BANDING
3. PLANTER WALLS/RAISED PLANTING AREAS
4. SITE FURNITURE
5. SOLAR ZONE AREA
6. TREE PLANTER: 5FT X 5 FT X 2.5FT HIGH. 62.5 CF OF SOIL MIX.
7. TREES IN RAISED PLANTER AT 2 FT HIGH. SOIL AROUND EACH TREE TO OCCUPY AREA OF 5FT X 5 FT X 2.5FT HIGH (VIA MOUNDING AT TREE) FOR 62.5 CF OF SOIL MIX PER PROPOSED TREES . SPACES BETWEEN TREES WILL HAVE LESS SOIL DEPTH FOR SHALLOW-ROOTED PLANT MATERIAL (SHRUBS, PERENNIALS, GROUNDCOVER).
8. FIREPIT

LEGEND

PROPOSED TREES

SHRUB AND GROUNDCOVER AREA

PLANT LIST

ABBREV.	BOTANICAL NAME	COMMON NAME	SIZE	MISC. NOTES & REQUIREMENTS
TREES				
LAG MUS	*Lagerstroemia x 'Muskogee'*	Crape Myrtle (Lavender)	24" Box	Hi. Br./SL/Match
LAU SAR	*Laurus n. 'Saratoga'*	Hybrid Laurel	24" box	S.L./No. Whorl. Br./N. Drp. Br./Match
SHRUBS				
DIE BIC	*Dietes bicolor*	Fortnight Lily	1 G.C.	
LAU NOB	*Laurus nobilis*	Sweet Bay	15 G.C.	F &B, Br. Gr.
MYR COM	*Myrtus communis 'Compacta'*	Dwarf True Myrtle	5 G.C.	F &B, Br. Gr.
PRU CAR	*Prunus caroliniana 'Compacta'*	Carolina Cherry Laurel	5 G.C.	F &B, Br. Gr.
PERENNIALS/BULBS/ANNUALS				
ACH MIL	*Achillea millefolium*	Common Yarrow	1 G.C.	
ERI KAR	*Erigeron karvinskianus 'Moerheimii'*	Fleabane	1 G.C.	
JUN PAT	*Juncus patens*	California Grey Rush	1 G.C.	
LAV MUN	*Lavandula angustifolia 'Munstead'*	English Lavender	1 G.C.	

PLANT LIST ABBREVIATIONS:

Note:	This list together with the plant list prepared by Taniguchi Landscape Architecture must accompany the contractor's nursery order(s)
SL	Single main, straight, dominant, leader
Hi. Br.	High branched—lowest limbs held above rootball 5' min. for 15 gallon can 6' min. for 24" box trees
No Top	No topping or pruning of upper branches
Br. Gr.	Branched to ground
F & B	Full dense, bushy, vigorous plants, with young growth closely spaced on branches, no old/woody plants.
N.V.S.-30 deg.	Narrow upright vase shape 30 degrees or less spread in branch/trunk structure
N.V.S.-45 deg.	Narrow upright vase shape 45 degrees or less spread in branch/trunk structure
No. Whorl. Br.	No closely spaced whirled branches. Select even symmetrical branch distribution
Match	Matched size, form, caliper, branching and cultivar. Select from one lot, one grower, for guaranteed consistency through life of plants.
	In general plants within a group or area are to be matched, unless noted otherwise.
T.F.	Tree Form
S.F.	Shrub Form
N.F.	Narrow upright Form
B.R.	Bare Root
B & B	Balled and Burlap
Mult. St.	Multi stemmed
Flat	Rooted cuttings from flats at on center distance specified in list. See groundcover/shrub o.c. planting detail for layout.
Cal.	Caliper
EV.	Evergreen
G.C.	Gallon Can
N.C.N.	No Common Name
Trail F	Select trailing Forms for prostrate growth
Veg. Gr.	Vegetative Grown
Hed. F.	Hedge Form (clipped)
Stem up.	Stem up to expose trunk and lower branch pattern
o.c.	On center
N. Drp. Br.	No long heavy drooping branches

NOTES:

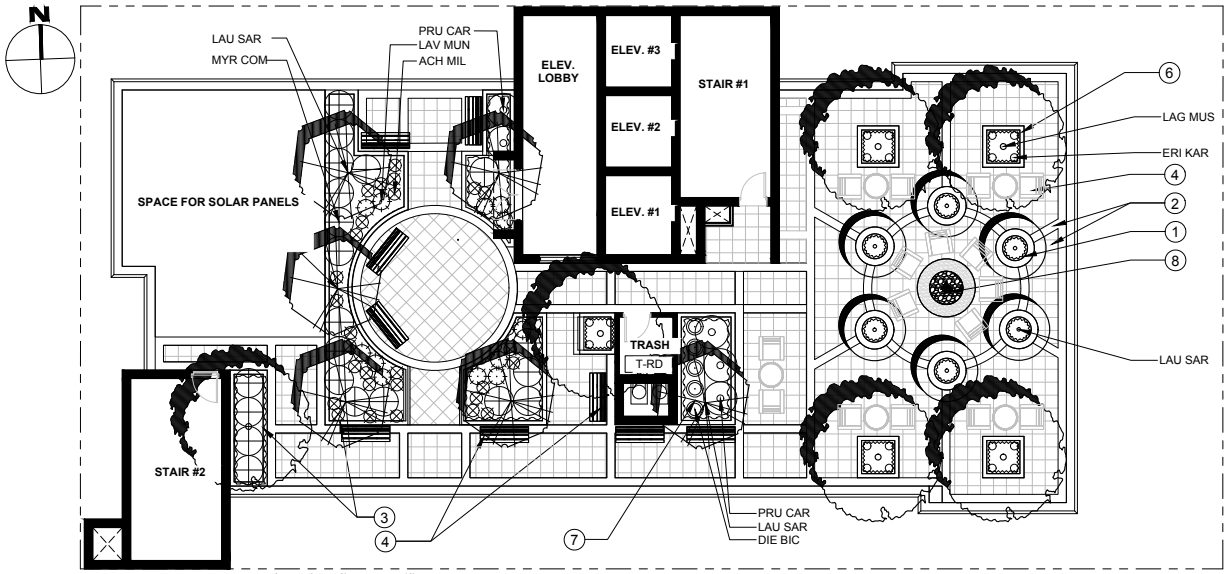
1. FOR PROPOSED TREES ON THE ROOF LEVEL THE SOIL QUANTITIES AND PLANTER SIZE WILL NOT PROHIBIT THE HEALTHY GROWTH AND MATURITY OF THE TREES.

Source: Taniguchi Landscape Architecture, May 2022

Landscape Plan - 3rd Floor

19 N. 2nd Street Mixed-Use SEIR

Figure 9a



ROOF LEVEL

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

LEGEND

PROPOSED TREES

SHRUB AND GROUNDCOVER AREA

KEY NOTES: PROPOSED IMPROVEMENTS

1. CONTAINER PLANTERS
2. CONCRETE PEDESTAL PAVING SYSTEM WITH BANDING
3. PLANTER WALLS/RAISED PLANTING AREAS
4. SITE FURNITURE
5. SOLAR ZONE AREA
6. TREE PLANTER: 5FT X 5 FT X 2.5FT HIGH. 62.5 CF OF SOIL MIX.
7. TREES IN RAISED PLANTER AT 2 FT HIGH. SOIL AROUND EACH TREE TO OCCUPY AREA OF 5FT X 5 FT X 2.5FT HIGH (VIA MOUNDING AT TREE) FOR 62.5 CF OF SOIL MIX PER PROPOSED TREES . SPACES BETWEEN TREES WILL HAVE LESS SOIL DEPTH FOR SHALLOW-ROOTED PLANT MATERIAL (SHRUBS, PERENNIALS, GROUNDCOVER).
8. FIREPIT

PLANT LIST

ABBREV.	BOTANICAL NAME	COMMON NAME	SIZE	MISC. NOTES & REQUIREMENTS
TREES				
LAG MUS	*Lagerstroemia x 'Muskogee'*	Crape Myrtle (Lavender)	24" Box	Hi. Br./SL/Match
LAU SAR	*Laurus n. 'Saratoga'*	Hybrid Laurel	24" box	S.L./No. Whorl. Br./N. Drp. Br./Match
SHRUBS				
DIE BIC	*Dietes bicolor*	Fortnight Lily	1 G.C.	
LAU NOB	*Laurus nobilis*	Sweet Bay	15 G.C.	F &B, Br. Gr.
MYR COM	*Myrtus communis 'Compacta'*	Dwarf True Myrtle	5 G.C.	F &B, Br. Gr.
PRU CAR	*Prunus caroliniana 'Compacta'*	Carolina Cherry Laurel	5 G.C.	F &B, Br. Gr.
PERENNIALS/BULBS/ANNUALS				
ACH MIL	*Achillea millefolium*	Common Yarrow	1 G.C.	
ERI KAR	*Erigeron karvinskianus 'Moerheimii'*	Fleabane	1 G.C.	
JUN PAT	*Juncus pateris*	California Grey Rush	1 G.C.	
LAV MUN	*Lavandula angustifolia 'Munstead'*	English Lavender	1 G.C.	

PLANT LIST ABBREVIATIONS:

Note:	This list together with the plant list prepared by Taniguchi Landscape Architecture must accompany the contractor's nursery order(s)
SL	Single main, straight, dominant, leader
Hi. Br.	High branched—lowest limbs held above rootball 5' min. for 15 gallon can 6' min. for 24" box trees
No Top	No topping or pruning of upper branches
Br. Gr.	Branched to ground
F & B	Full dense, bushy, vigorous plants, with young growth closely spaced on branches, no old/woody plants.
N.V.S.-30 deg.	Narrow upright vase shape 30 degrees or less spread in branch/trunk structure
N.V.S.-45 deg.	Narrow upright vase shape 45 degrees or less spread in branch/trunk structure
No. Whorl. Br.	No closely spaced whirled branches. Select even symmetrical branch distribution
Match	Matched size, form, caliper, branching and cultivar. Select from one lot, one grower, for guaranteed consistency through life of plants.
	In general plants within a group or area are to be matched, unless noted otherwise.
T.F.	Tree Form
S.F.	Shrub Form
N.F.	Narrow upright Form
B.R.	Bare Root
B & B	Balled and Burlap
Mult. St.	Multi stemmed
Flat	Rooted cuttings from flats at on center distance specified in list. See groundcover/shrub o.c. planting detail for layout.
Cal.	Caliper
EV.	Evergreen
G.C.	Gallon Can
N.C.N.	No Common Name
Trail F	Select trailing Forms for prostrate growth
Veg. Gr.	Vegetative Grown
Hed. F.	Hedge Form (clipped)
Stem up.	Stem up to expose trunk and lower branch pattern
o.c.	On center
N. Drp. Br.	No long heavy drooping branches

NOTES:

1. FOR PROPOSED TREES ON THE ROOF LEVEL THE SOIL QUANTITIES AND PLANTER SIZE WILL NOT PROHIBIT THE HEALTHY GROWTH AND MATURITY OF THE TREES.

Source: Taniguchi Landscape Architecture, May 2022

Landscape Plan - Roof

19 N. 2nd Street Mixed-Use SEIR

Figure 9b

Source: Anderson Architects, March 2022

Rendering

19 N. 2nd Street Mixed-Use SEIR

Figure 10

3 Downtown View With The Proposed Building

2 Street View - E. Santa Clara Street

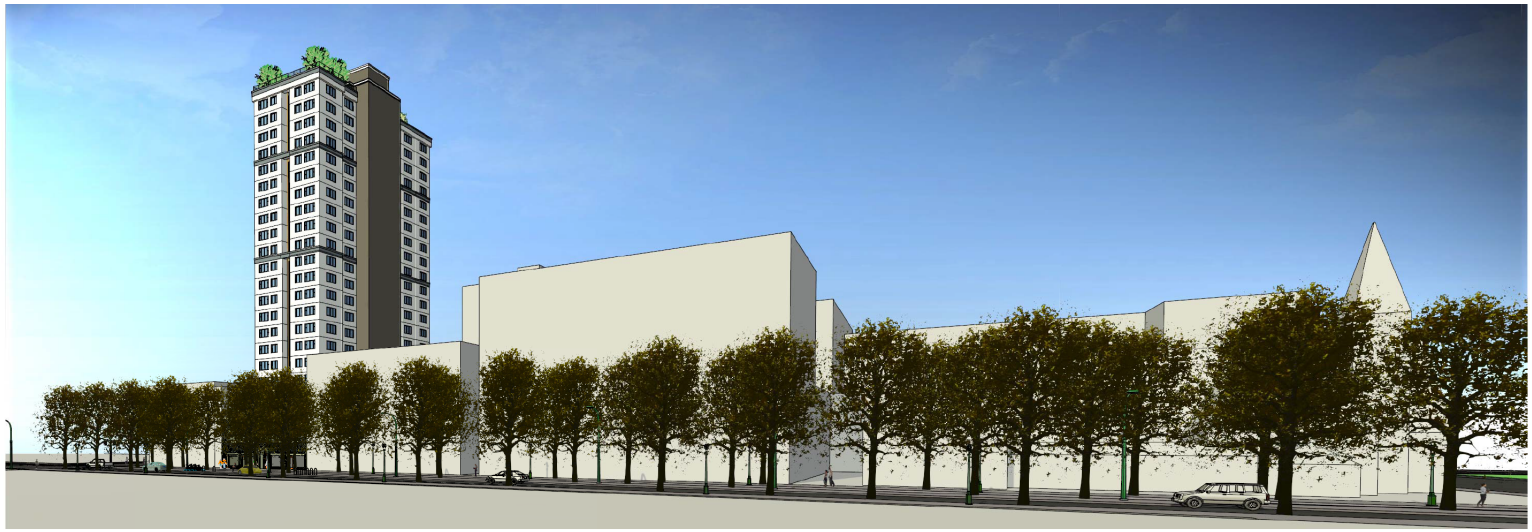
1 Street Elevation - E. Santa Clara Street
1" = 30'-0"

Source: Anderson Architects, May 2022

Photo Simulations - E. Santa Clara Street

19 N. 2nd Street Mixed-Use SEIR

Figure 11a



① Street View - 19N 2nd Street

② Street Elevation - N. 2nd Street
1" = 30'-0"

Source: Anderson Architects, May 2022

Photo Simulations - N. 2nd Street

19 N. 2nd Street Mixed-Use SEIR

Figure 11b

SECTION 3 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

In accordance with Section 15143 of the CEQA Guidelines, the discussion in this EIR is focused on the significant effects on the environment resulting from the proposed project. This section includes descriptions of the physical setting of the project site and the surrounding area and identifies the environmental impacts resulting from the proposed mixed-use development. This section also identifies mitigation measures for the significant environmental impacts identified in this SEIR. "Mitigation Measures" include procedures that would minimize, avoid, rectify, reduce, or eliminate a significant impact (CEQA Guidelines Section 15370). Measures either required by law or City standard conditions of approval are also listed.

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

The discussion for each environmental area of analysis includes the following:

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).

Important Note to the Reader:

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

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

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

3.1 Aesthetics

A solar/shade simulation was prepared for the project by Anderson Architects (May 2022). This simulation is presented in Figure 12. In addition, photo visual simulations of the project were prepared by Anderson Architects (May 2022) and are presented in Figures 11a and 11b. These are discussed below.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

State Scenic Highways Program

The State Scenic Highways Program is managed by the California Department of Transportation (Caltrans) and is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The nearest state-designated scenic highway is State Route 9, located approximately 9.5 miles southwest of the project site in Saratoga. The project site is not located near this designated scenic highway.

Senate Bill 743

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

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

SB 743 also states that aesthetic impacts do not include impacts on historical or cultural resources. Further, it clarifies that local governments retain their ability to regulate a project's transportation, aesthetics, and parking impacts outside of the CEQA process.

Local

Outdoor Lighting Policy (City Council Policy 4-3)

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) and City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development promote energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram.

Downtown Design Guidelines and Standards

The City Council approved the latest San José Downtown Design Guidelines and Standards on April 23, 2019. The City's Downtown Design Guidelines provide guidance for the form and design of buildings in the Downtown area, their appearance in the larger Cityscape, and their interface with the street level "Public Realm." The Downtown Design Guidelines cover the design review process, site design and context, building massing and architecture, and other components of project design for projects located within the Downtown area.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-1.1	Require the highest standards of architecture 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-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
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.

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-1.26	Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the applicable Land Use / Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks above parking structures.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-6.1	Recognize Downtown as the most vibrant urban area of San José and maximize development potential and overall density within the Downtown.
Policy CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
Policy CD-6.3	New development within the Downtown Growth Area that is adjacent to existing neighborhoods that are planned for lower intensity development should provide transitions in height, bulk and scale to ensure that the development is compatible with and respects the character of these neighborhoods, as they are designated in the General Plan.

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-6.4	Design publicly-accessible and welcoming areas, allow easy access and facilitate movement of pedestrians and bicyclists throughout the Downtown, and provide strong physical and visual connections across potential barriers (i.e., roadways and creeks). Promote Downtown as a focal point for community activity (e.g., festivals, parades, etc.) for the entire City.
Policy CD-6.5	Design quality publicly-accessible open spaces at appropriate locations that enhance the pedestrian experience and attract people to the Downtown. Use appropriate design, scale, and edge treatment to define, and create publicly accessible spaces that positively contribute to the character of the area and provide public access to community gathering, recreational, artistic, cultural, or natural amenities.
Policy CD-6.6	Promote iconic architecture and encourage and incorporate innovative, varied, and dynamic design features (e.g., appearance, function, sustainability aspects) into sites, buildings, art, streetscapes, landscapes, and signage to make Downtown visually exciting and to attract residents and visitors.
Policy CD-6.7	Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown skyline.
Policy CD-6.8	Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.
Policy CD-6.9	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
Policy CD-6.10	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
Policy CD-6.11	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

3.1.1.2 *Existing Conditions*

The project site is located on a developed parcel within an urbanized area of San José. The property is currently occupied by a two-story commercial building, a designated City Landmark known as the Realty Building. The site is located in a mixed commercial and residential area in Downtown San José. The project site is bordered by the following land uses:

- North: commercial/offices, multi-family residential, North Second Street
- South: commercial/offices, East Santa Clara Street

- East: North Second Street, commercial/offices
- West: commercial

Photographs of the property are presented in Figure 13, and an aerial of the project area is provided in Figure 3. As shown in the photos, the project site consists of an existing two-story commercial building with architecturally historic features.

The project proposes to partially demolish the Realty Building, a designated City Landmark. The project would remove the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. The project proposes to construct a 146,458-gross square foot, 22-story building. Approximately 18,643 square feet of commercial uses would be located on the first and second floors and a total of 220 affordable senior housing units would be located on the third through 22nd floors. The total building height would be approximately 239 feet (to top of elevator shaft).

The basement would be used for utilities and a fitness center. A rooftop deck is also proposed for residential community open space and installation of solar panels. Building height would be approximately 239 feet.

The project site is currently occupied by an existing two-story commercial building that is listed in the City's Historic Resources Inventory as a designated City Landmark. The project proposes to demolish the building, with the exception of the front façade, and use a similar façade treatment for the new building or similar design. The conceptual site plan is presented in Figure 4 and floor plans are provided in Figures 5a-5j. Elevations are shown in Figure 6.

3.1.2 Impacts and Mitigation

3.1.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to aesthetics would be considered significant if the project would:

a) Have a substantial effect on a scenic vista;

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

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

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

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and

implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the Downtown Strategy 2040 FEIR. Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant aesthetics impacts, as described below.

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

3.1.2.2 *Project Impacts*

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

Most of downtown San José is relatively flat topographically and prominent views, other than those from taller buildings, are limited. The existing two-story building on the site affords minimal views due to the surrounding existing built environment that includes mid-rise buildings on most sides. Two 13-story buildings are located across the street on North Second Street. The project is located northeast of the First Street Gateway, as identified on the City General Plan Scenic Corridors Diagram and would be required to adhere to the Attractive Gateway Policies of the General Plan.

The existing building is visible from adjacent public streets, including North Second Street. The proposed residential tower would be visible from locations in the vicinity of the project site. Visual simulations of the proposed project from East Santa Clara Street are presented in Figure 11a, while a visual simulation of the proposed project from North Second Street is presented in Figure 11b. As shown in Figures 11a and 11b, the proposed residential tower would be visible to those traveling along North Second Street and East Santa Clara Street. The project is located in the Downtown Core, where high-rise buildings contribute to the developed downtown skyline, and would be consistent with policies from the 2040 General Plan, including Policy CD-6.7. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is not visible from any state-designated scenic routes, the nearest of which is Highway 9 located several miles away near the City of Saratoga. (The nearest *eligible* state scenic route is a portion of SR 280 approximately 3.5 miles from the project site.) The project site is not visible from Highway 9 and, therefore, would not impact scenic resources within a state-designated scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is located on a developed parcel within urbanized downtown San José. The project would alter the existing visual character of the site and its immediate surroundings by introducing a new approximately 239-foot-high residential tower. An architectural rendering of the proposed building is presented in Figure 10. The project proposes to remove the majority of the extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby.

The project site is surrounded by mid- to high-rise buildings. Other high-rise buildings planned in the project area are presented in Table 20, Cumulative Projects List. The proposed residential tower would generally be of similar scale to existing and planned development in the area and would be consistent with the growth and design envisioned in the City's General Plan and Downtown Design Guidelines. When viewed at street-level, the proposed ground floor retail space would be consistent with existing and planned ground-floor retail space uses at existing nearby development.

The project is located within the Downtown Core and is surrounded by several mid to high-rise developments. The project is subject to the Downtown Design Guidelines, the City's Urban Design review process, as well as review by the City's Historic Landmarks Commission.

The project is subject to review by the City's Historic Landmarks' Commission (HLC) Design Review Subcommittee to determine if the project is compatible with the historic Realty Building and does not adversely impact the significance of this City Landmark that has been found to be eligible for State, and National listing as well. A detailed discussion of the project's consistency with applicable historic design guidelines is provided in *Section 3.3 Cultural Resources* of this SEIR.

Views from Public Viewpoints

The change in visual character from the public vantage point on East Santa Clara Street is presented in Figure 11a, while the change in visual character from North Second Street is presented in Figure 11b. As shown in the photo simulations, the project would introduce a building tower above the existing streetscape, to a height of approximately 239 feet. Although the project would substantially increase the density of development on the site, it is consistent with the urban concepts and strategies identified in the Downtown Strategy 2040 and would contribute to the developed downtown skyline, consistent with General Plan Policy CD-6.7.

Shade Effects

A solar/shade simulation was prepared for the project by Anderson Architects and is presented in Figure 12, showing the increased shadows attributable to the proposed residential tower. A significant impact would occur if the proposed project resulted in a ten percent or greater

increase in shadows cast onto any of the six major open space areas in Downtown (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park). The closest of these six public areas is St. James Park, located approximately 450 feet north of the proposed project site. The results show that the proposed tower would not increase shadows at St. James Park, located north of the project site. As shown in Figure 12, shadows from the proposed building would not encroach onto St. James Park. See *Section 3.11 Land Use and Planning* for additional discussion of the shade effects of the project.

In summary, the project is consistent with the existing zoning and General Plan designation for the project site. Additionally, the project would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. Further discussion of the project's conformance with the Secretary of Interior Standards for historic buildings is discussed in *Section 3.5 Cultural Resources*. **[Same Impact as Approved Project (Less than Significant Impact)]**

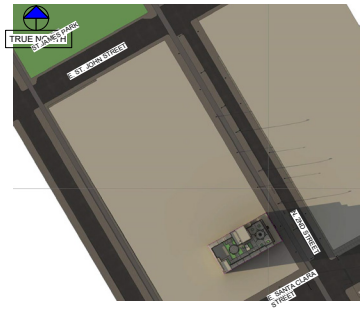
d) **Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

Sources of nighttime light from the proposed residential tower would include external lights, security lights, and internal building lights. Projects within the Downtown Core are exempt from City Policy 4-3, Outdoor Lighting on Private Developments. However, lighting would be designed and managed consistent with Building Code regulations and adopted City policies to control the amount of light spilling onto streets and sidewalks, adjacent properties, and to protect the night sky. Final lighting plans, including light brightness, intensity and shielding, would be reviewed subsequent to permit approval.

The proposed exterior materials of the building would consist of non-reflective glass and building materials to minimize glare, consistent with the relevant design guidelines and standards for downtown. It is not anticipated that glare from the glass on the exterior of the proposed buildings will adversely affect nearby uses or vehicles traveling on surrounding roadways.

The General Plan EIR concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare, but that implementation of existing regulations, General Plan policies, and provisions of other adopted plans would avoid substantial light and glare impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

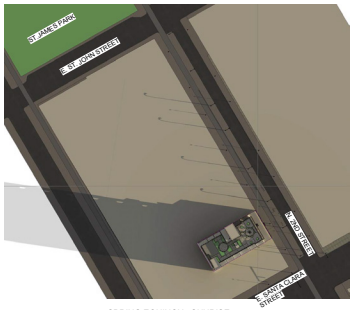
Conclusion: Similar to the analysis in the Downtown Strategy 2040 FEIR, all project impacts on aesthetics would be less than significant.



SPRING EQUINOX - SUNSET

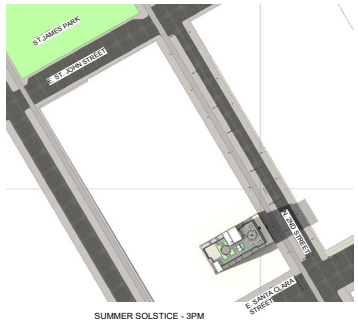
SPRING EQUINOX - 3PM

SPRING EQUINOX - NOON

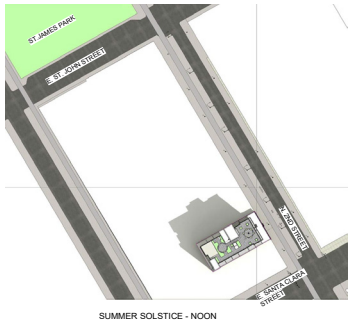


SPRING EQUINOX - SUNRISE

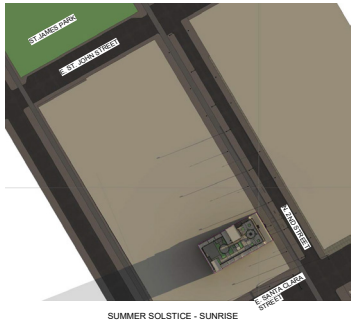
SUMMER SOLSTICE - SUNSET



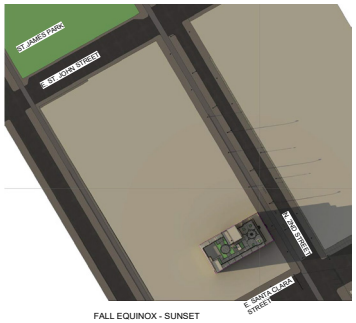
SUMMER SOLSTICE - 3PM



SUMMER SOLSTICE - NOON

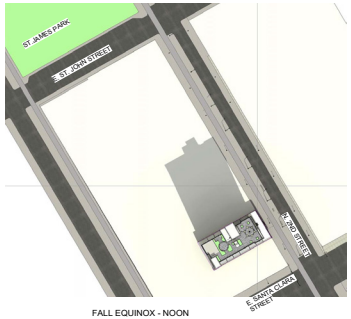


SUMMER SOLSTICE - SUNRISE

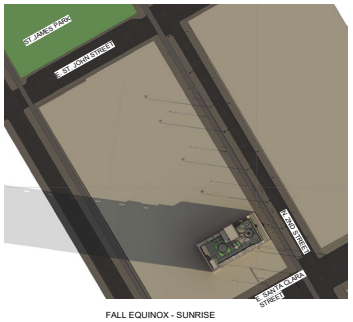


FALL EQUINOX - SUNSET

FALL EQUINOX - 3PM

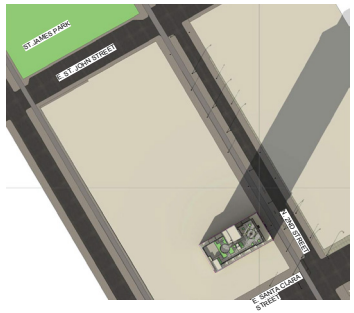


FALL EQUINOX - NOON

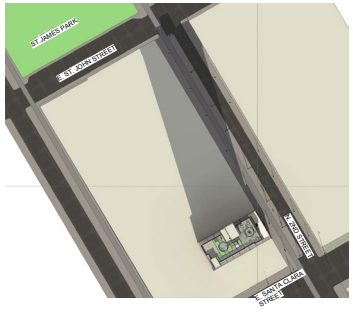


FALL EQUINOX - SUNRISE

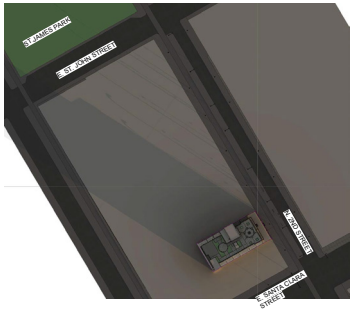
WINTER SOLSTICE - SUNSET



WINTER SOLSTICE - 3PM



WINTER SOLSTICE - NOON



WINTER SOLSTICE - SUNRISE

Source: Anderson Architects, May 2022

Shade Simulations

19 N. 2nd Street Mixed-Use SEIR

Figure 12

Photo 1. View of site from N. Second St looking west, showing the existing building.

Photo 2. View of site along N. Second St looking south, showing the existing building on the right.

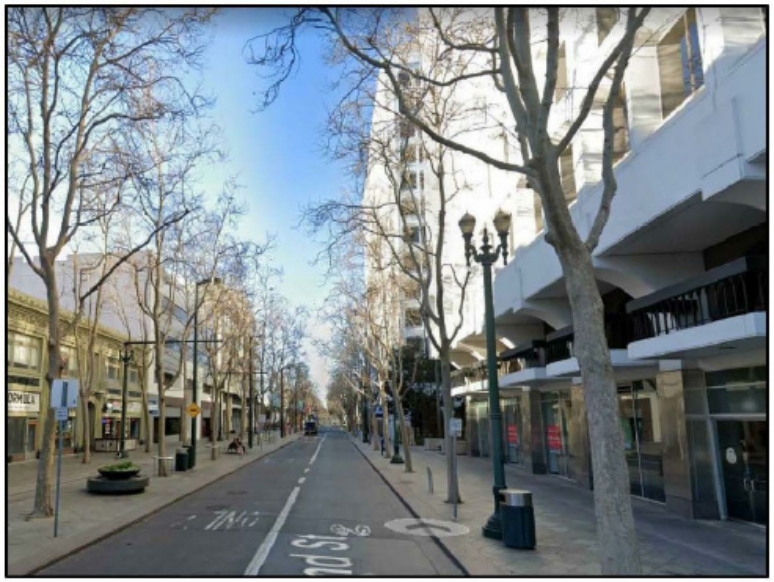


Photo 3. View of site from N. Second St looking south, showing existing building on the left.

Photo 4. View of existing development along N. Second St surrounding the site.

Source: Google, February 2020

Site Photos

19 N. 2nd Street Mixed-Use SEIR

Figure 13

3.2 Agricultural and Forestry Resources

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

State

California Land Conservation Act

The Williamson Act, officially designated as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners, for the purpose of restricting specific parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments that are based on farming and open space as opposed to full market value. Regulations and rules regarding implementation of Williamson Act contracts are established by local participating cities and counties, as guided by the Williamson Act.

Land Evaluation and Site Assessment

The California Agricultural Land Evaluation and Site Assessment (LESA) was developed by the California Department of Conservation to provide a standardized point-based approach for the rating of relative importance of agricultural land. The LESA model ensures that an optional methodology is available for lead agencies to determine if a project will result in potentially significant effects on the environment as a result of agricultural land conversion. The LESA model is based on specific measurable features, including project size, soil quality, surrounding agricultural and/or protected resource lands, and water resource availability, which are weighted, rated and combined to provide a numeric score. The score serves as the basis for making a determination of potential significance for a project.

Farmland Mapping and Monitoring Program

The California Department of Conservation prepares and maintains farmland map data for counties throughout the state, including for Santa Clara County, through the Farmland Mapping and Monitoring Program (FMMP). The FMMP produces statistical data and maps for the purpose of analyzing potential impacts on agricultural resources. The FMMP is designed to regulate the conversion of agricultural land to permanent non-agricultural uses. The FMMP contains a rating system based on soil quality and irrigation status, with the best quality land being designated as "Prime Farmland". Maps are updated every two years using computer mapping, aerial photography, public review, and field reconnaissance. The FMMP for Santa Clara County has data from 1984 to the present day, including historical land use conversion, PDF maps, and GIS data.

Local

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts from development projects. The following policies are relevant to agricultural resources:

Envision San José 2040 Relevant Agricultural Resources Policies	
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Existing Conditions

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. This developed infill project site does not contain any agricultural and forest/timber resources.

In California, agricultural land is given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the U.S. Department of Agriculture land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. The project area is identified as "Urban and Built-Up Land" on the 2016 Santa Clara County Important Farmland Map (California Department of Conservation, 2018).

The site does not contain any forest land as defined in Public Resources Code Section 12220(g), timberland as defined by Public Resources Code Section 4526, or property zoned for Timberland Production as defined by Government Code Section 51104(g).

3.2.2 Impacts and Mitigation

3.2.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to agricultural and forestry resources would be considered significant if the project would:

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

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

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section

4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))

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

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

3.2.2.2 *Project Impacts*

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

The project site is an infill property and designated as Urban and Built-Up Land on the Important Farmlands Map for Santa Clara County and does not contain any prime farmland, unique farmland, or farmland of statewide importance. The project would not affect agricultural land. **[Same Impact as Approved Project (No Impact)]**

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

The project is proposed on a developed infill property, is not zoned for agricultural use, and does not contain lands under Williamson Act contract; therefore, no conflicts with agricultural uses would occur. **[Same Impact as Approved Project (No Impact)]**

c) **Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?**

The project would not impact forest resources since the site does not contain any forest land as defined in Public Resources Code Section 12220(g), timberland as defined by Public Resources Code Section 4526, or property zoned for Timberland Production as defined by Government Code Section 51104(g). **[Same Impact as Approved Project (No Impact)]**

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

See c) above. No other changes to the environment would occur from the project that would result in the loss of forest land or conversion of forest land to non-forest uses. **[Same Impact as Approved Project (No Impact)]**

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

As per the discussion above, the project site is developed and therefore, would not involve or result in changes to the existing environment or in the conversion of farmland or forest land. **[Same Impact as Approved Project (No Impact)]**

Conclusion: Similar to the evaluation in the Downtown Strategy 2040 FEIR, there would be no project-level impacts on agricultural and forestry resources.

3.3 Air Quality

The following discussion of air quality is based primarily on an air quality assessment prepared for the project by Illingworth & Rodkin, Inc. (July 2021). This assessment is contained in Appendix B.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

Federal

Federal Clean Air Act and the United States Environmental Protection Agency

The Federal Clean Air Act (CAA) authorized establishing federal air quality standards and setting deadlines for their attainment. The CAA of 1970, as amended, establishes air quality standards for several pollutants. The CAA identifies specific emission reduction goals, requires both a demonstration of reasonable future progress and attainment, and incorporates more stringent sanctions for failure to meet interim milestones. The United States Environmental Protection Agency (U.S. EPA) is the federal agency charged with administering the CAA and other air quality-related legislation.

The U.S. EPA administers the National Ambient Air Quality Standards (NAAQS) under the Federal Clean Air Act. The U.S. EPA sets the NAAQS and determines if areas meet those standards. Violations of ambient air quality standards are based on air pollutant monitoring data and judged for each air pollutant. Areas that do not violate ambient air quality standards are considered to have attained the standard. The U.S. EPA has classified the project region as a nonattainment area for the 8-hour O_3 standard and the 24-hour $PM_{2.5}$ standard. The Bay Area has met the CO standards for over a decade and is classified as an attainment area by the U.S. EPA. The U.S. EPA has deemed the project region as attainment/unclassified for all other air pollutants, which include PM_{10}. At the State level, the Bay Area is considered nonattainment for ozone, PM_{10} and $PM_{2.5}$.

State

California Clean Air Act

The Federal Clean Air Act (CAA) allows California to seek a waiver of the federal preemption that prohibits states and local jurisdictions from enacting emission standards and other emission-related requirements for new motor vehicles and engines (CAA section 209(a)). The California Air Resources Board (CARB) serves as the representative of California in filing waiver requests with U.S. EPA. After California files a written request for a waiver, U.S. EPA will publish a notice for a public hearing and submission of comments in the *Federal Register*. After consideration of comments received, the Administrator of U.S. EPA will issue a written determination on California's request, which is also published in the *Federal Register*.

California Air Resources Board

As discussed above, 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 (CCAA). 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.

Diesel Risk Reduction Plan

In September 2000, CARB adopted the Diesel Risk Reduction Plan, which recommended many control measures to reduce the risks associated with diesel PM. In addition, the Diesel Risk Reduction Plan set Diesel PM reduction goals of 75 percent by 2010 and 85 percent by 2020. The Diesel Risk Reduction Plan includes various measures designed to reduce the localized risks associated with activities that expose individuals to diesel PM emissions, including construction activities.

Regional and Local

Bay Area Air Quality Management District (BAAQMD)

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The 2010 CEQA Air Quality Guidelines were updated in May 2017 by the BAAQMD. The updates addressed the California Supreme Court's 2015 opinions in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

To attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors, which are summarized in Table 1 in the impact discussion below.

2017 Bay Area Clean Air Plan

The BAAQMD and other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) develop plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which BAAQMD adopted in April 2017. This plan is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

General Plan Policies

Policies in the City's General Plan have been adopted to avoid or mitigate air quality impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, project proponents must prepare health risk assessments according to 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 minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

3.3.1.2 *Existing Conditions*

Air Pollutants and Contaminants

Multiple federal and state standards govern air pollution to regulate and mitigate health impacts. At the federal level, there are six criteria pollutants for which National Ambient Air Quality Standards (NAAQS) have been established: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), suspended particulate matter ($PM_{2.5}$ and PM_{10}), and sulfur dioxide (SO_2). California sets standards similar to the NAAQS as California Ambient Air Quality Standards (CAAQS). Health effects of the primary criteria pollutants (i.e., the NAAQS) and their potential sources are described below and summarized in Table 1. Note that California includes pollutants or contaminants that are specific to certain industries and not associated with this project. These include hydrogen sulfide and vinyl chloride.

Ozone

Ozone is a secondary air pollutant produced in the atmosphere through a complex series of photochemical reactions involving reactive organic gases (ROG) and oxides of nitrogen (NO_X). The main sources of ROG and NO_X, often referred to as ozone precursors, are combustion processes (including combustion in motor vehicle engines) and the evaporation of solvents, paints, and fuels. In the Bay Area, automobiles are the single largest source of ozone precursors. Ozone is referred to as a regional air pollutant because its precursors are transported and diffused by wind concurrently with ozone production through the photochemical reaction process. Ozone causes eye irritation, airway constriction, shortness of breath, and can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema.

Carbon Monoxide

Carbon monoxide (CO) is an odorless, colorless gas usually formed as the result of the incomplete combustion of fuels. The single largest source of CO is motor vehicles. While CO transport is limited, it disperses with distance from the source under normal meteorological conditions. However, under certain extreme meteorological conditions, CO concentrations near congested roadways or intersections may reach unhealthful levels that adversely affect local sensitive receptors (e.g., residents, schoolchildren, the elderly, hospital patients, etc.). Typically, high CO concentrations are associated with roadways or intersections operating at unacceptable levels of service (LOS) or with extremely high traffic volumes. Exposure to high concentrations of CO reduces the oxygen-carrying capacity of the blood and can cause headaches, nausea, dizziness, fatigue, impair central nervous system function, and induce angina (chest pain) in persons with serious heart disease. Very high levels of CO can be fatal.

Nitrogen Dioxide

Nitrogen Dioxide (NO_2) is a reddish-brown gas that is a byproduct of combustion processes. Automobiles and industrial operations are the main sources of NO_2. Aside from its contribution to ozone formation, NO_2 also contribute to other pollution problems, including a high concentration of fine particulate matter, poor visibility, and acid deposition. NO_2 may be visible as a coloring component on high pollution days, especially in conjunction with high ozone levels. NO_2 decreases lung function and may reduce resistance to infection. On January 22, 2010, the U.S. EPA strengthened the health-based NAAQS for NO_2.

Sulfur Dioxide

Sulfur dioxide (SO_2) is a colorless, irritating gas formed primarily from the incomplete combustion of fuels containing sulfur. Industrial facilities also contribute to gaseous SO_2 levels in the region. SO_2 irritates the respiratory tract, can injure lung tissue when combined with fine particulate matter and reduces visibility and the level of sunlight.

Particulate Matter

Particulate matter is the term used for a mixture of solid particles and liquid droplets found in the air. Coarse particles are those that are larger than 2.5 microns but smaller than 10 microns (PM_{10}). $PM_{2.5}$ refers to fine suspended particulate matter with an aerodynamic diameter of 2.5 microns or less that is

not readily filtered out by the lungs. Nitrates, sulfates, dust, and combustion particulates are major components of PM_{10} and $PM_{2.5}$. These small particles can be directly emitted into the atmosphere as by-products of fuel combustion, through abrasions, such as tire or brake lining wear, or through fugitive dust (wind or mechanical erosion of soil). They can also be formed in the atmosphere through chemical reactions. Particulates may transport carcinogens and other toxic compounds that adhere to the particle surfaces and can enter the human body through the airways and into the lungs.

Lead

Lead is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been mobile and industrial. As a result of the phase-out of leaded gasoline, metal processing is currently the primary source of lead emissions. The highest levels of lead in the air are generally found near lead smelters. Other stationary sources are waste incinerators, utilities, and lead-acid battery manufacturers.

Twenty years ago, mobile sources were the main contributor to ambient lead concentrations in the air. In the early 1970s, the U.S. EPA established national regulations to gradually reduce the lead content in gasoline. In 1975, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. The EPA banned the use of leaded gasoline in highway vehicles in December 1995. As a result of the EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector and lead levels in the air decreased dramatically.

Air Pollutants of Concern in the Bay Area

High ozone levels are caused by the cumulative emissions of ROG and NO_X. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduce lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants

In addition to the criteria pollutants discussed above, TACs are another group of pollutants of concern. TACs are injurious in small quantities and are regulated by the EPA and the California Air Resources Board (CARB). Some examples of TACs include benzene, butadiene, formaldehyde, and hydrogen sulfide. The identification, regulation, and monitoring of TACs is relatively recent compared to that for criteria pollutants.

High volume freeways, stationary diesel engines, and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truck stops) were identified as posing the highest risk to adjacent

receptors. Other facilities associated with increased risk include warehouse distribution centers, large retail or industrial facilities, high-volume transit centers, or schools with a high volume of bus traffic. Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of project sites and at new TAC sources that the project would introduce. These sources include railroads, highways, busy surface streets, and stationary sources identified by BAAQMD.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the state's Proposition 65 or under the Federal Hazardous Air Pollutants programs. Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Table 1
Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
Carbon Monoxide (CO)	• Incomplete combustion of fuels and other carbon-containing substances, such as motor exhaust. • Natural events, such as decomposition of organic matter.	• Reduced tolerance for exercise. • Impairment of mental function. • Impairment of fetal development. • Death at high levels of exposure. • Aggravation of some heart diseases (angina).
Nitrogen Dioxide (NO_2)	• Motor vehicle exhaust. • High temperature stationary combustion. • Atmospheric reactions.	• Aggravation of respiratory illness. • Reduced visibility. • Reduced plant growth. • Formation of acid rain.
Ozone (O_3)	• Atmospheric reaction of organic gases with nitrogen oxides in sunlight.	• Aggravation of respiratory and cardiovascular diseases. • Irritation of eyes. • Impairment of cardiopulmonary function. • Plant leaf injury.
Lead (Pb)	• Contaminated soil.	• Impairment of blood functions and nerve construction. • Behavioral and hearing problems in children.
Suspended Particulate Matter ($PM_{2.5}$ and PM_{10})	• Stationary combustion of solid fuels. • Construction activities. • Industrial processes. • Atmospheric chemical reactions.	• Reduced lung function. • Aggravation of the effects of gaseous pollutants. • Aggravation of respiratory and cardiorespiratory diseases. • Increased cough and chest discomfort. • Soiling. • Reduced visibility.
Sulfur Dioxide (SO_2)	• Combustion of sulfur-containing fossil fuels. • Smelting of sulfur-bearing metal ores. • Industrial processes.	• Aggravation of respiratory diseases (asthma, emphysema). • Reduced lung function. • Irritation of eyes. • Reduced visibility. • Plant injury. • Deterioration of metals, textiles, leather, finishes, coatings, etc.
Toxic Air Contaminants	• Cars and trucks, especially diesels.	• Cancer. • Chronic eye, lung, or skin irritation.

Table 1 Health Effects of Air Pollutants		
Pollutants	**Sources**	**Primary Effects**
	• Industrial sources such as chrome platers. • Neighborhood businesses such as dry cleaners and service stations. • Building materials and product.	• Neurological and reproductive disorders.
Source: CARB, 2009. ARB Fact Sheet: Air Pollution and Health, see: https://www.arb.ca.gov/research/health/fs/fs1/fs1.htm accessed May 1, 2018.		

Air Quality Setting

The project is located in Santa Clara County, which is part of the San Francisco Bay Area Air Basin. The Air Basin includes the counties of San Francisco, Santa Clara, San Mateo, Marin, Napa, Contra Costa, and Alameda, along with the southeast portion of Sonoma County and the southwest portion of Solano County. This project is within the jurisdiction of the BAAQMD. Air quality conditions in the San Francisco Bay Area have improved significantly since the BAAQMD was created in 1955. Ambient concentrations of air pollutants, and the number of days during which the region exceeds air quality standards, have fallen dramatically. Exceedances of air quality standards occur primarily during meteorological conditions conducive to high pollution levels, such as cold, windless winter nights or hot, sunny summer afternoons.

Local Climate and Air Quality

Air quality is a function of both local climate and local sources of air pollution. Air quality is the balance of the natural dispersal capacity of the atmosphere and emissions of air pollutants from human uses of the environment. Climate and topography are major influences on air quality.

Climate and Meteorology

During the summer, mostly clear skies result in warm daytime temperatures and cool nights in the Santa Clara Valley. Winter temperatures are mild, except for very cool but generally frost-less mornings. Further inland, where the moderating effect of the bay is not as strong, temperature extremes are greater. Wind patterns are influenced by local terrain, with a northwesterly sea breeze typically developing during the daytime. Winds are usually stronger in the spring and summer. Rainfall amounts are modest, ranging from 13 inches in the lowlands to 20 inches in the hills.

Air Pollution Potential

Ozone and fine particle pollution, or $PM_{2.5}$, are the major regional air pollutants of concern in the San Francisco Bay Area. Ozone is primarily a problem in the summer, and fine particle pollution in the winter. Most of Santa Clara County is well south of the cooler waters of the San Francisco Bay and far from the cooler marine air, which usually reaches across San Mateo County in summer. Ozone frequently forms on hot summer days when the prevailing seasonal northerly winds carry ozone precursors southward across the county, causing health standards to be exceeded. Santa Clara County experiences many exceedances of the $PM_{2.5}$ standard each winter. This is due to the high population density, wood smoke, industrial and freeway traffic, and poor wintertime air circulation caused by extensive hills to the east and west that block wind flows into the region. Recently, wildfires have

caused many days per year of unhealthy air during summer and fall due to high particle pollution (e.g., $PM_{2.5}$ and PM_{10} levels that exceed standards).

Attainment Status Designations

The CARB is required to designate areas of the state as attainment, nonattainment, or unclassified for all state standards. An "attainment" designation for an area signifies that pollutant concentrations did not violate the standard for that pollutant in that area. A "nonattainment" designation indicates that a pollutant concentration violated the standard at least once, excluding those occasions when a violation was caused by an exceptional event, as defined in the criteria. An "unclassified" designation signifies that data does not support either an attainment or nonattainment status. The CCAA divides districts into moderate, serious, and severe air pollution categories, with increasingly stringent control requirements mandated for each category.

Table 2 shows the state and federal standards for criteria pollutants and provides a summary of the attainment status for the San Francisco Bay Area with respect to national and state ambient air quality standards.

Table 2
NAAQS, CAAQS, and San Francisco Bay Area Attainment Status

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Carbon Monoxide (CO)	8-Hour	9 ppm (10 mg/m^3)	Attainment	9 ppm (10 mg/m^3)	Attainment
	1-Hour	20 ppm (23 mg/m^3)	Attainment	35 ppm (40 mg/m^3)	Attainment
Nitrogen Dioxide (NO_2)	Annual Mean	0.030 ppm (57 mg/m^3)	Attainment	0.053 ppm (100 µg/m^3)	Attainment
	1-Hour	0.18 ppm (338 µg/m^3)	Attainment	0.100 ppm	Unclassified
Ozone (O_3)	8-Hour	0.07 ppm (137 µg/m^3)	Nonattainment	0.070 ppm	Nonattainment
	1-Hour	0.09 ppm (180 µg/m^3)	Nonattainment	Not Applicable	Not Applicable
Suspended Particulate Matter (PM_{10})	Annual Mean	20 µg/m^3	Nonattainment	Not Applicable	Not Applicable
	24-Hour	50 µg/m^3	Nonattainment	150 µg/m^3	Unclassified
Suspended Particulate Matter ($PM_{2.5}$)	Annual Mean	12 µg/m^3	Nonattainment	12 µg/m^3	Attainment
	24-Hour	Not Applicable	Not Applicable	35 µg/m^3	Nonattainment
Sulfur Dioxide (SO_2)	Annual Mean	Not Applicable	Not Applicable	80 µg/m^3 (0.03 ppm)	Attainment
	24-Hour	0.04 ppm (105 µg/m^3)	Attainment	365 µg/m^3 (0.14 ppm)	Attainment
	1-Hour	0.25 ppm (655 µg/m^3)	Attainment	0.075 ppm (196 µg/m^3)	Attainment

Lead (Pb) is not listed in the above table because it has been in attainment since the 1980s. ppm = parts per million, mg/m^3 = milligrams per cubic meter, µg/m^3 = micrograms per cubic meter
Source: Bay Area Air Quality Management District, 2017. Air Quality Standards and Attainment Status. January 5.

Existing Air Pollutant Levels

BAAQMD monitors air pollution at various sites within the Bay Area. The closest air monitoring station (158 Jackson Street) that monitored O_3, CO, NO, NO_2, PM_{10}, and $PM_{2.5}$ over the past five years (2015 through 2019) is in the City of San José, approximately 3.5 miles north of the project site. The data shows that the project area has exceeded the state and/or federal O3, PM10, and PM2.5 ambient air quality standards during the past few years. The most recent time-period available illustrating air quality trends collected by BAAQMD and CARB is presented in Table 3. Ozone standards (including 1-hr concentration and 8-hr concentration) were exceeded for 1 to 4 days annually between 2015 and 2019. Measured 24-hour PM_{10} concentrations were exceeded for 4 to 6 days between 2017 and 2019, and $PM_{2.5}$ concentrations were exceeded for 6 to 15 days in 2017 and 2018. As a note, these levels were influenced by smoke from wildfires.

Table 3
Ambient Air Quality Concentrations from 2015 through 2019

Pollutant	Standard	2015	2016	2017	2018	2019
Ozone						
Max 1-hr concentration		94 ppb	87 ppb	121 ppb	78 ppb	95 ppb
No. days exceeded: CAAQS	90 ppb	0	0	3	0	1
Max 8-hr concentration		81 ppb	66 ppb	98 ppb	61 ppb	81 ppb
No. days exceeded: CAAQS NAAQS	70 ppb 70 ppb	2 2	0 0	4 4	0 0	2 2
Carbon Monoxide						
Max 1-hr concentration		2.4 ppm	2.0 ppm	2.1 ppm	2.5 ppm	1.7 ppm
No. days exceeded: CAAQS NAAQS	20 ppm 35 ppm	0 0	0 0	0 0	0 0	0 0
Max 8-hr concentration		1.8 ppm	1.4 ppm	1.8 ppm	2.1 ppm	1.3ppm
No. days exceeded: CAAQS NAAQS	9.0 ppm 9 ppm	0 0	0 0	0 0	0 0	0 0
PM_{10}						
Max 24-hr concentration		58 µg/m^3	41 µg/m^3	70 µg/m^3	122 µg/m^3	77 µg/m^3
No. days exceeded: CAAQS NAAQS	50 µg/m^3 150 µg/m^3	1 0	0 0	6 0	4 0	4 0
Max annual concentration		22.0 µg/m^3	18.5 µg/m^3	21.6 µg/m^3	23.1 µg/m^3	19.2 µg/m^3
No. days exceeded: CAAQS	-	-	-	-	-	-
$PM_{2.5}$						
Max 24-hr concentration		49.4 µg/m^3	22.6µg/m^3	49.7 g/m^3	133.9µg/m^3	27.6 µg/m^3
No. days exceeded: NAAQS	35 µg/m^3	2	0	6	15	0
Annual Concentration		10.0 g/m^3	8.4 µg/m^3	9.5 µg/m^3	12.8µg/m^3	12.8µg/m^3
No. days exceeded: CAAQS NAAQS	12 µg/m^3 12 µg/m^3	- -	- -	- -	- -	- -

Table 3 Ambient Air Quality Concentrations from 2015 through 2019						
Pollutant	**Standard**	**2015**	**2016**	**2017**	**2018**	**2019**
Nitrogen Dioxide						
Max 1-hr concentration		49 ppb	51 ppb	68 ppb	86 ppb	60 ppb
No. days exceeded:	0.18 ppm	0	0	0	0	0
CAAQS NAAQS	0.100 ppm	0	0	0	0	0
Annual Concentration		13 ppb	11 ppb	12 ppb	13 ppb	11 ppb
No. days exceeded:	0.030 ppm	-	-	-	-	-
CAAQS NAAQS	0.053 ppm	-	-	-	-	-
Source: Bay Area Air Quality Management District, 2020, Web: https://www.baaqmd.gov/about-air-quality/air-quality-summaries. California Air Resource Board, 2020, Web: https://arb.ca.gov/adam/select8/sc8start.php						

Sensitive Receptors

The BAAQMD defines sensitive receptors as facilities where sensitive population groups are located, including residences, schools, childcare centers, convalescent homes, and medical facilities. Land uses such as schools and hospitals are considered more sensitive than the general public to poor air quality because of increased susceptibility to respiratory distress within the populations associated with these uses. For cancer risk assessments, children are the most sensitive receptors since they are more susceptible to cancer-causing TACs. Residential locations are assumed to include infants and small children.

The project would introduce new sensitive receptors to the site for the senior housing component. The closest sensitive receptors to the project site are to the north and southeast of the project site. There are additional sensitive receptors at farther distances surrounding the site.

3.3.2 Impacts and Mitigation

3.3.2.1 *BAAQMD Thresholds*

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the Bay Area. The applicable thresholds are presented below in Table 4.

Table 4 BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operational Thresholds**	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x,	54	54	10
$PM_{2.5}$	54 (exhaust)	54	10
PM_{10}	82 (exhaust)	82	15

Table 4 BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operational Thresholds**	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/year)**
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust ($PM_{2.5}$, PM_{10})	Dust Control Measures or other Best Management Practices	None	
Health Risks and Hazards for Sources within 1,000 Feet of Project			
Excess Cancer Risk	10 per one million	10 per one million	
Chronic or Acute Hazard Index	1.0	1.0	
Incremental annual average $PM_{2.5}$	0.3 µg/m^3	0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		
Notes: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; GHG = greenhouse gas; ppm = parts per million; µg/m^3 = micrograms per cubic meter			

3.3.2.2 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to air quality would be considered significant if the project would:

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

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

c) Expose sensitive receptors to substantial pollutant concentrations; or

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

3.3.2.3 *Project Impacts*

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

The 2017 Clean Air Plan, adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the Clean Air Plan. The consistency of the project with the applicable control measures is presented below in Table 5.

The proposed project would not conflict with the latest Clean Air Plan's planning efforts because: 1) the project's development capacity is included in the adopted San José Downtown Strategy 2040 Plan, 2) the project would have construction and operational emissions below the BAAQMD thresholds (see discussion below), 3) the project would be considered urban infill, 4) the project would be located near employment and service centers, and, 5) the project would be located near transit with regional connections. Therefore, the project would have a less than significant impact on the applicable air quality plan (Clean Air Plan). **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

Table 5
2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include long-term and short-term bicycle parking consistent with City's Zoning Ordinance standards. The sidewalk in front of the site will be maintained. Therefore, the project is consistent with this measure.
Energy Control Measures		
Decrease Electricity Demand	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with Building Energy Efficiency Standards (Municipal Code Title 24), which would help reduce energy consumption. The project would also be required to comply with the City's Green Building Policy (Council Policy 8-13), which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Building Control Measures		
Green Buildings	Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with	The project would be required to comply with CALGreen and the City's Green Building Policy (Council Policy 8-13) and the most recent California Building Code, increasing building efficiency over standard construction. Therefore, the project is consistent with this control measure.

Table 5 2017 CAP Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	additional partners to target reducing emissions from specific types of buildings.	
Water Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would be required to adhere to State and local policies to conserve water, including the implementation of a stormwater control plan. The project would also be required to incorporate water conservation measures. Therefore, the project is consistent with this control measure.

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

The San Francisco Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide.

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of the proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the San Francisco Bay Area Air Basin. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts. The applicable thresholds are presented above in Table 4.

As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established significance thresholds for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both operational and construction period impacts.

The air quality assessment for the project used the California Emissions Estimator Model (CalEEMod) Version 2020.4.0 to estimate air pollutant emissions from construction and operation of the project at buildout (see Appendix B). The proposed project land uses were entered into CalEEMod for the 0.22-acre site as follows:

- Congregate Care (Assisted Living)[4]: 220 units, 152,964 square feet
- Strip Mall: 18,643 square feet [5]

Operational Emissions

The impact of operational emissions for planned downtown developments, which include this land use, was addressed in the Downtown Strategy FEIR and found to be significant and unavoidable for the plan area. The project's operational air emissions would be generated primarily from the project generator and autos driven by future employees, visitors, and customers. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses. As shown in Table 6, operational emissions would not exceed the BAAQMD significance thresholds, representing a less than significant impact.

Table 6
Operational Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
2031 Annual Project Operational Emissions (*tons/year*)	1.56	0.66	0.89	0.24
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	***No***	***No***	***No***	***No***
2031 Daily Project Operational Emissions (*pounds/day*)[1]	8.53	3.60	4.88	1.30
BAAQMD Thresholds (pounds/day)	*54* lbs.	*54* lbs.	*82* lbs.	*54* lbs.
Exceed Threshold?	***No***	***No***	***No***	***No***

[1] Assumes 365-day operation

Construction Emissions

On-site activities would primarily be made up of construction equipment emissions, while off-site activity would include worker, hauling, and vendor traffic. A construction build-out scenario for future development, including an equipment list and schedule, was based on default CalEEMod information provided by the applicant.

CalEEMod was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The CARB Emission Factors 2021 (EMFAC2021) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks.

Average daily emissions were annualized for each year of construction by dividing the annual construction emissions by the number of active workdays during that year. Table 7 shows the annualized average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during the project's construction. As indicated in Table 7, predicted annualized project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction. In addition, the Downtown Strategy FEIR identifies best management

[4] Land use applied to senior housing per CalEEMod. Square footage for the building has been subsequently reduced; therefore, the results represent a conservative assessment.
[5] Land use applied to commercial uses per CalEEMod.

practices to control dust and exhaust during construction, further reducing air pollutant emissions from the project.

Table 7 Construction Period Emissions				
Scenario	**ROG**	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Construction Emissions Per Year (Tons)				
2023	0.13	0.40	0.02	0.02
2024	0.90	0.84	0.04	0.03
2025	0.35	0.09	0.01	<0.01
Average Daily Construction Emissions Per Year (pounds/day)				
2023 (261 construction workdays)	1.00	3.06	0.17	0.12
2024 (262 construction workdays)	6.88	6.41	0.32	0.26
2025 (109 construction workdays)	6.33	1.74	0.11	0.07
BAAQMD Thresholds (pounds per day)	*54* lbs./day	*54* lbs./day	*82* lbs./day	*54* lbs./day
Exceed Threshold?	**No**	**No**	**No**	**No**

Although construction period emissions would not exceed the BAAQMD significance thresholds, the BAAQMD CEQA Air Quality Guidelines require implementation of best management practices. During any construction period ground disturbance, the project contractor would be required to implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below as standard permit conditions for the future medical office or commercial equivalency would further reduce the air quality impacts associated with grading and new construction. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

Standard Permit Conditions

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

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

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

Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. The proposed project would introduce new sources of TACs during construction (i.e., on-site construction and truck hauling emissions) and during operation (i.e., stationary and mobile sources).

Project construction activity would generate dust and equipment exhaust that would affect nearby sensitive receptors. The project would also include the installation of a stand-by diesel generator and would generate some traffic consisting of mostly light-duty vehicles, which would produce TAC and air pollutant emissions.

Project impacts to existing sensitive receptors were addressed for temporary construction activities and long-term operational conditions. There are also several sources of existing TACs and localized air pollutants in the vicinity of the project. The impact of the existing sources of TACs was also assessed in terms of the cumulative risk, which includes the project contribution, as well as the risk on the new sensitive receptors introduced by the project.

Community Health Risk Impacts Associated with Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations. However, construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issue associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$. The risk assessment included dispersion modeling to predict the offsite and onsite concentrations resulting from project construction, so that increased cancer risks and non-cancer health effects could be evaluated.

The increased cancer risk calculations were based on applying the BAAQMD recommended age sensitivity factors to the TAC concentrations. Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer-causing TACs. Third trimester, infant, child, and adult exposures were assumed to occur at all residences during the entire construction period.

The maximum modeled annual $PM_{2.5}$ concentration was calculated based on combined exhaust and fugitive concentrations. The maximum modeled annual DPM and $PM_{2.5}$ concentrations, which includes both the DPM and fugitive $PM_{2.5}$ concentrations, were identified at nearby

sensitive receptors to find the maximally exposed individual (MEI). Results of this assessment indicated that the construction MEI was located at a residence on the second floor (20 feet above ground) to the southeast of the project site opposite East Santa Clara Street. The location of the MEI and nearby sensitive receptors are shown in Figure 14. Table 8 lists the community risks from construction at the location of the construction MEI.

Community Risks from Project Operation – Traffic and Generators

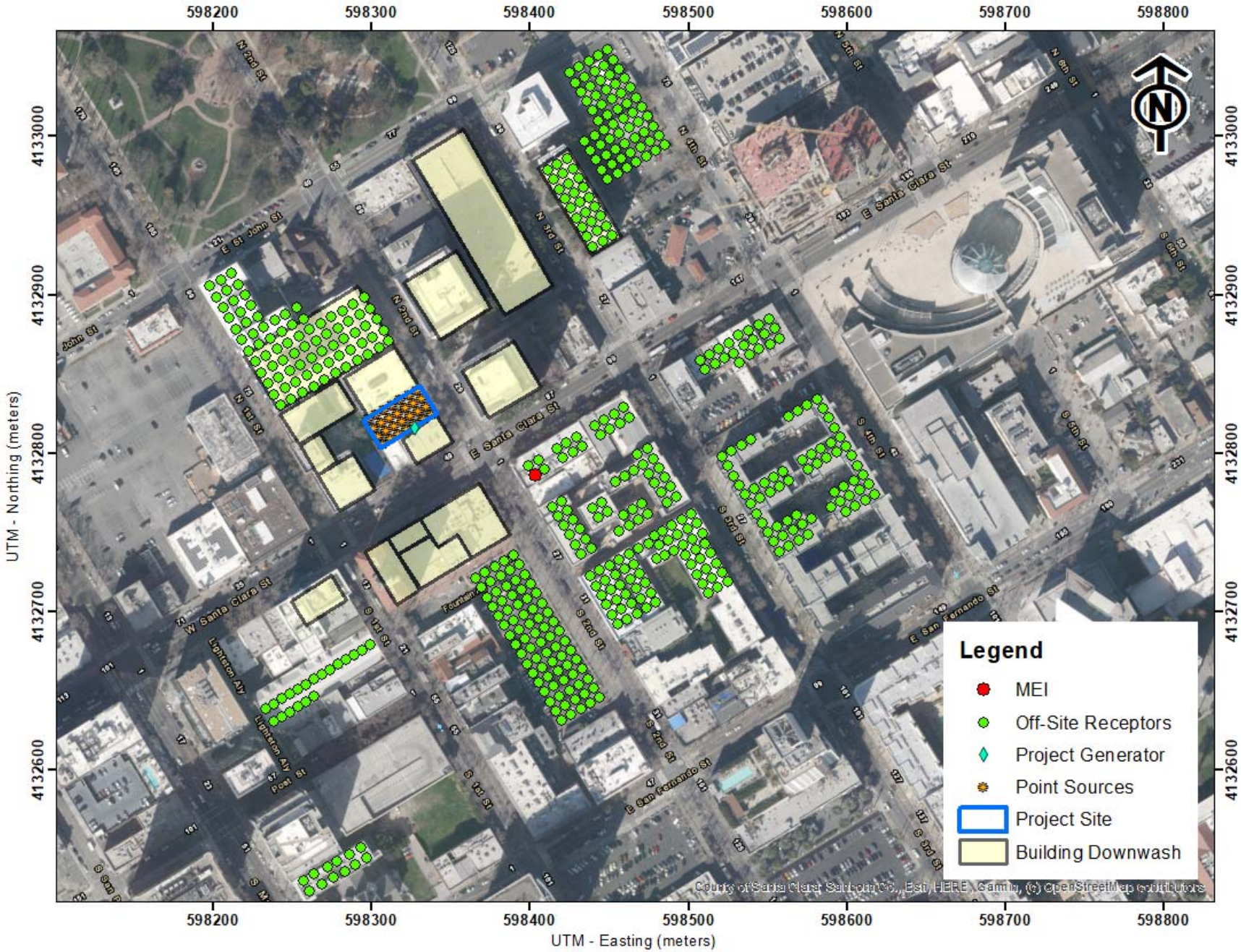
Operation of the project (medical office or commercial equivalent) would have long-term emissions from mobile sources (i.e., traffic) and stationary sources (e.g., generator). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

Diesel-powered vehicles are the primary concern with local traffic-generated TAC impacts. Per BAAQMD recommended risks and methodology, a road with less than 10,000 total vehicles per day is considered a low-impact source of TACs and not considered in the CEQA analysis.[6] Project traffic data was not available at the time of this study because the project is not anticipated to generate substantial traffic and no on-site parking is proposed. Any project trips would be primarily from light-duty gasoline-powered vehicles (i.e., passenger cars). The project is part of the planned growth in the downtown area and would contribute to the significant operational emissions forecast from the full build out evaluated in the Downtown Strategy 2040, which was found to result in a significant and unavoidable regional criteria pollutant impact. The project is proposing no vehicle parking, which would discourage use of single-occupant vehicles to get to and from the site, proposes bicycle parking to meet the City's standard, is located in an area with access to transit (i.e., adjacent to a VTA Light Rail), and would design the building to facilitate transit access (i.e., locate building entrances near transit stops). Therefore, emissions from project-generated traffic are considered negligible and not included in this analysis.

The project proposes to include one stand-by emergency diesel generator along the southern border of the basement level of the project site. It was assumed that the generator's emissions would be released along the outer boundary of the building's generator room. The generator was estimated to be 500-kW powered by a 670-HP diesel engine.

Operation of a diesel generator would be a source of TAC emissions. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet EPA emission standards and consume commercially available low sulfur diesel fuel. The emissions from the operation of the generator were calculated using the CalEEMod model.

[6] Bay Area Air Quality Management District, 2012, *Recommended Methods for Screening and Modeling Local Risks and Hazards, Version 3.0.* May. Web: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/risk-modeling-approach-may-2012.pdf?la=en



Source: Illingworth & Rodkin, July 2021

Location of Nearby Sensitive Receptors and Maximally Exposed Individual

19 N. 2nd Street Mixed-Use SEIR

Figure 14

This generator's diesel engine would be subject to CARB's Stationary Diesel Airborne Toxics Control Measure (ATCM) and require permits from the BAAQMD, since it would be equipped with an engine larger than 50-HP. BACT requirements would apply to the generator that would limit DPM emissions. As part of the BAAQMD permit requirements for toxics screening analysis, the engine emissions will have to meet Best Available Control Technology for Toxics (BACT) and pass the toxic risk screening level of less than ten in a million. BAAQMD would prepare the risk assessment. Depending on results, BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally will not be considered to have a significant air quality community risk impact. Table 8 lists the community risks from stand-by diesel generator at the location of residential MEI.

Table 8
Construction and Operation Risk Impacts at the Offsite Project MEI

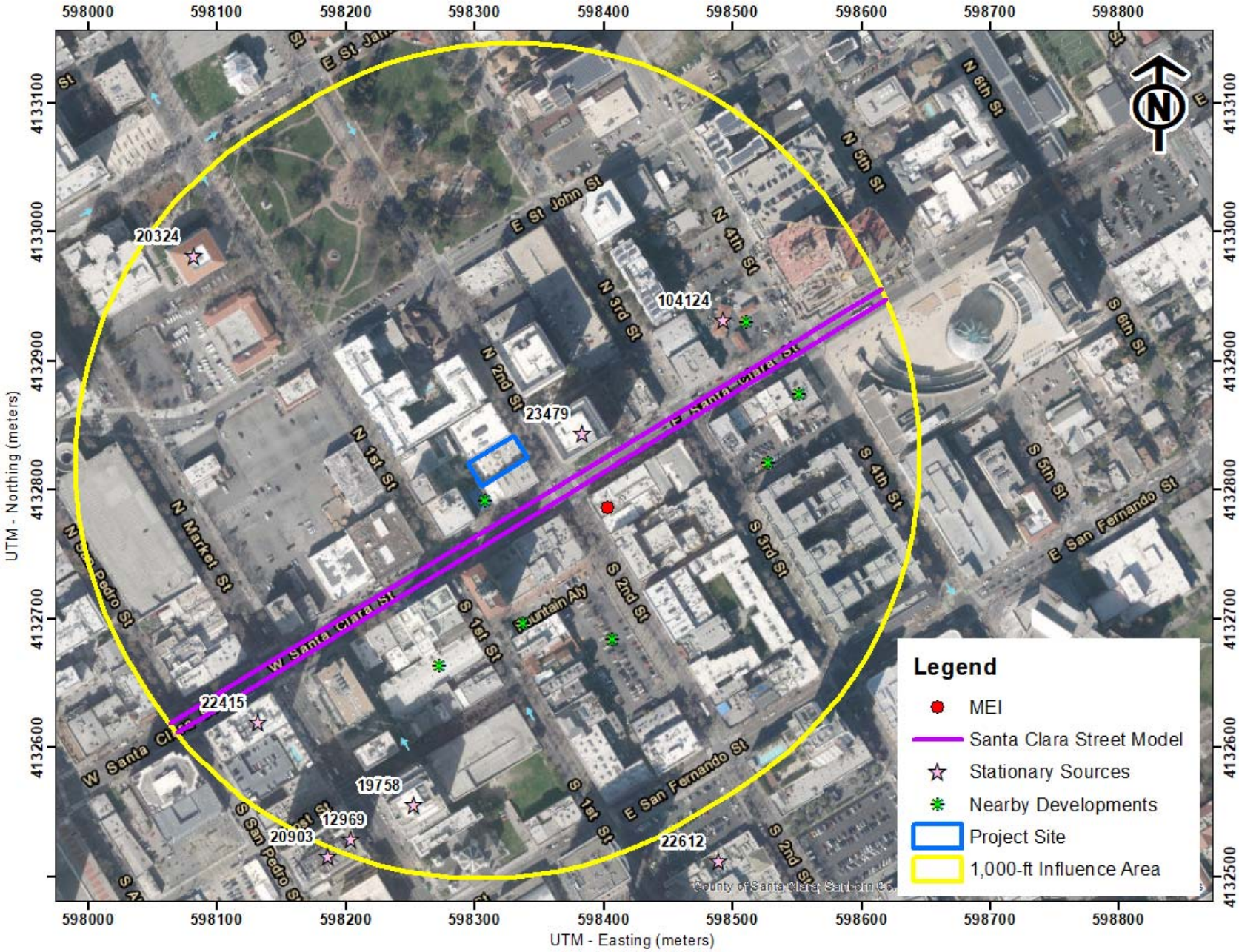
Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction (Years 0-3)			
Unmitigated	**13.33 (infant)**	0.06	0.01
Mitigated*	1.89 (infant)	0.02	<0.01
Project Generator, One 500-kW, 670-HP (Years 3-30)	1.18	0.01	<0.01
Total/Maximum Project Impact (Years 0-30)			
Unmitigated	**14.51 (infant)** [1]	0.06	0.01
Mitigated*	3.07 (infant)	0.02	<0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?			
Unmitigated	***Yes***	*No*	*No*
Mitigated*	*No*	*No*	*No*

* Construction equipment with Tier 4 interim engines and BMPs as Mitigation.
[1] Adult exposure would be 0.22.

Cumulative Community Risks of all TAC Sources at Project MEI

The cumulative risk impacts from a project are the combination of construction and operation sources. These sources include on-site construction activity, project generator, and increased traffic from the project. The project impact is computed by adding the construction cancer risk for an infant/child to the increased cancer risk for the project operational conditions for the generator at the MEI over a 30-year period. The project MEI is identified as the sensitive receptor that is most impacted by the project's construction and operation.

For this project, the sensitive receptors identified in Figure 14 as the construction MEI is also the project MEI. The MEI would be exposed to 3 years of construction cancer risks and 27 years of operational (includes stand-by generator) cancer risks at this location. The cancer risks from construction and operation of the project were summed together. Unlike the increased maximum cancer risk, the annual $PM_{2.5}$ concentration and HI risks are not additive but based on an annual maximum risk for the entirety of the project.



Source: Illingworth & Rodkin, July 2021

Nearby TAC and $PM_{2.5}$ Sources

19 N. 2nd Street Mixed-Use SEIR

Figure 15

A review of the project area shows that traffic on East Santa Clara Street would exceed 10,000 vehicles per day (refer to Appendix A). Other nearby streets are assumed to have less than 10,000 vehicles per day. A review of BAAQMD's stationary source map website identified eight stationary sources with the potential to affect the project MEI. In addition, there are several development projects whose construction would contribute to the cumulative risk. The risk impacts from these developments are included within the analysis. Figure 15 shows the location of the sources affecting the MEI. Community risk impacts from these sources upon the MEI reported in Table 8.

Summary

Table 9 reports both the project and cumulative community risk impacts at the sensitive receptors most affected by project construction and operation (i.e., the project MEI). The project would have an exceedance with respect to community risk caused by project construction and operation activities, since the maximum unmitigated cancer risk exceeds the BAAQMD single-source threshold. With the implementation of best management practices to control dust and exhaust during construction and implementing mitigation measures identified below the project's cancer risk would be lowered to a level below the single-source threshold. The cancer risk, annual $PM_{2.5}$ concentration, and HI, unmitigated and mitigated, do not exceed their respective cumulative-source thresholds.

Table 9
Cumulative Community Risk Impacts at the Location of the Project MEI

Source		Maximum Cancer Risk (per million)	$PM_{2.5}$ Concentration ($\mu g/m^3$)	Hazard Index
Project Impacts				
Total/Maximum Project Impact	Unmitigated	**14.51 (infant)**	0.06	0.01
	Mitigated	3.07 (infant)	0.02	<0.01
BAAQMD Single-Source Threshold		***10***	***0.3***	***1.0***
Exceed Threshold?	Unmitigated	***Yes***	*No*	*No*
	Mitigated	*No*	*No*	*No*
Cumulative Operational Sources				
E. Santa Clara Street, ADT 16,978		1.38	0.09	<0.01
Verizon Business - SBEZCA (Facility ID #12969, Generator), MEI at +1,000 feet		1.85	<0.01	<0.01
60 SOMA Fee Owner CA,LLC c/o Harvest Properties (Facility ID #19758, Generator), MEI at 800 feet		0.38	<0.01	-
Judicial Council of California, JCC 43-B2 (Facility ID #20324, Generator), MEI at +1,000 feet		4.99	0.01	0.01
CoreSite (Facility ID #20903, Generator), MEI at +1,000 feet		3.00	<0.01	<0.01
Essex OSM Reit LLC (Facility ID #22415, Generator), MEI at 960 feet		0.14	-	-
Digital Realty (Facility ID #22612, Generator), MEI at 890 ft		0.07	-	-
SV Towers Investments LLC, C/O Harvest Properties (Facility ID #23479, Generator), MEI at 140 feet		1.58	-	-

Table 9 Cumulative Community Risk Impacts at the Location of the Project MEI			
Source	**Maximum Cancer Risk (per million)**	**$PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Hazard Index**
Chevron #4259 (Facility ID #23479, Gas Station), MEI at 500 feet	0.62	-	<0.01
Cumulative Temporary Construction Sources			
Eterna Tower Mitigated Construction Emissions – 250 ft northwest	<4.24	<0.09	<0.01
Fountain Alley Mixed-use Mitigated Construction Emissions – 115 feet southwest	<5.11	<0.10	<0.01
Fountain Alley Office Mitigated Construction Emissions – 275 ft southwest	<4.50	<0.03	<0.01
27 West Mitigated Construction Emissions – 450 feet west	<2.40	<0.05	<0.01
Hotel Clariana Mitigated Construction Emissions – 360 ft east	<8.80	<0.07	<0.01
BDG Mixed-Use Mitigated Construction Emissions – 560 feet east	<5.00	<0.15	<0.50
Icon-Echo Mitigated Construction Emissions – 480 feet northeast	<7.46	<0.05	<0.01
Combined Sources Unmitigated Mitigated	 <66.03 <54.59	 <0.73 <0.69	 <0.62 <0.62
BAAQMD Cumulative Source Threshold	***100***	***0.8***	***10.0***
Exceed Threshold? Unmitigated Mitigated	*No* *No*	*No* *No*	*No* *No*

Impact AQ-1: Development of the project would result in 14.51 (infant) cancer cases per one million, which exceeds the maximum single-source unmitigated cancer risk threshold of 10 in one million established by the BAAQMD.

Mitigation Measures

MM AQ-1 Prior to the issuance of any grading or demolition permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by a qualified air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleet-wide average of a 35 percent reduction or more in diesel particulate matter (DPM) exhaust emissions which would reduce DPM emissions below the BAAQMD threshold. Specifically, this plan shall include, but is not limited to, the measures identified below:

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 60 percent reduction in particulate

matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).

- Use of electrical or non-diesel fueled equipment.

The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first).

CalEEMod was used to compute emissions associated with this mitigation measure, assuming that all equipment larger than 25 horsepower met U.S. EPA Tier 4 interim engines standards and the DTS best management practices for construction were included. The project's construction cancer risk levels (assuming infant exposure) would be reduced by 86 percent to 1.89 chances per million with these implemented. Once the construction risk is combined with the operational generator cancer risk, the project's total mitigated cancer risk level would be 3.07 chances per million. The project's annual $PM_{2.5}$ concentrations would be reduced by 67 percent to 0.02 $\mu g/m^3$. Therefore, the project's risk impacts would no longer exceed the BAAQMD single-source significance thresholds. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

Future development on the site is not expected to create emissions that include new sources of odor. Common sources of odors and odor complaints include uses such as transfer stations, recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. Operation of the mixed-use project would not introduce odor generating uses. During construction, use of diesel-powered vehicles and equipment could temporarily generate localized odors, which would cease upon project completion. This represents a temporary impact and implementation of abatement measures for construction period emissions would further enure that this impact is less than significant. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Conclusion: The project would have a less than significant impact with incorporation of the mitigation measure and standard permit conditions identified above. Similar to the evaluation in the Downtown Strategy 2040 FEIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors with mitigation incorporated and implementation of the identified Standard Permit Conditions.

Non-CEQA Effects

The proposed residential component of the project would introduce new residents that are sensitive receptors. In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects

of the existing environment on a project. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA.

However, General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of project design measures to avoid significant risks. The project proposes new sensitive receptors (elderly residential occupants) in the proximity of nearby potential TAC sources. Though not necessarily a CEQA issue, the effect of existing TAC sources on future project receptors was conducted to comply with the 2017 CAP goal of reducing TAC exposure and protecting public health as well as the City's General Plan Policy MS-11.1.

On-Site Community Risk Assessment for TAC Sources - New Project Residences

In addition to evaluating health impacts from project construction, a health risk assessment was completed to assess the impact existing TAC sources would have on the new proposed sensitive receptors (residents) of the project. The same TAC sources identified above were used in this health risk assessment (see Figure 16).

Local Roadways – East Santa Clara Street. Maximum increased cancer risks were calculated for the residents at the project site using the maximum modeled TAC concentrations. A 30-year exposure period was used in calculating cancer risks assuming the residents would include third trimester pregnancy and infants/children and were assumed to be in the new building area for 24 hours per day for 350 days per year. The highest impacts from East Santa Clara Street occurred at third-floor receptors of the unit in the southeast corner of the project's tower closest to the roadway. Cancer risks associated with East Santa Clara Street are greatest closest to the roadway and decrease with distance from the road. The roadway's community risk impacts at the project site are shown in Table 9.

Stationary Sources. The stationary source screening analysis for the new project sensitive receptors was conducted in the same manner as described above for the project MEI. Table 9 shows the health risk assessment results from the stationary sources.

Construction Risk Impacts from Nearby Developments. The same mitigated construction risks from the nearby developments were included in the cumulative table for the on-site project sensitive receptors. However, the on-site project sensitive receptors would only be exposed to a portion of the construction from the nearby developments, as opposed to the project MEI, which could be exposed to the entire portion of the nearby developments' construction. Therefore, the construction risks from the nearby developments would be lower at the proposed on-site project sensitive receptors.

Cumulative Community Health Risk at Project Site. Community risk impacts from the existing TAC sources upon the project site are reported in Table 10. The risks from the singular TAC sources are compared against the BAAQMD single-source threshold. The risks from all the sources are then combined and compared against the BAAQMD cumulative-source threshold. As shown, none of the sources exceed the cancer risk, annual $PM_{2.5}$ concentration, or HI single-source or cumulative-source thresholds.

Source: Illingworth & Rodkin, July 2021

Project Site and Location of Maximum TAC Impacts

19 N. 2nd Street Mixed-Use SEIR

Figure 16

Table 10 Impacts from Combined Sources to Project Site Receptors			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Fixed Operational Sources			
E. Santa Clara Street, ADT 16,978	0.68	0.04	<0.01
Verizon Business - SBEZCA (Facility ID #12969, Generator), Project Site at 900 feet	1.85	<0.01	<0.01
60 SOMA Fee Owner CA,LLC c/o Harvest Properties (Facility ID #19758, Generator), Project Site at 730 feet	0.44	<0.01	-
Judicial Council of California, JCC 43-B2 (Facility ID #20324, Generator), Project Site at 800 feet	6.87	0.01	0.01
CoreSite (Facility ID #20903, Generator), Project Site at 900 feet	3.00	0.01	<0.01
Essex OSM Reit LLC (Facility ID #22415, Generator), Project Site at 750 feet	0.25	-	-
Digital Realty (Facility ID #22612, Generator), Project Site at +1,000 ft	0.06	-	-
SV Towers Investments LLC, C/O Harvest Properties (Facility ID #23479, Generator), Project Site at 75 feet	2.73	-	-
Chevron #4259 (Facility ID #23479, Gas Station), Project Site at 535 feet	0.53	-	<0.01
Temporary Construction Sources			
Eterna Tower Mitigated Construction Emissions – 5 ft southwest	<4.24	<0.09	<0.01
Fountain Alley Mixed-use Mitigated Construction Emissions – 330 feet southwest	<5.11	<0.10	<0.01
Fountain Alley Office Mitigated Construction Emissions – 340 ft southwest	<4.50	<0.03	<0.01
27 West Mitigated Construction Emissions – 415 feet southwest	<2.40	<0.05	<0.01
Hotel Clariana Mitigated Construction Emissions – 510 ft southeast	<8.80	<0.07	<0.01
BDG Mixed-Use Mitigated Construction Emissions – 465 feet southeast	<5.00	<0.15	<0.50
Icon-Echo Mitigated Construction Emissions – 540 feet east	<7.46	<0.05	<0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?	*No*	*No*	*No*
Cumulative Total	<53.92	<0.62	<0.61
BAAQMD Cumulative Source Threshold	***100***	***0.8***	***10.0***
Exceed Threshold?	*No*	*No*	*No*

3.4 Biological Resources

3.4.1 Environmental Setting

3.4.1.1 *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 Stated 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 will 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" said 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, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protection

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbances during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and /or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (Habitat Plan) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The project site is located within the boundaries of the Habitat Plan and is designated as follows:

- Area 4: Urban Development Equal to or Greater than 2 Acres Covered
- Land Cover: Urban-Suburban
- Land Cover Fee Zone: Urban Areas (No Land Cover Fee)

In addition, the Habitat Plan indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the Habitat Plan area, including the host plants that support the Bay checkerspot butterfly. Because serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project site. The displacement of native serpentine plant species and subsequent decline of several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County.

City of San José Tree Ordinance

The City of San José's Municipal Code includes tree protection measures (Municipal Code Title 13, Chapters 13.28 [Street Trees, Hedges and Shrubs] and 13.32 [Tree Removal Controls]) that regulate the removal of trees. An "ordinance-sized tree" on private property is defined as any tree having a main stem or trunk, 12 inches in diameter (38 inches or more in circumference) at a height measured 54 inches (4.5 feet) above ground. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 54 inches above grade. On single-family or duplex lots, a permit is required to remove ordinance-sized trees, even if they are unhealthy or dead. On multi-family, commercial, or industrial lots, a permit is required to remove a tree of any size. The Code defines a "heritage tree" as any tree that because of factors including but not limited to its history, girth, height, species or unique quality, has been found by the City Council to have a special significance to the community. Pruning or removing a heritage tree is illegal without first consulting the City Arborist and obtaining a permit. Finally, street trees are those that are located in the public right-of-way between the curb and sidewalk. A permit is required before pruning or removing a street tree.

Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

The City's Riparian Corridor Policy Study analyzed streams and riparian corridors in the City of San José and addresses how development should protect and preserve these riparian corridors. Furthermore, the City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-34) supplements the regulations for riparian corridors and provides guidance for project design that protects and preserves these riparian corridors (City of San José 2016). The Riparian Corridor Policy applies to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation, whichever is greater. It requires commercial/industrial buildings to observe a 100-foot setback from the riparian corridor and orient loading docks and other major activity areas away from the riparian corridors (City of San José 2016).

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resource impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Biological Resource Policies	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
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 of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
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 MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

Envision San José 2040 Relevant Biological Resource Policies	
	1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

3.4.1.2 *Existing Conditions*

The project site is located within an urbanized area of San José. The property is occupied by a two-story commercial building and does not contain any trees. There are several street trees located along North Second Street in the project vicinity. The site is surrounded by urban development and the habitat value on the property is considered low.

3.4.2 Impacts and Mitigation

3.4.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to biological resources would be considered significant if the project would:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service;

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;

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

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

3.4.2.2 *Project Impacts*

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

The project site is fully developed with an existing building and the site does not contain any trees or other vegetation. The project, therefore, would not impact any species identified as a candidate, sensitive, or special-status species. **[Less Impact as Approved Project (Less Than Significant Impact)]**

b) **Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?**

The project site is located over 2,500 feet east of the Guadalupe River. The proposed project, therefore, would not affect riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) **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?**

The project site is located within an urban area, surrounded by existing buildings and paved parking lots. State or federally protected wetlands do not occur within the boundaries of the project; therefore, the project would not have a substantial adverse effect on state or federally protected wetlands. **[Same Impact as Approved Project (Less than Significant Impact)]**
.

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

The project is proposed on a fully developed site surrounded by development and does not contain any native resident or wildlife species. Therefore, the project would not 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. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site does not contain any trees and no trees are proposed for removal. The project would not conflict with any local policies or ordinances, protecting biological resources, including tree preservation policies or ordinances, since no biological resources are located on or near the site. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project is located within the SCVHP area and is considered a Covered Activity. The project is located on land designated by the SCVHP as Urban-Suburban. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee would be required for each new vehicle trip generated by the project, at the time of development. The project would implement the following standard permit condition in accordance with the SCVHP and would not conflict with the provisions of the Habitat Plan.

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 (https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=) to the Director of Planning, Building and Code Enforcement (PBCE) 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 https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan

With implementation of the above standard permit conditions the project would result in a less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Conclusion: Similar to the analysis in the Downtown Strategy 2040 FEIR, all project-level impacts on biological resources would be less than significant with implementation of standard permit conditions.

3.5 Cultural Resources

A Historic Evaluation was prepared for the project by TreanorHL (March 2022). This report is contained in Appendix C. An Archaeological Literature Review was prepared by Charles Mikulik Archaeological Consulting, LLC (CMAC) for the project site (May 2021). *The archaeological literature review may discuss locations of specific archaeological sites and is confidential. For this reason, it is not included in this document. Qualified personnel, however, may request a copy of the report through the Lead Agency.*

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal

National Register of Historic Places

The National Register of Historic Places (National Register or NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering, and culture, at the local, State, and national level. 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" and second, the property must retain integrity of those features necessary to convey its significance. A resource is considered eligible for the National Register if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

- are associated with events that have made a significant contribution to the broad pattern of our history; or
- are associated with the lives of persons significant to our past; or
- embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- yielded, or may be likely to yield, information important in prehistory or history.

State

California Health and Safety Code Sections 7050.5 and 7054

Section 7050.5 states that "[i]n the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined… that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation". The coroner shall make his or her determination within two working

days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact by telephone, within 24 hours, the Native American Heritage Commission.

Section 7054 of the California Health and Safety Code regulates the disposal of human remains, classifying the disposal of human remains in any place, except in a cemetery, as a misdemeanor offense, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or both that imprisonment and fine. This section does not apply to the reburial of Native American remains.

California Environmental Quality Act (CEQA) and California Register of Historical Resources

CEQA requires regulatory compliance for projects involving historic resources throughout the State. Under CEQA, public agencies must consider the effects of their actions on historic resources (Public Resources Code, Section 21084.1). The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)].

The California Register of Historical Resources was created to identify resources deemed worthy of preservation and was modeled closely after the National Register of Historic Places. The criteria are nearly identical to those of the National Register, which includes resources of local, State, and regional and/or national levels of significance. Under California Code of Regulation Section 4852(b) and Public Resources Code Section 5024.1, an historical resource generally must be greater than 50 years old and must be significant at the local, State, or national level under one or more of the following four criteria:

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

Properties of local significance that have been designated under a local preservation ordinance (local landmarks register or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code, Section 5024.1g; California Code of Regulations, Title 14, Section 4850).

California Code of Regulations Section 4852(c) addresses the issue of "integrity," which is necessary for eligibility for the California Register. 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." Section 4852(c) provides that historical resources eligible for listing in the California Register must meet one of the criteria for significance defined by 4852(b)(1 through

4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance.

Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

California Assembly Bill 52

California Assembly Bill (AB) 52 went into effect on July 1, 2015 and establishes a new category of CEQA resources for "tribal cultural resources" (Public Resources Code §21074). The intent of AB 52 is to provide a process and scope that clarifies California tribal government's involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. AB 52 also creates a process for consultation with California Native American Tribes in the CEQA process. Tribal Governments can request consultation with a lead agency and give input into potential impacts to tribal cultural resources before the agency decides what kind of environmental assessment is appropriate for a proposed project. The Public Resources Code requires avoiding damage to tribal cultural resources, if feasible. If not, lead agencies must mitigate impacts to tribal cultural resources to the extent feasible.

Archaeological Resources and Human Remains

Archaeological sites are protected by policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and identifies appropriate measures for the treatment and disposition of human remains and grave-related items.

Both State law and the County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found. If the Coroner determines the remains are Native American, the Native American Heritage Commission (NAHC) and a "most likely descendant" must also be notified.

Local

City of San José Criteria

According to the City's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and belongs to one of the following resource categories:

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

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

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;

2. Identification as, or association with, a distinctive, significant or important work or vestige:

    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
    f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The Historic Landmarks Commission reviews applications for landmark designations and "shall find that said proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that its designation as a landmark conforms with the goals and policies of the general plan. In making such findings, the Commission may consider the following factors, among other relevant factors, with respect to the proposed landmark:

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

7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique." (Sec. 13.48.110.H)

Local Planning Regulations

This section provides a design analysis using the standards detailed in the San José Downtown Design Guidelines and Standards (2019, updated 2020). The San José City Council has adopted guidelines prepared by the Planning Division to assist with the design, construction, review and approval of development in downtown San José. These guidelines provide the minimum design standards to be applied to various developments and land uses and serve to facilitate a consistent and efficient review process of proposed developments.

The San José Downtown Design Guidelines and Standards (2019, updated 2020) provide guidance for the form and design of buildings in Downtown, their appearance in the larger cityscape, and their interface with the pedestrian level. The guidelines apply generally to the General Plan Downtown Growth Area and the Diridon Station Area Plan Area; generally bounded in the south by Highway 280, on the north by Coleman Avenue, on the west by Diridon Station, and on the east by San José State University (SJSU). While the SJSU campus is not within the boundary of the Downtown Growth Area, it is included within the proposed Design Guidelines boundary since it contributes significantly to the vitality of downtown. The Design Guidelines also set rules for new buildings and external alterations to non-historic buildings being built near and adjacent to historic and other key structures within the Design Guidelines boundary.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating cultural resource impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Cultural Resource Policies	
Policy CD-6.8	Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.
Policy 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 rehabilitation 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.

Envision San José 2040 Relevant Cultural Resource Policies	
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-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-16.4	Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.
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.

3.5.1.2 *Existing Conditions*

Archaeologic Resources

On April 2, 2021, CMAC conducted a cultural resources records search for the project area at the Northwest Information Center (NWIC) of the California Historical Resources Information System, affiliated with Sonoma State University located in Rohnert Park. The purpose of the record search was to obtain and review previous cultural resource records, cultural resource studies, and any additional documentation pertaining to historic properties located within at least a quarter mile (0.25) of the project site.

In addition, CMAC staff reviewed files held by the NRHP, California Office of Historic Preservation under the California State Historic Preservation Officer, Directory of Properties in the Historic Property Data File, Built Environment Resource Directory, local government listings, and additional listings (i.e., historical society and museum records), as available. CMAC staff also reviewed a variety of historical maps and historic aerial imagery to determine past land use activities that could indicate the likelihood of encountering cultural resources.

The findings of the report indicate that there are known historic-era structures within the project area, there is a moderate to high sensitivity for historic-era archaeological deposits, and a low sensitivity for buried pre-contact archaeological deposits.

Historic Resources on Site

The project site is located along North Second Street in downtown San José, on a block bounded by East Santa Clara Street to the south, North First Street to the west, St. John Street to the north, and North Second Street to the east. The project site is one parcel with a commercial building that is a designated City Landmark. The surrounding area consists of a mix of commercial, institutional, and multi-family residential buildings ranging from two to 14 stories. Site and area photos are provided in Figure 13.

Constructed in 1925 in the Beaux-Arts architectural style, the designated City Landmark, was found eligible under significance criteria 4, 6, and 8 of the Historic Preservation Ordinance and the San José historic context theme of Commerce during the Inter-War period (1918-1945). According to the San José Historic Resources Inventory, the property was also found eligible to be individually listed on the NRHP and CRHR.

According to the DPR form prepared by Dill Design Group (Franklin Maggi and Charlene Duvall) in 2000, the building is a unique Beaux-Arts design "unrivaled in the downtown area and the larger south Bay Area. […] The building would appear to be eligible under Criterion A/1 for its association with the larger Downtown Commercial District located south of East Santa Clara Street and under Criterion C/3 as a work of high artistic value."

The building retains historic integrity of location since it has not been moved. The building has not received any major exterior alterations over time; therefore, it still retains its historic integrity of design, materials, and workmanship. Historic integrity of setting has been compromised by demolition of the late 19th and early 20th century buildings and more recent development at the subject and surrounding blocks. The building retains its historic integrity of association and feeling since it had been continuously used for commercial purposes and still communicates its early 20th century character. Overall, the property retains sufficient historic integrity to communicate its significance.

The character-defining features of the 19 North Second Street building are as follows:

- Two-story front massing with flat roof and one-store rear massing with flat roof
- The symmetrical front façade
- Beaux-Arts ornamentation including pilasters with leafed capitals and a multi-layered cornice
- The recessed arched main entrance
- Four storefronts with wood framed picture windows, wood glazed entry doors, marbled and tile bulkheads, and leaded multi-lite transom windows
- Iron balcony above the entrance
- Rectangular, tripartite, wood-sash windows on the second floors.

The building was designed in the Beaux-Arts architectural style. The following paragraph is excerpted from Dictionary of Architecture and Construction for the Beaux-Arts style:

A grandiose architectural style as taught at the Ecole des Beaux Arts in Paris primarily in the 19th century, widely applied until 1930 […]. Characteristics often include formalism in design, symmetrical plans, heavily rusticated arched masonry, ashlar stone bases with rusticated stonework, especially on the ground floor and raised basement levels; sculptured figures; a massive and symmetric facade, often with a projecting central pavilion; a monumental attic story; commonly decorated with dentils; enriched entablatures; monumental flights of stairs; classical columns often set in close pairs; banded columns, engaged columns, coupled pilasters; highly decorated pilastered parapets; balconies; sculptured spandrels; decorative brackets; sculptured figures; ornamental details such as cartouches, floral patterns, Greek key designs, ornamental keystones, medallions; elaborately decorated panels, and the like; the roof, commonly a flat or low-pitched, hipped, or a mansard roof; often, domes and rotundas; rectangular windows symmetrically placed, with lintels overhead; arched dormers, balustraded windows, pedimented windows, or windows with balconets; doors, commonly paneled with a glass-paneled canopy over the primary entryway, flanked by columns or pilasters; a wrought-iron grille on the exterior side of the entry door.

Historic Resources within 200 Feet

As part of the historic evaluation, a reconnaissance survey of 15 properties within 200 feet of the project site was conducted in January 2021. Each property was photographed and is briefly described in the evaluation in Appendix C. Eight of these properties are listed on the City of San José's Historic Resources Inventory (HRI). Five properties at 52 East Santa Clara (#4), 27-29 Fountain Alley (#6), the Bank of Italy building at 8 South First Street (#7), 28 North First Street (#12), and 34 N. First Street (#13) are designated San José City Landmarks. The Moderne Drug building at 42-50 East Santa Clara Street (#5) is a Candidate City Landmark and 35-49 East Santa Clara Street (#11) is individually eligible for the CRHR. These properties are identified below in Table 11.

The San José Downtown Historic District (also known as the San José Commercial District), a National Register of Historic Places district, is located between East Santa Clara, South First, South Second, and South Fourth Street (along East Santa Clara) to East San Fernando Street. This area contains architecturally and historically significant buildings dating from the 1870s to the early 1940s and continues to serve as Santa Clara Valley's mercantile and financial center. As a listed NRHP district, it is automatically included on the CRHR. The project site is located outside of the San José Downtown Historic District.

Table 11
Properties Within 200 Feet of the Project Site on the City's HRI

Survey #	Address	APN	Name	Architectural Style	Year Built	Designation
#4	52 E. Santa Clara	467-22-148	New Century Block	Renaissance Revival	Ca. 1886	NRHP District, City Landmark, Contributing Structure
#5	42-50 E. Santa Clara	467-22-042	Moderne Drug	Moderne	1930s	NRHP District, Candidate City Landmark, Contributing Structure
#6	28-36 E. Santa Clara	467-22-158	--	Italianate Commercial	1880s	NRHP District, City Landmark (27-29 Fountain Alley)

Table 11 Properties Within 200 Feet of the Project Site on the City's HRI						
Survey #	**Address**	**APN**	**Name**	**Architectural Style**	**Year Built**	**Designation**
	27-29 Fountain Alley					
#7	8-14 S. 1st	467-22-097	Bank of Italy	Renaissance Skyscraper	Ca. 1925	NRHP District, City Landmark, Contributing Structure
#9	17-25 E. Santa Clara	467-21-024	St. Francis Block	Art Deco	1870	Structure of Merit
#11	35-49 E. Santa Clara	467-21-045			Ca. 1889	Eligible for CRHR, Structure of Merit
#12	28 N. 1st	467-54-001	Commercial Building	Renaissance Revival	1926	Eligible for NRHP, Eligible for CRHR, City Landmark
#13	34-40 N. 1st	467-21-021	Knights of Columbus Building	Richardsonian Romanesque	1926	Eligible for NRHP, Eligible for CRHR, City Landmark

The reconnaissance survey of the surrounding 15 properties identified one vacant lot and three properties that are not age eligible for listing in the Historic Resources Inventory as historic resources (less than 50 years old). The remaining 11 properties include eight properties constructed between the 1880s-1927, and three properties constructed between 1937-1960s. Identified architectural styles include Renaissance Revival, Italianate, Richardsonian Romanesque, Moderne, Art Deco, Modern, and contemporary. None of the styles appear to be predominant within the area. All of the buildings were constructed mainly for commercial uses.

The surrounding area was developed in the late 19th and early 20th centuries as the commercial core of downtown San José along East Santa Clara and North First Streets. By 1950, most of the small commercial buildings were replaced by more substantial concrete and brick structures with large footprints. The area changed drastically during the second half of the 20th century with the remodeling of the existing buildings and construction of contemporary commercial and office buildings. More recently, multi-story contemporary apartment and mixed-use buildings have been added to the neighboring blocks.

Of the 11 age-eligible properties within 200 feet, nine buildings maintain recognizable architectural styles and do not appear to be significantly altered. Seven of these buildings are eligible for listing on the NRHP (individually or as district contributors), CRHR, and as City Landmarks: 52 E. Santa Clara (#4), 42-50 East Santa Clara Street (#5), 27-29 Fountain Alley (#6), 33 Fountain Alley (#6), 28 E. Santa Clara (#6), 36 East Santa Clara (#6), 8 South First Street (#7), 35-49 East Santa Clara Street (#11), 28 North First Street (#12), and 34 North First Street (#13). Based on a visual assessment, none of the remaining four commercial buildings appear to have any individual historic architectural significance. They all appear quite modest in character; no other single building stands out as a unique or an exceptional example of a historic architectural style.

3.5.2 Impacts and Mitigation

3.5.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to cultural resources would be considered significant if the project would:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5;

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5; or

c) Disturb any human remains, including those interred outside of dedicated cemeteries.

3.5.2.2 *Project Impacts*

a) **Would the project cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?**

As discussed above, the on-site building is a designated City Landmark, which was found eligible under significance criteria 4, 6, and 8 of the Historic Preservation Ordinance and the San José historic context theme of Commerce during the Inter-War period (1918-1945). According to the San José HRI, 19 North Second Street was also found eligible to be individually listed on the NRHP and CRHR under Criterion A/1 for its association with the larger Downtown Commercial District located south of East Santa Clara Street and under Criterion C/3 as a work of high artistic value. The period of significance under Criterion A/1 would be from 1925, when the building was constructed, to the 1940s, when the downtown commercial district started to decline. The period of significance under Criterion C/3 would be 1925 when the building was constructed. The property retains sufficient historic integrity to communicate its significance.

The project proposes the demolition of the majority of the historic resource except for the front façade, the exterior walls, and a portion of the interior core. The new building would have one level of basement and 22 stories above ground. Commercial space would be located on the first and second floors along with some residential amenities. The residential units would be located in floors three through 22. A roof deck would be provided for community open space. The proposed project would incorporate the existing North Second Street façade into the new building. The new building's front façade would step back approximately 19 feet from the front parcel line and the historic façade above the second floor. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay runs at the center of the front façade. Typical openings would be aluminum-sash and rectangular.

In addition, the project proposes to implement a Preservation Plan prepared by M. Sandoval Architects, Inc. (January 25, 2022). This plan is included as part of Appendix C. The purpose of a Preservation Plan for a historic property is to serve as a planning and management tool that provides information about the historic resource to address existing issues and concerns that may adversely impact the resource. The plan also serves as a proactive guide in the

implementation of corrective measures designed to protect a historic resource from further deterioration. The proposed Preservation Plan for the project identifies strategies for corrective repairs and intervention measures. These corrective repairs and intervention measures would be reviewed and approved by a structural engineer experienced with historic structures, a historic architect, and the City before the work commences. Methods, preservation treatments, and protocols would be implemented in a manner consistent with the recommendations outlined in the *Secretary of the Interior's Standards for the Treatment of Historic Properties.*

The historic evaluation includes a design assessment and compliance analysis to inform the environmental process and determine if the project would result in a substantial adverse change in the significance of or cause an impact to any historic resources as defined by CEQA and to ensure compliance with local planning guidelines and regulations relevant to historic resources. The design assessment and compliance analysis evaluated project conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Standards) and the City's historic regulations to analyze potential on-site impacts. The project was also evaluated for conformance with the San José Downtown Design Guidelines and Standards to assess potential off-site impacts to adjacent historic resources and the site's historic context.

Compliance with the Secretary of the Interior's Standards

The proposed project involves constructing a new building at a site that contains a historical resource under CEQA. A project that has been determined to conform with the Standards can generally be considered as not causing a significant impact (14 CCR Section 15126.4(b)(1)). Therefore, the historic evaluation included an assessment of the project's compliance with the Standards for Rehabilitation (10 total), as summarized below.

Standard 1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

Analysis: The project proposes the demolition of the majority of the historic resource except for the front façade, the exterior walls, and a portion of the interior core and construction of a 22-story tower with commercial spaces on the first and second floors, and senior housing above. Although the proposed commercial spaces would continue the uses on the street, the proposed project would require a significant change to the use of the building and does not comply with Standard 1.

Standard 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

Analysis: The project proposes the demolition of the majority of the historic resource on site, except for its front façade, the exterior walls, and a portion of the interior core. The majority of historic materials, features, or spaces that characterize the property would be removed. Therefore, the proposed project does not comply with Standard 2.

Standard 3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

Analysis: The project proposes demolishing the historic resource at 19 North Second Street except for its front façade, the exterior walls, and a portion of the interior core, and constructing a 22-story tower. The project would incorporate the existing façade the exterior walls, and a portion of the interior core into the new building, which would also feature recessed central bay, and new projecting cornices at the 4th, 12th, 18th and the roof levels. The new projecting cornices are contemporary in design and would not mimic the existing historic features. As proposed, the project complies with Standard 3.

Standard 4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

Analysis: The building received interior alterations in 1956, 1966, and the 1980s. It has not received any major exterior alterations, especially on the front façade. None of the recent alterations were found to have acquired historic significance in their own right. As proposed, the project complies with Standard 4.

Standard 5. Distinctive features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property will be preserved.

Analysis: The proposed project would demolish the majority of the historic resource at 19 North Second Street except for its front façade, the exterior walls, and a portion of the interior core. It would destroy some features, finishes, and construction techniques, particularly the historic building's front two-story massing with flat roof and rear one-story massing with flat roof, the skylights at the rear roof, and the steel-sash windows on the west façade. Therefore, the proposed project does not comply with Standard 5 except for its front façade.

Standard 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacements of a distinctive feature, the new feature will match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

Analysis: Conformance to Standard 6 is being assessed relative to the front facade, the exterior walls, and a portion of the interior core only since the remainder of the building would be demolished. The project drawings received March 2022 specify that the existing finishes and elements of the front façade would be retained including the bulkheads, transoms, pilasters, storefronts, doors and windows, main entry, signage, and untinted glazing. The exterior walls, the interior core walls including walls, stairs, the first-floor entry and lobby, and the second floor lobby will be saved. As proposed, the project complies with Standard 6.

Standard 7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

Analysis: Standard 7 is not applicable. The proposed project does not include chemical or physical treatments to the historic property. Any measures taken to clean existing historic fabric should use the gentlest mean possible.

Standard 8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures will be undertaken.

Analysis Archaeological resources are outside the scope of this assessment.

Standard 9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Analysis: The proposed project will demolish the existing historic resource at 19 North Second Street except for its front façade, the exterior walls, and a portion of the interior core, and construct a new building on the parcel. The project will destroy some historic materials and features including concrete walls, the skylights at the rear roof and the steel-sash windows on the west façade, as well as the spatial relationship that characterize the property; particularly its front two-story massing with flat roof and rear one-story massing with flat roof.

The proposed new building is not compatible with the property and its environment in terms of size, scale, proportion, and massing. The 22-story tower is significantly taller than the existing building and nearby historic and contemporary buildings which range from two to 14 floors. Even though the new building's front façade steps back approximately 19 feet from the front parcel line and the historic façade above the second floor, the proposed massing still overwhelms the historic façade. The overall height, massing, proportion, and scale of the proposed development are far greater than those characteristics of the historic property and its environment.

The new building would feature a recessed central bay and projecting cornices at the 4th, 12th, 18th, and the roof levels, which are contemporary in design and would not mimic the existing historic features. The proposed materials appear compatible with the historic building. The historic front façade is stucco clad with marble and tile bulkheads, wood doors and windows with clear glazing, leaded transoms, and cast-iron balcony railings. The proposed building would use stucco cladding, aluminum windows, and glass railings, which will be compatible with the historic materials. Therefore, the proposed project does not fully comply with Standard 9.

Standard 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Analysis: The proposed project would demolish the existing historic resource at 19 North Second Street except its front façade, the exterior walls, and a portion of the interior core, and

add a 22-story tower. The future removal of the new construction would not restore the essential form and integrity of the historic property since most of the property would no longer be extant. Therefore, the proposed project does not comply with Standard 10.

Summary - Secretary of the Interior's Standards

The proposed project complies with Standards for Rehabilitation 3, 4, and 6. Standards 7 and 8 are not applicable to the proposed project. The proposed project does not comply with Standards for Rehabilitation 1, 2, 5, 9, and 10. Overall, the proposed project does not comply with the Standards for Rehabilitation, and would result in a substantial adverse change in the significance of the historic resource per CEQA. A project that has been determined to conform with the Standards can generally be considered to be a project that will not cause a significant impact. Since this project does not fully conform with the Standards, the historic evaluation subsequently conducted an historic integrity analysis of the historic resource on the site to assess possible impacts. To be listed in the NRHP or CRHR, a property must not only be shown to be significant under the NRHP/CRHR criteria, but it must also show integrity.

To determine if a property retains the physical characteristics corresponding to its historic context, the NRHP has identified the following seven aspects of integrity: location, design, setting, materials, workmanship, feeling, and association. Integrity is assessed with reference to the particular criteria for which the resource is eligible for listing. The Realty Building is designated as a City Landmark and eligible to be individually listed on the NRHP and CRHR. According to the DPR forms, the building is eligible under Criterion C/3, as a work of high artistic value and under Criterion A/1 from 1925 to the 1940s during the development of the downtown area. The period of significance under Criterion C/3 would be 1925 when the building was constructed. Please refer to the historic evaluation contained in Appendix C for additional details.

Conformance with the San José Downtown Design Guidelines and Standards

Adopted in April 2019 and updated in May 2020, the City of San José Downtown Design Guidelines and Standards (2019 DDGS) provide a framework for addressing new construction adjacent to designated and eligible individual historic resources as well as a concentration of historic resources. The 2019 DDGS define Historic Adjacency as follows:

A site has Historic Adjacency when any of the these are true:

a. At least 50% of buildings fully or partially within 200 feet are on the San José Historic Resources Inventory (HRI) or are eligible for HRI listing.
b. The site is within 100 feet of a Designated or Candidate City Landmark or contributor to a district or conservation area.
c. The site is adjacent to a historic building on the Historic Resources Inventory (HRI) or eligible for HRI listing.

The building(s) within the categories above that cause a new building to have Historic Adjacency are the new building's Historic Context. The surrounding properties are mapped and presented in the historic evaluation in Appendix C. The project site has Historic Adjacency as defined by all subcategories:

a. Approximately 53% of the properties within 200 feet of the project site are on the San José HRI,
b. The site is within 100 feet of two Designated City Landmarks (28 North First Street, #12, and 34-40 N. First Street, #13), and
c. The site is adjacent to one historic property identified on the HRI (35-49 East Santa Clara Street, #11).

The project site is also within the "Affected Area" of a Historic Civic Icon building, the Bank of Italy. The project site is not within an identified historic district or conservation area. In this case, applicable guidelines are listed as "4.2.2 Massing Relationship to Context," "4.2.3 Civic Icon Adjacency," and "4.2.4 Historic Adjacency." Supporting analysis is provided below.

4.2.2 Massing Relationship to Context Standards. Create massing transitions between high-rises and lower-scale development.

a. Height transition: If a new building 100 feet tall or more is across the street from or adjacent to a historic building 45 feet tall or less, the new building must step back its front façade 5 feet minimum from the front parcel or setback line at an elevation between 25 and 50 feet.

Analysis: The proposed new building reaches up to 220 feet in height at the roof level and above 239 feet in height at the top of the elevator tower and is adjacent to a historic resource at 49 East Santa Clara Street (#11, APN 467-21-045) which is less than 45 feet tall. The new building's front façade is set approximately 19 feet from the front parcel line and the historic façade above the second floor (at an elevation of 26 feet). The project complies with this standard.

b. Width transition: If a new building is across the street from or adjacent to a historic building that is both 45 feet tall or less, and more than 30 feet narrower than the new building, the new building must create gaps in the Podium Level above the ground floor to divide its street-facing massing into segments no more than 30 feet wider than the widest of the applicable historic buildings.

Analysis: The proposed new building is adjacent to a historic building at 49 East Santa Clara Street (#11), which is less than 45 feet tall. Both the historic building and the proposed new building are approximately 68 feet wide; Standard b does not apply.

c. Rear transition. If a new building 100 feet tall or more is across a parcel line interior to a block from a historic building that is both 45 feet tall or less, the rear portion of the new building must maintain a transitional height of 70 feet or less within the first 20 feet from the property line.

Analysis: The proposed 239-foot-tall building is located across an interior block parcel line to a block from the historic resource at 17 East Santa Clara Street (#9), which is less than 45 feet tall. (The 28 North First Street property at #12 is more than 45 feet tall). The first two floors are built out to the property line. The main massing of the new building is setback approximately five to nine feet from the west property line above the second floor (at an elevation of 26 feet). The new building does not maintain the recommended transitional height;

therefore, it does not comply with Standard c, relative to the historic resource at 17 East Santa Clara Street.

4.2.3 Civic Icon Adjacency Guidelines

a. Use a Streetscape and landscape design that helps to unify the new and existing structure.

Analysis: The new building preserves the entire front façade of the 19 North Second Street City Landmark building and does not propose any new streetscape or landscape elements. The existing Beaux-Arts style façade contributes to the early twentieth century character of the downtown and the Historic Civic Icon building. Therefore, it is consistent with Guideline a.

b. Design a new building in the Civic Icon building Affected Area to avoid dominating the icon to allow the icon to stand out.

Analysis: The new building is located within the Affected Area of the Bank of Italy building which is 200 feet south of the project site. At 22 stories and 239 feet at the top of the elevator, the new building would be significantly taller than the Bank of Italy building, which is approximately 176 feet tall at the top floor (and 255 feet at the top of the antenna spire). However, because the new building is situated on and faces North. Second Street northeast of the Historic Civic Icon building, it would not dominate the primary façades of the iconic building. The Bank of Italy building would still maintain a visually strong independent and iconic design. The proposed design is consistent with Guideline b.

c. Protect and enhance views to the Civic Icon building.

Analysis: The new tower would be at the end of an important view angle that looks northeast from South First Street to East Santa Clara Street. It appears that the new tower would be noticeable from this angle and not allow the Civic Icon building to stand out. The project would not protect and enhance views to the Civic Icon building and, therefore, does not comply with Guideline c.

4.2.4 Historic Adjacency Standards. Incorporate essential urban and architectural characteristics of historic context.
Massing

a. Relate Podium Level building massing to the scale of Historic Context buildings by breaking a large building into masses of similar scale to Historic Context building.

Analysis: The façade of the City Landmark on the site would serve as the podium level for the proposed building. The existing two-story Beaux-Arts style façade with storefronts would relate to the scale of Historic Context building. The proposed project is consistent with this Standard a.

b. Design buildings with rectilinear rather than curved and diagonal forms where rectilinear forms are typical of the Historic Context buildings.

Analysis: The proposed building complies with Standard b, since the overall design has a rectilinear form.

c. Use cornice articulation at the Podium Level at a height comparable to the heights of Historic Context buildings.

Analysis: The façade of the designated City Landmark, including the original cornice, would be maintained and serve as the podium level for the new building. Therefore, the proposed new building is consistent with Standard c.

d. Maintain Streetwall Continuity with Historic Context buildings that are on the same side of the same street by placing the street-side facade of a new building within 5 feet of the average Historic Context building Streetwall distance from the front property line.

Analysis: Both the historical resource at 49 East Santa Clara and the façade of the City Landmark on the site were built to the property line, maintaining a continuous street wall. As proposed, the proposed new building is compatible with Standard d because the existing façade would be retained and the streetwall continuity would not be affected.

Façade

e. Use articulation that creates façade divisions with widths similar to Historic Context buildings on the same side of the same block (if the new building is wider).

Analysis. The new building is not wider than the adjacent Historic Context building; therefore, Standard e does not apply.

f. Do not simulate historic architecture to achieve these guidelines and standards.

Analysis: The project proposes to demolish the designated City Landmark building on the site, except for its front façade, exterior walls, and a portion of the interior core, which would be incorporated into the new building. The proposed cornices above the 4th, 12th, 18th, and roof levels and the recessed central bay are contemporary in design and would not mimic the existing historic features. As proposed, the new building is compatible with Standard f.

g. Place windows on facades visible from the windows of the adjacent Historic Context buildings even if this requires that the façade be set back from the property line.

Analysis: The proposed building includes windows on all exterior walls that would be visible from the windows of the adjacent Historic Context buildings on East Santa Clara Street. Although less transparent compared to the other façades, the west (rear) façade also has windows facing the historic 28 North First Street building. Therefore, the proposed project is compatible with Standard g.

Elements

h. Use some building materials that respond to Historic Context building materials.

Analysis: The Historic Context buildings mainly use stucco, masonry, terra cotta, metal, and wood trim on the exterior. The proposed new building would use stucco cladding, aluminum windows, and glass railings, which would be compatible with the Historic Context buildings. The proposed building complies with Standard h.

i. The new materials should be compatible with historic materials in scale, proportion, design, finish, texture, and durability.

Analysis: The new building materials (e.g., stucco cladding, aluminum windows, and glass railings) appear to be compatible with the historic materials in scale, proportion, design, finish, texture, and durability. The proposed building complies with Standard i.

Ground Floor

j. Space pedestrian entries at similar distances to Historic Context building entries.

Analysis: Since the proposed new building incorporates the façade of the City Landmark, the existing pedestrian entries would be compatible with the Historic Context building entries. The proposed building complies with Standard j.

k. Create a ground floor with a similar floor to ceiling height as nearby Historic Context buildings.

Analysis: The proposed new building would preserve and incorporate the façade of the City Landmark along North Second Street. The ground floor height would be consistent with the nearby historic context buildings. As proposed, the project is compatible with Standard k.

Summary - 2019 Guidelines

In summary, the proposed project does not fully comply with the applicable 2019 DDGS, specifically with Standard "c. Rear Transition" of Guideline 4.2.2 and Guideline "c" of Guideline 4.2.3.

Overall Conclusion

<u>On-Site Impacts</u>

The proposed project does not fully conform with the SOI Standards and the designated City Landmark would not retain its historic integrity. The proposed partial demolition of the majority of the City Landmark building and the construction of a new 22-story building would cause a substantial adverse change to the designated city Landmark, a historical resource under CEQA. The project would partially demolish the existing Realty building by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor,

the stairs, and the second-floor central lobby. The project, therefore, would have a significant impact to this onsite historic cultural resource. The (even partial) demolition of a historical resource typically cannot be mitigated to a less than significant level. Despite identified mitigation measures; these mitigations are not considered adequate under CEQA to mitigate the substantial loss of a historical resource significant for its historic association and architecture and, therefore, the impact would remain significant and adverse.

Impact CR-1: The project's partial demolition of the Realty Building, a designated City Landmark, and construction of a new 22-story building would cause a substantial adverse change to this historical resource and, therefore, the project would have a significant impact. The mitigation measures identified below would reduce, but not fully avoid, the substantial loss of a historical resource and the impact would remain significant and unavoidable. **[New Significant Unavoidable Impact (Less Than Significant Impact)].**

Mitigation Measures

MM CR-1a **Protection Measures.** Protection measures for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby of the designated City Landmark shall be implemented as follows:

Prepare and implement an on-site Historical Resource Protection Plan (HRPP) to protect the historic fabric of the designated City Landmark on the site during construction activities. Prior to the commencement of construction activities, including demolition, the project applicant shall retain a qualified historic architect and structural engineer to prepare an on-site HRPP to establish procedures to protect and stabilize the resource. The on-site HRPP shall be submitted to the City's Historic Preservation Officer for review and approval. Following City approval, the project applicant shall ensure the contractor follows the on-site HRPP while working in/near the historical resource. At a minimum, the on-site HRPP shall include:

- Guidelines for operation of construction equipment adjacent to the on-site historic resource,
- Requirements for monitoring and documenting compliance with the on-site HRPP, and,
- Education/training of construction workers on the implementation of the on-site HRPP and their responsibilities.

MM CR-1b **HABS-Level Documentation**. Prior to the issuance of a demolition permit to remove any part of the City Landmark, the building shall be documented and recorded following Historic American Buildings Survey (HABS)[7] specifications. This documentation shall include:

- Drawings – sketch floor plans of the buildings and a site plan.

[7] "HABS Guidelines," National Park Service, https://www.nps.gov/hdp/standards/habsguidelines.htm (accessed February 19, 2021).

- Photographs – digital photographs meeting the National Register Photo Policy Factsheet (updated 5/15/2013).[8]
- Written data – a historical report or the DPR 523 forms featuring the property description, history of the property, and historical significance evaluation.

An architectural historian meeting the qualifications in the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, and written data. The documentation shall be reviewed and approved by the City's Historic Preservation Officer. After City review and approval, the documentation shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee of the City of San José and to History San José. Proof of receipt by History San José shall be submitted to the City following submittal.

MM CR-1c **Commemoration and Public Interpretation.** The project applicant shall retain a qualified historic resources consultant to develop and design a commemorative interpretive program, exhibit, display including, but not limited to interpretive text and historic photographs, art or sculpture, video, interactive media, or oral histories. The display shall be placed in a suitable publicly accessible location on the project site. Commemoration and interpretation shall be designed by a qualified consultant and implemented by the project applicant in coordination with the City. The proposal and preliminary design shall be reviewed and approved the City's Historic Preservation Officer. The proposal and design of the proposed commemoration and public interpretation shall be submitted to the City of San José Historic Preservation Officer for review and approval. Following City review and approval, the final product shall be implemented in a suitable publicly accessible location on the site as determined by the City.

MM CR-1d **Salvage Interior Architectural Features**. Prior to demolition of the building on the site, interior architectural features shall be identified for salvage and preferably incorporated into the new design or used as part of interpretive program or made available to museums, archives, curation facilities, the public, and nonprofit organizations to preserve, interpret, and display the history of the historical resource. No materials shall be salvaged or removed until HABS recordation and documentation are completed, and an inventory of key interior features and materials is completed by qualified historic architect or historic resources consultant. The salvage program shall be reviewed and approved by the Director of Planning Building and Code Enforcement or Director's designee prior to implementation.

[8] National Park Service, "National Register Photo Policy Factsheet updated 5/15/2013," https://www.nps.gov/subjects/nationalregister/upload/Photo_Policy_update_2013_05_15_508.pdf (accessed February 26, 2021).

Off-Site Impacts

According to the DDGS analysis, the project site is located adjacent to designated and eligible historic resources, as described earlier and summarized in Table 11. The activities related to the physical development of the project such as operation of construction equipment, staging, and materials storage would have the potential to physically damage the adjacent historic resources at 49 E. Santa Clara Street, individually eligible for the CRHR, and at 28 N. First Street, a designated City Landmark. These construction-related activities could cause a substantial adverse change in the significance of these adjacent historic buildings. The adjacent property at 17 E. Santa Clara Street is listed as a Structure of Merit on the local inventory. While the City considers Structures of Merit to be important local resources, they are not considered significant historical resources under CEQA.

The project includes construction of a 22-story tower and below-grade excavation, foundation work, and framing. These construction activities at the project site may produce groundborne vibration that would result in potentially significant adverse impacts to the adjacent historic resources (identified above). These impacts could include unintentional damage to or destruction of character-defining features through physical impacts or cracking or damage due to construction related vibration. However, with implementation of mitigation measure NSE-2 (see *Section 3.11 Noise*), which identifies specific vibration protection measures, the potential for project construction-related impacts to the identified adjacent historic resources would be reduced to less than significant. **[Same Impact as Approved Project (Less Than Significant Impact].**

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

Historic-era Archaeology

Although much of the original soils in the project area have been disturbed by human activities, monitoring within approximately ¼ mile has indicated a likelihood of encountering historic-era deposits. While it is unlikely that intact surficial archaeological deposits are present on the property it is also known that previous nearby studies indicate the possibility of buried archaeological deposits. For these reasons, the archaeological report recommends archaeological monitoring during construction.

Pre-contact Archaeology

The review of soils and geologic data indicates the research extent has a low sensitivity for containing buried archaeological material. The location of the research extent contains alluvial material dating to the Holocene geological epoch (about 12,000-years-old to present), which represents a critical time when humans are known to have lived and occupied California in prehistory. Much of the project area has been paved over and disturbed by human activities. As such, this would diminish the likelihood of finding archaeological deposits in their original context. However, the nature of the project involves the construction of a 22-story building, which would require foundations below the known USDA Soils Lab profile of about 94 inches. While unlikely, it is possible that older soils with archaeological remains might be present,

given the possibility for encountering historic-era archaeological deposits, construction monitoring for pre-contact resources is recommended.

Impact CR-2: The project site has a high possibility for historic-era buried and pre-contact archaeological deposits, therefore, excavation for project construction could result in potentially significant impacts on archaeological resources. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Mitigation Measures

MM CR-2 **Cultural Sensitivity Training**. Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), construction personnel shall meet with a qualified archaeologist and a qualified Native American representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally affiliated with the geographic area prior to the start of any-ground disturbing activities for at least one cultural sensitivity training and to review the cultural resource management protocols and coordinate the field effort.

On-site Monitoring. In areas where ground disturbing activities are expected to occur, archaeological monitoring shall be conducted by a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Monitoring is intended to ensure that appropriate cultural protective measures are effective prior to initiation of construction activities and to document and protect cultural resources from inadvertent damage. During ground-disturbing activities that may impact cultural resources, at least one archaeological monitor and one Native American monitor shall be on-site. Archaeological monitors have the authority to halt construction with the finding of an archaeological discovery and to authorize construction to resume. Construction that requires monitoring includes but is not limited to demolition activities that could disturb native soil, any earthmoving, (e.g., grading or excavation for foundations, footings, and trenching for underground utilities). Monitoring shall continue until the monitor has determined that excavation has reached the maximum depth at which archaeological remains could be expected to occur. To facilitate project planning the following must be furnished by the applicant: 1) plans, blueprints, conceptual drawings, etc., detailing proposed impacts to the project site (grading or excavation prints will normally be sufficient); and 2) the proposed construction schedule or activity to be monitored, with types of excavation and/or earth-moving identified. The results of the monitoring shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee within 14 days of completion of monitoring activities.

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, and the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified. The on-site archaeologist and Native American representative 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 reinterment of artifacts and materials, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move away any cultural materials.

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

Human remains may be encountered during construction activities, since in this area of Santa Clara County, Native American archaeological sites have been recorded adjacent to major creeks and tributaries, especially near confluences. Standard permit conditions identified below will avoid impacts associated with disturbance to human remains, including those interred outside of dedicated cemeteries.

Standard Permit Conditions

- Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or 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.

With implementation of the standard permit conditions identified above, the project would result in a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Conclusion: All project-level impacts on cultural resources would be less than significant with implementation of mitigation measures and standard permit conditions identified above, with the exception of historical resources. The impacts to historical resources would be significant and unavoidable.

3.6 Energy

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

Many federal, State, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[9]

The California Green Building Standards Code (CalGreen) establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

[9] CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed September 20, 2018. http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf.

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[10] GreenPoint,[11] or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 12 below.

Table 12
Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 square feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 square feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/energy/green-building/private-sector-green-building

Municipal Code

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

Climate Smart San José

Climate Smart San José is a plan developed by the City to reduce air pollution, save water, and create a healthier community. The plan articulates how buildings, transportation/mobility, and citywide growth need to change in order to minimize impacts on the climate. The plan outlines strategies that City departments, related agencies, the private sector, and residents can take to reduce carbon emissions

[10] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[11] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

consistent with the Paris Climate Agreement. The plan recognizes the scaling of renewable energy, electrification and sharing of vehicle fleets, investments in public infrastructure, and the role of local jobs in contributing to sustainability. It includes detailed carbon-reducing commitments for the City, as well as timelines to deliver on those commitments.

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

San José Reach Code Initiative for Building Efficiency

The City Council approved Ordinance No. 30311 in September 2019 to amend various sections of Title 24 of the City's Municipal Code to adopt provisions of the 2019 California Green Building Standards Code and California Building Energy Efficiency Standards with certain exceptions, modifications and additions which serve as a Reach Code to increase building efficiency, mandate solar readiness and increase requirements related to electric vehicle charging stations. The Reach Code goes into effect on January 1, 2020 and affects all new construction.

San José Clean Energy

San José Clean Energy (SJCE) is an electricity supplier operated by the City's Community Energy Department. Since launching in February 2019, SJCE has provided City businesses and residents with access to cheaper and cleaner energy sources. SJCE serves as an alternative to traditionally privatized energy sources by being a community-governed organization. Oversight for SJCE activities is provided by City Council in cooperation with a Community Advisory Commission.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Energy Policies	
Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.

Envision San José 2040 Relevant Energy Policies	
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

3.6.1.2 *Existing Conditions*

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG-free electricity from entirely renewable resources. It is expected that the project would be enrolled in and receive energy from the SJCE program.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear

plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent, and two percent was unspecified.[12]

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available. In 2017, California was ranked second in total energy consumption in the nation, and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. This energy is mainly supplied by natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[13] SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and PG&E delivers it via their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[14] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[15]

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[16] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[17] Federal fuel

---

[12] PG&E, Delivering low-emission energy. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

[13] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.

[14] California Gas and Electric Utilities. 2019 *California Gas Report.* https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

[15] California Energy Commission. "Natural Gas Consumption by County." http://ecdms.energy.ca.gov/gasbycounty.aspx.

[16] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." December 7, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[17] United States Environmental Protection Agency. "Highlights of the Automotive Trends Report, Accessed January 2021, Available at: https://www.epa.gov/automotive-trends/highlights-automotive-trends-eport#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg

economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.[18] [19]

3.6.2 Impacts and Mitigation

3.6.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to energy would be considered significant if the project would:

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

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

3.6.2.2 *Project Impacts*

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

The project would increase gas and electricity consumption for the proposed project. As described previously, PG&E's (the electricity provider to the project site) 2015 electricity mix was 30 percent renewable. A discussion of the project's effect on energy use is presented below.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 29 months. The project would require demolition, site preparation, excavation, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation and grading), and the actual construction of the building. Petroleum based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD Best Management

[18] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.afdc.energy.gov/laws/eisa.
[19] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Practices (BMPs) detailed as standard permit conditions in Section 3.3. Air Quality would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below).

With implementation of the BAAQMD BMPs, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant.

Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity, primarily for building heating and cooling, lighting, cooking, and water heating. The City of San José passed an ordinance in December 2020 that prohibits the use of natural gas infrastructure in new buildings. This ordinance applies to any new construction (with the exception of hospitals, restaurants, etc.) starting August 1, 2021. The ordinance is the latest milestone for Climate Smart San José, the City's GHG emission reduction plan adopted by City Council in 2018. Table 13 summarizes the estimated energy use of the proposed project.

Table 13
Estimated Annual Energy Use of Proposed Project (2030)

Proposed Project	Electricity Use (kWh)	Natural Gas Use[1] (kBtu)
Congregate Care (Assisted Living)	851,149	0
Strip Mall	193,701	0
Total	1,044,850	0

Source: Illingworth & Rodkin, *19 N. 2nd Street Affordable Senior Housing Project Air Quality Assessment,* page 89, "5.0 Energy Detail."
[1] All project natural gas use was set to zero and assigned to electricity use in CalEEMod in accordance with Climate Smart San José.

The project would incorporate a number of efficiency measures to minimize the consumption of energy, such as the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code. These measures include insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. In addition, as described previously the project would be required to submit a LEED, GreenPoint, or Build-It-Green checklist as part of their development permit applications in accordance with Council Policy 6-32, which promotes practices to minimize the use and waste of energy, water, and other resources in the City of San José.

Transportation-Related Energy Use

The project, which consists primarily of senior housing and some commercial in a downtown location with access to ample public transit, is not anticipated to generate substantial traffic and no onsite parking is proposed. Project trips would be limited to deliveries and some passenger cars.

The project is in close proximity to major transit services. The nearest bus stops to the project site are located at the intersections of North Second Street/East Santa Clara Street (Local Routes 72 & 73), East Santa Clara Street/First Street (Local Routes 22, 23, 64A, and 64 B, as well as Rapid Routes 500, 522, and 523), and North First Street/East Santa Clara Street (Local Routes 72 & 73). The St. James Light Rail Train (LRT) Station is located approximately 0.16 miles north of the project site on North First Street at St. James Park. The San Antonio LRT station is located approximately 0.25 miles south of the project site on South Second Street. The LRT and Caltrain services provide access to the Diridon Transit Center, located approximately 0.81 miles west of the project site at Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. Proximity to transit would encourage the use of alternative methods of transportation to and from the site reducing transportation-related energy use.

There are currently no existing dedicated bicycle facilities in the immediate area of the project site. However, there are bicycle facilities in the area surrounding the project site. Additionally, the City is proposing to install a bike path along North Second Street. The San José Better Bike Plan 2025 identifies Class II bike lanes along North Second Street in the vicinity of the project site.

The combination of existing and planned bike facilities in the project vicinity would provide bicyclists with connections to other bicycle facilities in the City and encourage the use of alternative methods of transportation to and from the site, further reducing transportation related energy use.

The proposed project would provide 62 long-term bicycle parking spaces and eight short-term bicycle parking spaces, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would offer future residents alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing State energy standards.

Based on the discussion above, the project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **[Same Impact as Approved Project (Less Than Significant Impact)].**

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

Operation of the proposed project would consume energy for building heating and cooling, lighting, cooking, and water heating. Energy would also be consumed during vehicle trips generated by residential occupants. Although the project would increase the project site's energy use, the proposed development would be completed in compliance with the current energy efficiency standards set forth in Title 24, CALGreen, and the City's Municipal Code. In addition, the rooftop of the proposed development would have a dedicated space for future installation of solar panels and would meet requirements for an LEED Silver certification (Appendix D). The project would not conflict with or obstruct a state or local plan for

renewable energy or energy efficiency. **[Same Impact as Approved Project (Less Than Significant Impact)].**

Conclusion: All project-level impacts related to energy would be less than significant.

3.7 Geology and Soils

3.7.1 Environmental Setting

3.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Zoning Act was passed in 1972 with the intent to reduce the loss of life and property associated with surface rupture caused by active fault lines. The Alquist-Priolo Earthquake Zoning Act prohibits the placement of structures for human occupancy above active faults and sets minimum distances for construction away from the fault line. These fault lines are shown on Alquist-Priolo Maps, which are produced by the California Geological Survey.

Seismic Hazards Mapping Act

The 1990 Seismic Hazards Mapping Act (SHMA) directs the California Geological Survey to identify and map areas prone to various earthquake-related hazards, including liquefaction, landslides, and amplified ground shaking. The SHMA is intended to reduce the threat of seismic hazards to public health and to minimize the loss of life and property through identification and mitigation of seismic hazards. The State Geologist establishes regulatory zones (Zones of Required Investigation) and issues Seismic Hazard Zone Maps. These maps are distributed to all affected cities, counties, and state agencies for their use in planning and controlling construction and development.

California Building Code

The 2019 California Building Standards Code (CBC) was published on July 1, 2019 and took effect on January 1, 2020. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and load-bearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

Changes in the 2019 California Building Standards Code provide enhanced clarity and consistency in application. The basis for the majority of these changes resulted from California amendments to the 2018 model building codes. Some of the most significant changes include the following:

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood construction, and support and anchorage requirements of solar panels in accordance with industry standards;
- Clarifies requirements for testing and special inspection of selected building materials during construction; and
- Recognizes and clarifies design requirements for buildings within tsunami inundation zones.

Paleontological Resources Regulations - California Public Resources Code

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. California Public Resources Code (Section 5097.5) stipulates that the unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Municipal Code Chapter 17.10 – Geologic Hazard Regulations

Chapter 17.10 of the City's municipal code provides regulations for natural and artificial geologic hazards. Geologic hazard zones are defined as being any land in an area identified as very high, high, or moderate/high landslide susceptibility zones, being on a California earthquake fault zone map, or one of the City maps dated 1983 or 1985. Provisions made under this Chapter include prohibiting construction or grading of any property in a geologic hazard zone except in full compliance with Chapter 17.10, and granting any certificate holder, contractor, certified engineering geologist or consulting geotechnical and/or civil engineer the power to order immediate cessation of construction in the event a new geologic hazard is discovered.

Municipal Code Chapter 17.40 – Dangerous Building Code

Chapter 17.40 of the City's Municipal Code regulates dangerous buildings, defined as "any building or structure or portion thereof which creates an endangerment to the life, limb, health, property, safety or welfare of the occupants of the building or members of the public." Dangerous buildings are considered to be "public nuisances" and the City Manager has the power to restrict such buildings from use or occupancy and to initiate abatement procedures.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Geology and Soil Policies	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

3.7.1.2 *Existing Conditions*

The project property is an essentially flat lot with an elevation of approximately 87 feet above mean sea level (Google Earth, July 2021). Regionally, the topographic slope is to the north, towards San Francisco Bay. The project site is currently occupied by a two-story commercial building that would be partially demolished as part of the project to partially demolish the Realty Building, a designated City Landmark. The project would remove the majority of extant building components except for the

front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby.

The project site is located in Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. This bedrock is overlain by Santa Clara Formation sediments, which consist of a complex distribution of sand, silt, and clay lenses.

The project site is located within the seismically active San Francisco Bay Area. Santa Clara Valley is located between the active San Andreas Fault to the west, and the active Hayward and Calaveras faults to the east. Surface fault rupture tends to occur along existing fault traces. The California Geological Survey (formerly Division of Mines and Geology) has produced maps showing Alquist-Priolo Earthquake Fault Zones along faults that pose a potential surface faulting hazard. No Alquist-Priolo zones are mapped in the vicinity of the project.[20]

The site is located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards.[21] However, the site is not located within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone.[22] Liquefaction is a phenomenon in which the strength and stiffness of a soil is reduced by seismic shaking or other rapid loading. Liquefied soil can also settle.

3.7.2 Impacts and Mitigation

3.7.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to geology and soils would be considered significant if the project would:

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
   - ai) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42;
   - aii) Strong seismic ground shaking;
   - aiii) Seismic-related ground failure, including liquefaction; or
   - aiv) Landslides.

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

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

[20] California Geological Service, Earthquake Zones of Required Investigation San Jose West Quadrangle, 2002.
[21] California Geological Service, EQ Zapp: California Earthquake Hazards Zone Application, 2019.
[22] Santa Clara, County of, Santa Clara County Geologic Hazard Zones, 2012.

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

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

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

3.7.2.2 *Project Impacts*

a) **Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:**

ai) **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

The project site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. The risk of ground rupture within the site is considered low. The project site is not mapped within an Alquist-Priolo Earthquake Fault Zone. Furthermore, the project will be designed and developed in accordance with the California Building Code guidelines to avoid or minimize potential direct or indirect damage from seismic shaking on the project site as set forth in the Downtown Strategy 2040 FEIR and as listed as standard permit conditions below.

Standard Permit Conditions

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

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

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

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

Implementation of the standard permit conditions identified above would assure that the project has a less than significant impact related to seismicity. **[Same Impact as Approved Project (Less Than Significant Impact)]**.

aii) **Strong seismic ground shaking?**

Due to its location in a seismically active region, the proposed building and associated structures would likely be subject to strong seismic ground shaking during their design life in the event of a major earthquake on any of the region's active faults. This could pose a risk to proposed structures and infrastructure. Earthquake faults in the region, specifically the San Andreas, Calaveras, and Hayward faults are capable of generating earthquakes larger than 7.0 in magnitude. Seismic impacts would be minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4. The project will be designed and constructed in accordance with a design-level geotechnical investigation as a standard permit condition discussed in ai.) above. **[Same Impact as Approved Project (Less Than Significant Impact)].**

aiii) **Seismic-related ground failure, including liquefaction?**

As described above, the project site may be subject to strong ground shaking in the event of a major earthquake. The site is located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards. However, the site is not located within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone. Nevertheless, impacts associated with seismic and liquefaction hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as presented in the Standard Permit Conditions in ai.) above. This would reduce any potentially significant geotechnical impacts to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

aiv) **Landslides?**

The project site is essentially flat and would not be subject to landslides. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

Development of the project would require the excavation of approximately 7,000 cubic yards of material, to be exported from the site. This could result in a temporary increase in erosion. The project would implement the standard permit conditions identified in Section 3.10. Hydrology and Water Quality as well as the standard permit conditions discussed in explanation ai). Implementation of the Standard Permit Conditions would reduce any potentially significant soil erosion on site during construction. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project may contain soil and geologic hazards that could result in lateral spreading, subsidence, or liquefaction, which could damage proposed structures. Impacts associated with these soil and geotechnical hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as presented in the Standard Permit Conditions in ai.) above. This would reduce any potentially significant geotechnical impacts to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**.

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

The project may contain expansive soils, which could damage proposed structures on the site. Impacts associated with expansive soils or other soil hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the standard permit condition for ai) above. This would reduce any potentially significant direct or indirect geotechnical impacts to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project does not include any septic systems. The proposed project would tie into the City's existing sanitary sewer system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project site is located in an area mapped as "high sensitivity at depth" in the General Plan EIR.[23] The project proposes excavation for the proposed basement and, therefore, has the potential to disturb paleontological resources. However, consistent with General Plan Policy ER-10.3 and Downtown Strategy 2040 FEIR, the following standard permit condition will be implemented by the project to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on this infill site.

Standard Permit Conditions

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

The project would have a less than significant impact related to paleontological resources with implementation of the standard permit conditions identified above. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Conclusion: Similar to the analysis in the Downtown Strategy 2040 FEIR, all project-level impacts related to geology and soils would be less than significant with implementation of standard permit conditions.

[23] Figure 3.11-1 "Palaeontologic Sensitivity of City of San Jose Geologic Units," from the Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan, June 2011.

3.8 Greenhouse Gas Emissions

The project is subject to the GHG reduction strategies identified in the City's 2030 Greenhouse Gas Reduction Strategy Compliance Checklist. The completed Compliance Checklist is contained in Appendix D.

3.8.1 Environmental Setting

3.8.1.1 *Regulatory Framework*

Federal

The Federal Clean Air Act (CAA), first passed in 1970, is the overarching federal-level law that, as of 2007 via the U.S. Supreme court decision in Massachusetts v. EPA, enables the U.S. EPA to provide regulations of key GHG emissions sources (mobile emissions), established a mandatory emissions reporting program for large stationary emitters, and implementation of vehicle fuel efficiency standards.

State

Assembly Bill 32 – California Global Warming Solutions Act

Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to reduce the state's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), and the Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.[24]

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State of California's main strategies to reduce GHGs from business as usual (BAU) emissions projected in 2020 back down to 1990 levels. BAU is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as a cap-and-trade system. It required CARB and other state agencies to develop and adopt regulations and other initiatives reducing GHGs by 2012.

As directed by AB 32, CARB has also approved a statewide GHG emissions limit. On December 6, 2007, CARB staff resolved an amount of 427 MMT of CO_2e as the total statewide GHG 1990 emissions level and 2020 emissions limit. The limit is a cumulative statewide limit, not a sector-or facility-specific limit. CARB updated the future 2020 BAU annual emissions forecast, in light of the economic downturn, to 545 MMT of CO_2e. Two GHG emissions reduction measures currently enacted that were not previously included in the 2008 Scoping Plan baseline inventory were included, further reducing the baseline inventory to 507 MMT of CO_2e. Thus, an estimated reduction of 80 MMT of CO_2e is necessary to reduce statewide emissions to meet the AB 32 target by 2020.

[24] Note that AB 197 was adopted in September 2016 to provide more legislative oversight of CARB.

Senate Bill 1368

Senate Bill (SB) 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 required the CPUC to establish a greenhouse gas emission performance standard. Therefore, on January 25, 2007, the CPUC adopted an interim GHG Emissions Performance Standard in an effort to help mitigate climate change. The Emissions Performance Standard is a facility-based emissions standard requiring that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. That level is established at 1,100 pounds of CO_2 per megawatt-hour. "New long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of five years or more, or major investments by the utility in its existing baseload power plants. In addition, the CEC established a similar standard for local publicly owned utilities that cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. On July 29, 2007, the Office of Administrative Law disapproved the CEC's proposed Greenhouse Gases Emission Performance Standard rulemaking action and subsequently, the CEC revised the proposed regulations. SB 1368 further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the CPUC and CEC.

Senate Bill 32 – California Global Warming Solutions Act of 2006

In September 2015, the California Legislature passed SB 350 (de Leon 2015), which increases the State's Renewables Portfolio Standard (RPS) for content of electrical generation from the 33 percent target for 2020 to a 50 percent renewables target by 2030.

Senate Bill 375 – California's Regional Transportation and Land Use Planning Efforts

SB 375, signed in August 2008, requires sustainable community strategies (SCS) to be included in regional transportation plans (RTPs) to reduce emissions of GHGs. The MTC and ABAG adopted an SCS in July 2013 that meets GHG reduction targets. The Plan Bay Area is the SCS document for the Bay Area, which is a long-range plan that addresses climate protection, housing, healthy and safe communities, open space and agricultural preservation, equitable access, economic vitality, and transportation system effectiveness within the San Francisco Bay region (MTC 2013). The document is updated every four years. The MTC and ABAG are currently developing the Plan Bay Area 2040.

Executive Order S-03-05

On June 1, 2005 Governor Schwarzenegger signed Executive Order S-03-05, the purpose of which was to implement requirements for the California Environmental Protection Agency (EPA) to provide ongoing reporting on a biennial basis to the State Legislature and Governor's Office on how global warming is affecting the State. Required areas of impact reporting include public health, water supply, agriculture, coastline, and forestry. The EPA secretary is required to prepare and report on ongoing and upcoming mitigation designed to counteract these impacts.

Executive Order B-30-15

On April 15, 2015 Governor Brown signed Executive Order B-30-15, the purpose of which is to establish a GHG reduction of 40 percent below 1990 levels by 2030. The Executive Order is intended to help the State work towards a further emissions reduction target of 80 percent below 1990 levels by the year 2050. The order directed state agencies to prepare for climate change impacts through prioritization of adaptation actions to reduce GHG emissions, preparation for uncertain climate impacts through implementation of flexible approaches, protection of vulnerable populations, and prioritization of natural infrastructure approaches.

Executive Order B-55-18 and SB 100 – 100 Percent Clean Energy Act of 2018

On September 10, 2018 Governor Brown signed both SB 100 – 100 Percent Clean Energy Act of 2018 and Executive Order B-55-18 to Achieve Carbon Neutrality. SB 100 sets California on course to achieving carbon-free emissions from the electric power production sector by 2045. SB100 also increases the required emissions reduction generated by retail sales to 60% by 2030, an increase in 10% compared to previous goals. B-55-18 establishes a new goal of achieving statewide "carbon neutrality as early as possible and no later than 2045, and to achieve and maintain net negative emissions thereafter".

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD's May 2017 CEQA Air Quality Guidelines update the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court's 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors.

2017 Bay Area Clean Air Plan

The BAAQMD, along with other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), develops plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.

- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

City of San José Municipal Code

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

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

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City Council adopted the Council Policy 6-32 "Private Sector Green Building Policy", which identifies baseline green building standards for new private construction and provides a framework for the implementation of these standards. This Policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards.

City of San José Greenhouse Gas Reduction Strategy

On December 15, 2015, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report and re-adopted the City's GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy.

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

The Greenhouse Gas Reduction Strategy was updated for 2030. The 2030 GHG Reduction Strategy was adopted and the EIR Addendum were certified by the City Council on 11/17/2020. The 2030 GHG Reduction Strategy went into effect on 12/17/2020.

The 2030 GHG Reduction Strategy outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. The 2030 GHG Reduction Strategy presents the City's comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR requirements. Additionally, the 2030 GHG Reduction Strategy leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City's target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate

GHG emissions as part of a larger plan for the reduction of GHGs. Accordingly, the City of San José's 2030 GHG Reduction Strategy represents San José's qualified climate action plan in compliance with CEQA.

As described in the 2030 GHG Reduction Strategy, the GHG reductions will occur through a combination of City initiatives in various plans and policies to provide reductions from both existing and new developments. A GHG Reduction Strategy Compliance Checklist (checklist) was developed that applies to proposed discretionary projects that require CEQA review. Therefore, the checklist is a critical implementation tool in the City's overall strategy to reduce GHG emissions. Implementation of applicable reduction actions in new development projects will help the City achieve incremental reductions toward its target. Per the 2030 GHG Reduction Strategy, the City will monitor strategy implementation and make updates, as necessary, to maintain an appropriate trajectory to the 2030 GHG target. Specifically, the purpose of the checklist is to:

- Implement GHG reduction strategies from the 2030 GHGRS to new development projects.
- Provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA.

Climate Smart San José

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

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

The California Energy Commission (CEC) updates the California Building Energy Efficiency Standards every three years, in alignment with the California Code of regulations. Title 24 Parts 6 and 11 of the California Building Energy Efficiency Standards and the California Green Building Standards Code (CALGreen) address the need for regulations to improve energy efficiency and combat climate change. The 2019 CAL Green standards include some substantial changes intended to increase the energy efficiency of buildings. For example, the code encourages the installation of solar and heat pump water heaters in low-rise residential buildings. The 2019 California Code went before City Council in October 2019 for approval, with an effective date of January 1, 2020. As part of this action, the City adopted a "reach code" that requires development projects to exceed the minimum Building Energy Efficiency requirements.[25] The City's reach code applies only to new residential and non-residential construction in San José. It incentivizes all-electric construction, requires increased energy efficiency and electrification-readiness for those choosing to maintain the presence of natural gas. The code requires that non-residential construction include solar readiness. It also requires additional EV

[25] San José, City of, Transportation and Environmental Committee, *Building Reach Code for New Construction Memorandum,* August 2019.

charging readiness and/or electric vehicle service equipment (EVSE) installation for all development types.

General Plan

In addition to the above, policies in the General Plan have been adopted for the purpose of avoiding or mitigating greenhouse gas emissions impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
Policy CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

3.8.1.2 *Existing Conditions*

Various gases in the earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. Climate change is a cumulative effect from local, regional, and global GHG emission contributions. According to the EPA on a Global scale, CARB on a state scale, and BAAQMD on a County scale, the transportation sector is the largest emitter of GHG emissions, followed by electricity generation and the industrial sector.[26],[27] ,[28] The City of San José also has the transportation sector as the largest emitter of GHG emission, but followed by residential and commercial development.[29]

The U.S. EPA reported that in 2018, total gross nationwide GHG emissions were 6,676.6 million metric tons (MMT) carbon dioxide equivalent (CO_2e).[30] These emissions were lower than peak levels of 7,416 MMT that were emitted in 2007. CARB updates the statewide GHG emission inventory on an annual basis where the latest inventory includes 2000 through 2017 emissions.[31] In 2017, GHG emissions from statewide emitting activities were 424 MMT. The 2017 emissions have decreased by 14 percent since peak levels in 2004 and are 7 MMT below the 1990 emissions level and the State's 2020 GHG limit. Per capita GHG emissions in California have dropped from a 2001 peak of 14.1 MT per person to 10.7 MT per person in 2017. The most recent Bay Area emission inventory was computed for the year 2011.[32] The Bay Area GHG emission were 87 MMT. As a point of comparison, statewide emissions were about 444 MMT in 2011. According to San José's GHGRS, the City's emissions were 5.71 MMT.

[26] EPA, https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks
[27] CARB, https://ww2.arb.ca.gov/ghg-inventory-data
[28] BAAQMD. Available at: https://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/Emission%20Inventory/BY2011_GHGSummary.ashx?la=en&la=en
[29] City of San José, 2011. *Greenhouse Gas Reduction Strategy for the City of San José*. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy
[30] United States Environmental Protection Agency, 2020. *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2018*. April. Web: https://www.epa.gov/sites/production/files/2020-04/documents/us-ghg-inventory-2020-main-text.pdf
[31] CARB. 2019. *2019 Edition, California Greenhouse Gas Emission Inventory: 2000 – 2017*. Web: https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000_2017/ghg_inventory_trends_00-17.pdf
[32] BAAQMD. 2015. *Bay Area Emissions Inventory Summary Report: Greenhouse Gases Base Year 2011*. January. Web: http://www.baaqmd.gov/~/media/files/planning-and-research/emission-inventory/by2011_ghgsummary.pdf accessed March 2021.

The project site is developed with an existing commercial building. The existing GHG emissions at the site would be from vehicles traveling to and from the site, as well as energy usage from electricity.

3.8.2 Impacts and Mitigation

3.8.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to greenhouse gas emissions would be considered significant if the project would:

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

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

3.8.2.2 *Project Impacts*

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

GHG emissions associated with development of the project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. Long-term operational emissions would also be generated from vehicular traffic, energy and water use, and solid waste disposal. However, the project, which consists primarily of senior housing and commercial space in a downtown location with access to ample public transit, is not anticipated to generate substantial traffic and no onsite parking is proposed. Project trips would be limited to deliveries and some passenger cars. Therefore, emissions from project-generated traffic are considered negligible.

The project would be considered less than significant if it demonstrates that it is consistent with the City's 2030 GHG Reduction Strategy and the General Plan land use designation for the site. The project is subject to the GHG reduction strategies identified in the City's 2030 GHG Reduction Strategy Compliance Checklist (see Appendix D). The project would implement and comply with all relevant GHG reduction measures as determined by the City. GHG reduction strategies to be incorporated into the project include the following (see also Appendix D):

- Implementation of green building measures through construction techniques and architectural design,
- Designation of areas for solar panels on the roof, and
- Integration of water and waste reduction features.

With implementation of the above measures, the project would not generate GHG emissions, either directly or indirectly, that would have a significant impact on the environment. See also b) below.

GHG emissions associated with construction were computed to be approximately 537 MT of CO_2e for the total construction period. These consist of emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, although BAAQMD recommends quantifying emissions and disclosing GHG emissions during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The City's 2030 GHG Reduction Strategy Compliance Checklist has been completed for the project, as presented in Appendix D. The project would be consistent with the existing General Plan land use diagram, would be required to provide pedestrian and bicycle facilities consistent with the Municipal Code, and would comply with green building ordinances and all applicable energy efficiency measures. The project would include designated areas for solar panels on the roof and would meet LEED Silver requirements. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, since the project would comply with the City's 2030 GHG Reduction Strategy. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Conclusion: All project-level impacts related to greenhouse gas emissions would be less than significant.

3.9 Hazards and Hazardous Materials

AEI Consultants (AEI) completed a Phase I Environmental Site Assessment to evaluate potential hazardous materials contamination on the project site (August 2021). This report is contained in Appendix E.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Federal

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980 and is administered by the U.S. EPA. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) is a Federal law passed by Congress in 1976 to address the increasing problems from the nation's growing volume of municipal and industrial waste. RCRA creates the framework for the proper management of hazardous and non-hazardous solid waste and is administered by the U.S. EPA. RCRA protects communities and resource conservation by enabling the EPA to develop regulations, guidance, and policies that ensure the safe management and cleanup of solid and hazardous waste, and programs that encourage source reduction and beneficial reuse. The term RCRA is often used interchangeably to refer to the law, regulations, and EPA policy and guidance.

State

California Department of Toxic Substances Control

The California Department of Toxic Substances Control (DTSC) is a State agency that protects State citizens and the environment from exposure to hazardous wastes by enforcing hazardous waste laws and regulations. DTSC enforces action against violators; oversees cleanup of hazardous wastes on contaminated properties; makes decisions on permit applications from companies that want to store, treat or dispose of hazardous waste; and protects consumers against toxic ingredients in everyday products.

Cortese List: Section 65692.5(a)

California Code of Regulations Section 65962.5(a) requires that the DTSC compile and update an annual list, known as the Cortese List, of all hazardous waste facilities subject to corrective action, pursuant to Section 25187.5 of the Health and Safety Code. Facilities added to the Cortese List are those that have failed to comply with a posted date for taking corrective action for an existing hazard or because DTSC determined that immediate corrective action is necessary to abate an imminent or substantial endangerment.

California Code of Regulations, Title 8 Section 1529 – Asbestos

California Code of Regulations, Title 8, Section 1529 regulates asbestos exposure in all construction work, including structure demolition, removal of asbestos-containing materials, activities involving construction or alteration of existing structures that contain asbestos, installation of asbestos-containing products, emergency cleanup, and other activities. Section 1529 regulates permissible exposure limits for individual employees, standards for demarcation of regulated asbestos work areas, and safety protocol and equipment.

California Code of Regulations, Title 8 Section 1532.1 – Lead

California Code of Regulations, Title 8, Section 1532.1 applies to all construction work where an employee may be occupationally exposed to lead. As defined in this section, an employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ($50\mu g/m^3$) averaged over an 8-hour period. Employers are required to identify hazards at existing job sites and provide workers with training and sanitation stations for decontamination. Compliance is regulated by the California Occupational Safety Health Program (CAL/OSHA).

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) program is designed to help prevent the accidental release of substances that pose harm to public health and the environment. CalARP also provides guidance for minimizing damage from spills and requires businesses to develop Risk Management Plans (RMPs) if they handle a certain amount of a regulated substance. RMPs are detailed engineering documents that analyze the potential accident factors and identify mitigation for rapid implementation to reduce accident potential and address any accidental releases. The CalARP program is implemented by Unified Program Agencies (UPAs) at the local government levels. UPAs work directly with businesses to review and approve RMPs, conduct inspections, and provide public-facing data.

California State Water Resources Control Board

The California State Water Resources Control Board (SWRCB) and its nine regional boards are responsible for preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses. Through the 1969 Porter-Cologne Act, the State and Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's water resources.

Local

Regional Water Quality Control Board

The San Francisco Bay Regional Water Quality Control Board (RWQCB) is the lead agency responsible for identifying, monitoring and remediating leaking underground storage tanks in the Bay Area. Local jurisdictions may take the lead agency role as a Local Oversight Program (LOP) entity, implementing State as well as local policies.

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials. With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.

Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single family homes and wood-frame structures are exempt from these requirements.

Santa Clara Department of Environmental Health

The County of Santa Clara Department of Environmental Health reviews California Accidental Release Prevention (CalARP) risk management plans as the Certified Unified Program Agency (CUPA) for the City. The CalARP Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. 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. A Risk Management Plan (RMP) is required for such facilities. The intent of the RMP is to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and state Community Right-to-Know laws.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazardous materials impacts from development projects. All future development allowed by the proposed land use designation would be subject to the hazardous materials policies in the General Plan presented below.

Envision San José 2040 Relevant Hazardous Material Policies	
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

Envision San José 2040 Relevant Hazardous Material Policies	
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 toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.9.1.2 *Existing Conditions*

The Phase I Assessment focused on the following tasks: 1) a review of federal, state, tribal, and local databases that identify and describe underground fuel tank sites, leaking underground fuel tank sites, hazardous waste generation sites, and hazardous waste storage and disposal facility sites within the area; 2) a property and surrounding site reconnaissance, including interviews with the past and present owners and current occupants and operators to identify potential environmental contamination; and 3) a review of historical sources to help ascertain previous land use at the site and in the surrounding area.

The property has historically been used for office uses. The existing Realty Building on the site was constructed in 1925 and housed many realtors over the years. The building is currently occupied by office and restaurant uses. The subject property is located in a mixed commercial, retail, and residential area of downtown San José.

The results of the Phase I Assessment are summarized below:

Recognized Environmental Condition (REC) is defined by the ASTM Standard Practice E1527-13 as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

- The southeastern adjoining property to the project site is listed as an open Cleanup Program Sites – Spills, Leaks, Investigations, and Cleanups (SLIC) release case in the regulatory database. The Bassler-Haynes Building and Dr. EU Building, located in an up-gradient direction at 35 and 43 East Santa Clara Street, are listed as the same active CPS-SLIC case (SLT2O287178). The San Francisco Bay RWQCB is providing regulatory oversight of this CPS-SLIC case. Based on information reviewed on the GeoTracker online database, the Bassler-Hayne building was formerly occupied by a hotel. A dry-cleaner, located in the hotel basement, operated at the site from approximately 1950 to 1969 and released tetrachloroethene (PCE). Since 1997, several environmental investigations have been conducted which included the advancement of soil borings (soil and grab groundwater samples were obtained), installation of groundwater monitoring wells, collection of soil-gas samples, and collection of indoor air samples.

  Results from these investigations indicated the presence of halogenated volatile organic compounds (HVOCs), including PCE, in soil, soil-gas, indoor air and shallow groundwater at concentrations above their respective regulatory screening criteria at the project site. In addition, elevated HVOC levels have been detected in soil, soil-gas, groundwater, and indoor air samples collected from the properties located north/northeast of the site (cross- to down-gradient) including the subject property.

Cumulative investigation results indicate that the release of HVOCs from the adjoining case has impacted soil, soil vapor, groundwater, and indoor air of the project property, and therefore the adjoining open release case constitutes an REC.

- Based on available historical sources, including city directories and Sanborn maps, the subject property was identified to consist of printing and litho-plate manufacturing operations from at least 1930 to 2004. Identified regulated wastes generated in the mid-1990s as part of on-site operations included photochemicals/photoprocessing wastes. No documented releases are associated with the business names and regulated wastes discussed above. Many printing industries generate waste ink and ink sludges that might contain solvents or heavy metals. Photographic processes are also typically associated with major printing operations for image conversion and plate making. Based on the length of time these operations were conducted and the lack of specific information regarding the on-site operations and types of materials used by these facilities, the historical printing and litho-plate manufacturing operations are considered a REC. However, while printing operations may have occurred on-site for over 70 years, environmental investigations performed on-site relating to the southeastern adjoining SLIC case to date do not appear to suggest an on-site volatile organic compound (VOC) source.

  Sample analyses for heavy metals does not appear to have been conducted on the project property related to the adjoining SLIC case; therefore, based on the duration of printing operations, elevated heavy metals may exist beneath the site subsurface.

3.9.2 Impacts and Mitigation

3.9.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to hazards and hazardous materials would be considered significant if the project would:

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

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

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

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

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

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

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

3.9.2.2 *Project Impacts*

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

The proposed mixed commercial/residential use would not require routine transport, use, or disposal of hazardous materials. The project would use relatively small quantities of miscellaneous household cleaning supplies and other chemicals, which would be stored and applied in accordance with the manufacturer's specifications. The potential health clinic may require limited transport, use, storage, or disposal of hazardous materials. All hazardous materials would be transported, used, stored, and disposed of according to manufacturer recommendations and applicable regulations.

Construction of the proposed project could potentially expose construction workers and the public to HVOCs and heavy metals during the construction phase of the project as described in b) below. This will be mitigated to less than significant with identified mitigation. Overall, the project would have a less than significant impact related to the routine transport, use, or disposal of hazardous materials. With implementation of Mitigation Measure HAZ-1 and compliance with existing regulations, construction and operation of the project would not create a significant hazard to the public or environment from the use, transport, or storage of hazardous materials. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

The project site is not located on a site listed in the Cortese List. The property has historically been used for office uses. The existing Realty Building on the site was constructed in 1925 and housed many realtors over the years. The building is currently occupied by office and restaurant uses. The hazardous disclosure information indicates that several contaminated sites are located within 1/8 mile of the site, based on the environmental site database search (see Appendix E). However, the potential for soil contamination on the project site from offsite sources is unknown.

Impact HAZ-1: Construction of the proposed project could potentially expose construction workers and the public to HVOCs and heavy metals during the construction phase of the project. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**
Mitigation Measures

MM HAZ-1: Prior to demolition or issuance of grading permits, the project applicant shall retain a qualified environmental professional to evaluate potential contamination issues identified in the Phase I Environmental Site Assessment

by performing a Phase II soil, soil gas, and groundwater contamination investigation. The results shall be compared to established construction worker safety and regulatory residential environmental screening levels. If the Phase II results indicate soil, soil gas, and/or groundwater contamination above the appropriate regulatory screening levels for the project, the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substance Control) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The Plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and occupants.

The results of Phase II investigation and evidence of regulatory oversight and the appropriate plan, e.g., SMP, RAP, or equivalent document, shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee.

Building Demolition

The existing storage buildings to be demolished may contain asbestos containing materials (ACMs) and/or lead-based paint. Incorporation of standard permit conditions identified below will assure that ACMs or lead-based paint are not released during demolition activities.

Standard Permit Conditions

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of the on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.

    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.

    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.

    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

In addition, the building on-site was constructed in 1925 and may contain PCBs in the building materials. Demolition of the buildings on-site could release PCBs in the environment. Therefore, the proposed project would be required to submit a polychlorinated biphenyls (PCB) Screening Assessment Form as part of the demolition permit process to partially demolish the existing building on the project site, and shall comply with any resulting sampling and abatement procedures, as directed by federal and state agencies.

With implementation of the identified Standard Permit Conditions and mitigation measure, construction of the project would reduce potential hazardous materials impacts to construction workers, adjacent uses, and nearby sensitive receptors and residences to a less than significant level.

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

The project is not located within ¼ mile of a school. The nearest school is Horace Mann Elementary, located approximately 1,500 feet east of the project site. However, the project site is located about 1,100 Little Einstein Montessori preschool. However, implementation of Mitigation Measure HAZ-1 identified above would minimize potential on-site contamination from being disturbed or released into the environment. The proposed operation of the project would not emit hazardous emissions or handle hazardous materials, substances or waste. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

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

The project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List). **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The Norman Y. Mineta San José International Airport is a public-use airport located approximately 1.7 miles northwest of the project site. The project site is located outside the "Airport Influence Area" established by the Santa Clara County Airport Land Use Commission (ALUC) and therefore, ALUC policies do not apply.

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For this location, any structure above approximately 60 feet above ground level exceeds FAA notification surface and requires FAA airspace safety review. Since the proposed residential tower would be approximately 240 feet above ground (with dome and stair roof), FAA airspace safety review is required. In compliance with City General Plan policy, the project would be required to obtain an FAA issued "Determination of No Hazard" for each of the proposed structure high points and comply with any conditions set forth by the FAA in its determinations. This process would ensure that project development would not be a potential aviation hazard. Additionally, the project would be required to grant an Avigation Easement to the City accepting elevation restrictions on the property as well as aircraft noise impacts.

As described in *Section 3.13 Noise and Vibration*, the project site lies adjacent to or slightly outside of the 60 dBA CNEL/DNL contour line. The proposed project was found to be compatible with the City's exterior noise standards for aircraft noise and would not be subject to excessive noise from the Mineta San José International Airport. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project would not create any barriers to emergency or other vehicle movement in the area and would be designed to comply with all Fire Code and Building requirements. Additionally, capacity of the project was accounted for in in the Downtown Strategy 2040 Plan FEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**.

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

The project would not expose people or structures, either directly or indirectly, to risk of loss, injury or death from wildland fires since it is located in a highly urbanized area that is not prone to such events. See also *Section 3.20. Wildfire* of this SEIR for further discussion of wildfire impacts, which were determined to result in no impact given the site location and low wildfire hazard. **[Same Impact as Approved Project (Less than Significant Impact)]**.

Conclusion: All project-level impacts related to hazards and hazardous materials would be less than significant with the identified mitigation measure and standard permit conditions.

3.10 Hydrology and Water Quality

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Federal and State

Clean Water Act – Section 404

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States (waters of the U.S.) and regulating quality standards for surface waters. Its goals are to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Under the CWA, the US EPA has implemented pollution control programs and established water quality standards, and together with the U.S. Army Corps of Engineers, regulates discharge of dredged and fill material into waters of the U.S. under Section 404 of the CWA and its implementing regulations. Waters of the U.S. are defined broadly as waters susceptible to use in commerce (including waters subject to tides, interstate waters, and interstate wetlands) and other waters.

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the SWRCB to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000-14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

- Wetlands
- Watershed hydrograph modification
- Proposed creek or riverine related modifications
- Long-term post-construction water quality

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the SWRCB. The CGP requires the installation and maintenance of BMPs to protect water quality until the site is stabilized. The project would not require CGP coverage, as the area of land disturbed (0.22 acres) is less than one (1) acre.

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City's storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface.
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices. These include site design features to reduce the amount of runoff requiring treatment and maintain or restore the site's natural hydrologic functions, source control measures to prevent stormwater from pollution, and stormwater treatment features to clean polluted stormwater runoff prior to discharge into the storm drain system. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

City of San José Post-Construction Urban Runoff Management (Council Policy 6-29)

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

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Green Stormwater Infrastructure Plan

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

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Council Policy 6-29	This Policy requires development projects on vacant and previously developed properties (hereafter referred to as redevelopment) and road projects to manage stormwater based on the proposed land use and amount of impervious surface area being created and/or replaced by the project. The Policy provisions vary in accordance with the MRP project types and also incorporates long standing San José requirements for certain uses ("Land Uses of Concern") that involve outdoor handling and/or storage of material which have greater potential than other projects to contaminate stormwater runoff

3.10.1.2 *Existing Conditions*

The project site is essentially flat and lies at an elevation of about 87 feet above mean sea level.[33] The site is currently occupied by a two-story commercial building. Runoff from the site currently flows into the City's existing drainage system.

The project site does not contain any natural drainages or waterways. The nearest waterway is the Guadalupe River located about 2,500 feet west of the site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D.[34] Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D.

The City owns and maintains the storm drainage system in the project area. The drainage lines that serve the project site drain into Guadalupe River, located approximately 2,500 feet west of the site. No over-land release of stormwater drains directly into any water body from the project site.

[33] Google Earth, 2021.
[34] Panel # 0234H, Map # 06085C0234H

The project site is located within the inundation area for the Leroy Anderson Dam, based on the "California Dam Breach Inundation Maps" map provided by the California Department of Water Resources.[35]

3.10.2 Impacts and Mitigation

3.10.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to hydrology and water quality would be considered significant if the project would:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality;

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

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

   ci) Result in substantial erosion or siltation on- or off-site;

   cii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;

   ciii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

   civ) Impede or redirect flood flows;

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

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

3.10.2.2 *Project Impacts*

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

The project is located in an urban environment and operations would not involve materials that would significantly harm the water quality in the area. Furthermore, the project would comply with applicable regulations and laws, as discussed in the regulatory framework above, to ensure proper discharge into the City's stormwater and sanitary infrastructure, would not violate any water quality standards or waste discharge requirements, or degrade surface or groundwater quality as described below under item b). **[Same Impact as Approved Project (Less than Significant Impact)]**.

[35] https://fmds.water.ca.gov/webgis/?appid=dam_prototype_v2

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

Groundwater levels in the area are estimated to be on the order of 30-50 feet below ground surface (V&H Engineering, Stormwater Control Plan, April 2021). The project is located within the Santa Clara Plain Recharge Area of the Santa Clara Subbasin.[36] However, the project site is currently developed and excavation for the proposed 20-foot deep basement would not access groundwater. Thus, it is not anticipated that the project would decrease groundwater supplies or interfere substantially with groundwater recharge (such that the project may impede sustainable groundwater management of the basin), because 1) the project is proposed on a developed site that is not recharging groundwater through injection well-related measures (e.g., infiltration trenches, infiltration galleries), and 2) project construction would not involve excavation that would result in access to groundwater beneath the property. **[Same Impact as Approved Project (Less than Significant Impact)]**.

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

ci) **Result in substantial erosion or siltation on- or off-site;**

Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the relatively small size and flatness of the site. The City's implementation requirements to protect water quality are described below.

Construction Impacts

The project shall incorporate BMPs into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*, and include preventing spills and leaks, cleaning up spills immediately after they happen, storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the applicant would be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

The project applicant is required comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. Typical measures that will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include but are not limited to:

[36] Santa Clara Valley Water District, *2016 Groundwater Management Plan,* Figure 2-1.

1. Restriction of grading to the dry season (April 30 through October 1) or meet City requirements for grading during the rainy season;
2. Utilize on-site sediment control BMPs to retain sediment on the project site;
3. Utilize stabilized construction entrances and/or wash racks;
4. Implement damp street sweeping;
5. Provide temporary cover of disturbed surfaces to help control erosion during construction; and
6. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The project would somewhat modify the drainage pattern on the site. Consistent with the regulations and policies described above and the Downtown Strategy 2040 FEIR, the project will follow all standard permit conditions, as listed below. The standard permit conditions would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete and during the post-construction period as appropriate.

Standard Permit Conditions

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

Post-Construction Impacts

The project is required to comply with applicable provisions of the following City Council Policies: Council Policy 6-29 Post-Construction Urban Runoff Management. The project will be required to implement Council Policy 6-29 Post-Construction Urban Runoff Management, which includes site design measures, source controls, and numerically-sized LID stormwater treatment measures that can help minimize stormwater pollutant discharges. Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures

demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), will be included in the project design, to the satisfaction of the Director of Public Works Department or Director's designee.

In conclusion, the project would not substantially alter existing drainage patterns or cause alteration of streams or rivers by conforming with the requirements of Council Policy 6-29. The project will not result in substantial erosion or siltation on or off site by complying with the City's Grading Ordinance. Implementation of the standard permit conditions identified above would result in a **[Same Impact as Approved Project (Less than Significant Impact)]**.

cii) **Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;**

The project proposes to implement a stormwater control plan to manage runoff from the site consisting of the following source control measures:

- Beneficial Landscaping
- Use of Water Efficient Irrigation Systems
- Connect the Following to the Sanitary Sewer: covered trash/recycling enclosures
- Provide Regular Maintenance (e.g., pavement sweeping, catch basin cleaning, good housekeeping)

Runoff would primarily be collected in stormwater treatment systems where flow rates would be decreased and treated prior to discharging into the City's drainage system. New storm drain laterals would be built and connect to the existing 12-inch storm drain main in North Second Street. As a result, the proposed project would have a less than significant impact associated with flooding on- or off-site due to increased surface runoff. **[Same Impact as Approved Project (Less than Significant Impact)]**.

ciii) **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or**

The project proposes to connect to the City's existing storm drainage system. The project is not expected to contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. See also cii) above**[Same Impact as Approved Project (Less than Significant Impact)]**.

civ) **Impede or redirect flood flows?**

The project site is located in Zone D, defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D. Therefore, the project would not impede or redirect flood flows. **[Same Impact as Approved Project (Less than Significant Impact)]**.

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

The project site is not located in an area subject to significant seiche or tsunami effects. The project site is located within an inundation area for the Anderson Dam, based on the map entitled "Dam Failure Inundation Areas" in the General Plan EIR (Association of Bay Area Governments). This map assumes complete failure with a full reservoir. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the reservoir at the time of failure. The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The California Department of Water Resources (DWR), Division of Safety of Dams is responsible for regular inspection of dams in California. DWR and local agencies (e.g., Santa Clara Valley Water District) are responsible for minimizing the risks of dam failure thus avoiding the release of pollutants due to project inundation. **[Same Impact as Approved Project (Less than Significant Impact)]**..

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

The project consists of development on an approximately 0.22-acre infill site. As discussed under a) and b) above, the proposed project would comply with the City's standard permit conditions, Policy 6-32, and the City of San José Grading Ordinance. In addition, the infill project would not impact groundwater recharge. Therefore, the project would not result in significant water quality or groundwater quality impacts that would conflict or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **[Same Impact as Approved Project (Less than Significant Impact)]**.

Conclusion: Similar to the analysis in the Downtown Strategy 2040 FEIR, all project-level impacts related to hydrology and water quality would be less than significant with implementation of standard permit conditions as described above.

3.11 Land Use and Planning

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

Regional and Local

Santa Clara Valley Habitat Plan

As discussed in Section 3.4, Biological Resources, the HCP was developed 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, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. As it pertains to issues of land use, the HCP helps public and private entities within the HCP's jurisdiction plan and conduct projects and activities in ways that lessen the impact on natural resources.

General Plan Designation

The project site is designated *Downtown* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Land Use and Planning Policies	
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-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-6.8	Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.
Policy IP-2.8	Allow development of residential units at the density and in the form approved in land use entitlements in place upon adoption of the Envision San José 2040 General Plan, including capacity specified in the adopted Downtown Strategy, North San José Area Development Policy, Evergreen-East Hills Development Policy, Specific Plans, and potential dwelling unit yield from residential properties identified on the

Envision San José 2040 Relevant Land Use and Planning Policies	
	City's Vacant Land Inventory. When the City Council commences the second Horizon of the Envision General Plan, new or revised proposals for development on sites with previously approved residential entitlements should conform to the Land Use / Transportation Diagram.
Policy LU-1.2	Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
Policy LU-1.6	With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.
Policy LU-2.2	Include within the Envision General Plan Land Use / Transportation Diagram significant job and housing growth capacity within the following identified Growth Areas: • **Downtown** – The City's Downtown Strategy plans for ambitious job and housing growth capacity in the Downtown area to reinforce its role as San José's civic, cultural and symbolic center and to support key infrastructure investments, including the planned BART and High-Speed Rail systems.
Policy LU-3.1	Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.
Policy LU-3.2	Support Downtown as a primary employment center in the region, especially for financial institutions, insurance companies, government offices, professional services, information and communication technology companies, and businesses related to conventions.
Policy LU-3.3	Support the development of Downtown as an arts, cultural, and entertainment center for San José and the region. Promote special events, parades, celebrations, performances, concerts, and festivals.
Policy LU-3.4	Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of this Plan.
Policy LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.
Policy LU-3.6	Prohibit uses that serve occupants of vehicles (such as drive-through windows) and discourage uses that serve the vehicle (such as car washes and service stations), except where they do not disrupt pedestrian flow, are not concentrated, do not break up the building mass of the streetscape, and are compatible with the planned uses of the area.
Policy LU-3.7	Recognize the urban nature of Downtown and support 24-hour uses and outdoor uses, so long as significant adverse impacts do not occur.
Policy LU-3.8	Leverage Downtown's urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

Envision San José 2040 Relevant Land Use and Planning Policies	
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
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 rehabilitation 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-13.6	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-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-16.4	Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.
Policy VN-1.7	Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN-1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

Santa Clara County Airport Land Use Commission Airport Plan

The project site is located outside the "Airport Influence Area" established by the Santa Clara County Airport Land Use Commission (ALUC) and therefore, ALUC policies do not apply to this project. Refer also to the discussion in *Section 3.9 Hazards and Hazardous Materials* of this SEIR.

3.11.1.2 *Existing Conditions*

The project is located in an urbanized area of the City, with a mix of primarily commercial and residential uses. The property is currently occupied by a two-story commercial building. Land uses surrounding the site are listed below as shown in the aerial in Figure 3.

- North: commercial/offices, multi-family residential, North Second Street
- South: commercial/offices, East Santa Clara Street
- East: North Second Street, commercial/offices
- West: commercial

The project site is designated *Downtown* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram. The property is currently zoned DC - Downtown Primary Commercial. The *Downtown* designation supports high-density development in the office, retail, service, residential, and entertainment use categories.

3.11.2 Impacts and Mitigation

3.11.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to land use and planning would be considered significant if the project would:

a) Physically divide an established community;

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

c) Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park). Per the Downtown Strategy 2040 FEIR, a significant shade and shadow impact would occur if a project would result in a 10 percent or greater increase in the shadow cast onto one of the six major open space areas in downtown San José (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park).

3.11.2.2 *Project Impacts*

a) **Would the project physically divide an established community?**

The project is proposed on an existing developed site in downtown. The proposed mixed commercial and residential project would not physically divide an established community. **[Same Impact as Approved Project (Less than Significant Impact)]**.

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

The project site is designated *Downtown* in the City's 2040 General Plan. This designation allows office, retail, service, residential, and entertainment uses in the Downtown area, at very high intensities unless incompatible with other major policies within the Envision General Plan. Development within this designation should enhance the downtown community, support pedestrian and bicycle circulation, and increase transit ridership. Under this designation, allowed density is up to 800 du/ac, allowed floor area ratio is up to 30.0, and allowable building heights are 3 – 30 stories.

The project is an application for a Special Use Permit and Historic Preservation Permit to partially demolish the Realty Building, a City Landmark, and construct a 22-story building with one below-grade basement level. Approximately 18,643 square feet of commercial uses would be located on the first and second floors, and a total of 220 affordable senior housing units would be located on the third through 22nd floors. The Historic Preservation Permit is required pursuant to Section 13.48 of the San José Municipal Code which requires the approval of a HP Permit for any work performed on a City Landmark.

The project would partially demolish the existing building by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby.

The project would incorporate the existing North Second Street façade into the new building. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay through the center of the front façade. Typical openings would be aluminum-sash and rectangular in shape.

The project is consistent with the *Downtown* land use designation, which allows high intensity mixed-use residential and commercial. The project is consistent with the General Plan designation and DC Zoning District requirements for the site, including density, use, height, and setback requirements. As a designated City Landmark, the site is subject to the review of a Historic Preservation Permit in accordance with the Historic Preservation Chapter (13.48) of the San José Municipal Code, which promotes the preservation of landmark districts to protect and enhance the City's cultural aesthetic character.

As discussed further in *Section 3.3 Cultural Resources*, the proposed project would result in the demolition of the historic structure on-site (Realty Building) and would only partially meet the principles and guidelines for rehabilitation. The project proponent's submitted hardship information for non-compliance with the Historic Preservation Ordinance proposed for the project will be accepted by the City; however, the proposed project would still conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental impact. **[New Significant Unavoidable Impact (Less than Significant Impact)]**.

c) **Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park)? Per the Downtown Strategy 2040 FEIR, a significant shade and shadow impact would occur if a project would result in a 10 percent or greater increase in the shadow cast onto one of the six major open space areas in downtown San José (St. James Park, Plaza of Palms, Plaza de Cesar Chavez, Paseo de San Antonio, Guadalupe River Park, and McEnery Park).**

The nearest major open space area to the project site is St. James Park, a 6.8-acre park located approximately 450 feet north of the project site. A solar/shade simulation was prepared for the project by Anderson Architects, as presented in Figure 12, showing the increased shadows attributable to the proposed residential tower. As indicated in Figure 12, the project would increase shade in the area, affecting primarily adjacent streets, sidewalks, and buildings. The proposed residential tower would not create shadows that would encroach onto St. James Park, the closest open space to the project. Therefore, the project would not result in a 10 percent or greater shadow cast onto St. James Park, resulting in a less than significant impact. **[Same as Approved Project (Less Than Significant Impact)]**.

Conclusion: Project-level impacts related to land use and planning would be significant and unavoidable with regards to policies for the protection of historic resources in the City's General Plan.

3.12 Mineral Resources

3.12.1 Environmental Setting

3.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE). There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

3.12.1.2 *Existing Conditions*

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE).

There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA. The project site lies outside of the Communications Hill area.

3.12.2 Impacts and Mitigation

3.12.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to mineral resources would be considered significant if the project would:

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

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

3.12.2.2 *Project Impacts*

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

The project site is located over three miles northwest of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA; therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource. **[Same Impact as Approved Project (No Impact)]**

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

The project site is located over three miles northwest of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA; therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource. **[Same Impact as Approved Project (No Impact)].**

Conclusion: Consistent with the findings in the Downtown Strategy 2040 FEIR, there would be no project-level impacts related to mineral resources would occur as a result of the project.

3.13 Noise and Vibration

A noise and vibration assessment has been prepared for the project by Illingworth & Rodkin, Inc. (July 2021), which is contained in Appendix F. The following discussion summarizes the results of this assessment.

3.13.1 Environmental Setting

3.13.1.1 *Background Information*

Noise Fundamentals

Noise is measured in decibels (dB) and is typically characterized using the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The City's Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB.

Vibration Fundamentals

Several methods are typically used to quantify vibration amplitude. One method used by the City is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec is used to evaluate construction-generated vibration for building damage and human annoyance.

3.13.1.2 *Regulatory Framework*

Federal

Federal Highway Administration Roadway Construction Noise Model

The Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM) is the national model for prediction of noise generated by construction projects. Since construction frequently occurs near to residences and businesses, the FHWA developed the RCNM in an effort to control and monitor construction noise to avoid impacts on surrounding communities and neighborhoods. The RCNM provides a federally-recognized construction noise screening tool to reliably and easily predict construction noise levels and to determine compliance with noise limits for construction projects of varying types.

State

California Building Code

The 2019 California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the California Green Building Standards Code (Section 5.507.4.1

and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,[37] that project building materials and assemblies need to comply with based on the noise environment.

Local

San José General Plan Noise Compatibility Guidelines

The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The General Plan includes the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS DBA) FROM GENERAL PLAN TABLE EC-1: Land Use Compatibility Guidelines for Community Noise in San José						
Land Use Category	**Exterior DNL Value In Decibels**					
	55	**60**	**65**	**70**	**75**	**80**
1. Residential, Hotels and Motels, Hospitals and Residential Care						
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 Arenas, 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.)					

Additionally, policies in the General Plan have been adopted to avoid or mitigate noise and vibration impacts from development projects. Policies applicable to the project are presented below.

[37] Sound Transmission Class (STC) is a single figure rating designed to give an estimate of the sound insulation properties of a partition. Numerically, STC represents the number of decibels of speech sound reduction from one side of the partition to the other.

Envision San José 2040 Relevant Noise and Vibration Policies	
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan. Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	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.
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.

Envision San José 2040 Relevant Noise and Vibration Policies	
	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.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use Permit or Conditional Use Permit as provided in Chapter 20.100.

City of San José Zoning Ordinance Noise Standards	
Land Use Types	**Maximum Noise Levels in Decibels at Property Line**
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday and no construction activities are permitted on the weekends unless permission is granted with a development permit or other planning approval.

3.13.1.3 *Existing Conditions*

Existing Noise Environment

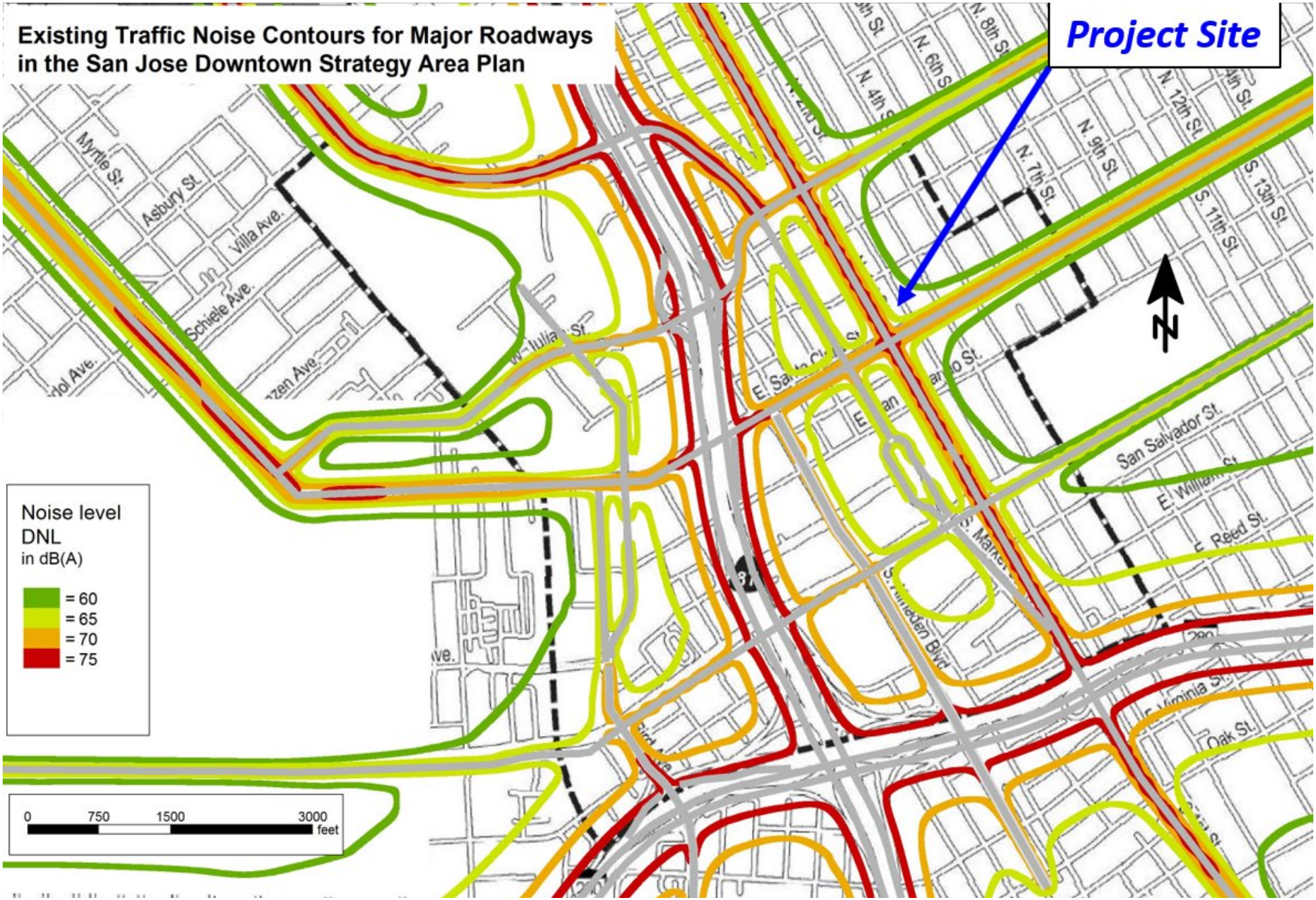
The existing noise environment at the site results primarily from vehicular traffic along East Santa Clara Street and North Second Street. State Route 87 (SR 87) also contributes to the noise environment and the VTA rail line that runs parallel to Second Street. Aircraft associated with Mineta San José International Airport contribute to the noise environment at times, but to a lesser extent than local vehicular traffic.

Due to the Shelter-in-Place restrictions in the Bay Area at the time of this study, traffic volumes along the surrounding roadways were reduced from typical conditions. A noise monitoring survey was not completed to document ambient noise levels during this unique time period because resultant noise levels would not be representative of typical ambient conditions. However, the project site and the surrounding area fall within the Downtown San José Strategy Plan 2040 EIR plan area. Thirty-two (32) measurements and noise contours generated for the Downtown Strategy Plan and prior noise measurements made at a nearby site in 2005 were reviewed to establish the existing noise environment.

As part of the ambient noise measurements made for the Downtown Strategy Plan, the existing traffic noise contours, based on peak hour traffic volumes provided in 2015, were generated for the Plan Area. Noise levels at the project site would range from 64 to 69 dBA DNL in 2015. These are shown in Figure 17. In the model, a receptor was positioned 75 feet from the East Santa Clara Street centerline, east of Market Street. At this distance, noise levels in 2015 would be 67 dBA DNL. Assuming about a 1% increase in traffic volumes along East Santa Clara Street each year, which would represent standard growth in a built-out area, noise levels by 2021 would increase by less than 1 dBA DNL.

Ambient noise measurements were also taken at a nearby project site (35 S. 2nd Street) in August 2005. Thirty-three (33) of these measurements included one long-term measurement (LT-1) and one short-term measurement (ST-1) at 35 South Second Street, which is located south of East Santa Clara Street. Due to the setback of 35 South Second Street from East Santa Clara Street, these measurements would be similar to the noise environment expected at the project site. Both measurements were made along the eastern boundary adjacent to South Second Street as shown in Figure 17. This noise monitoring survey was made from Monday, August 22, 2005, through Tuesday, August 23, 2005.

A VTA light rail track runs along the near side of South Second Street, with a bus lane and a traffic lane located on the far side of the street. LT-1 was located about 25 feet from the VTA line, about 50 feet from the bus lane, and about 60 feet from traffic lane. Typical hourly average noise levels at LT-1 ranged from 64 to 69 dBA L_{eq} during the day and from 58 to 68 dBA L_{eq} at night. The day-night average noise level over the course of the measurement period was 70 dBA DNL. The daily trend in noise levels at LT-1 is shown in Figure 3.

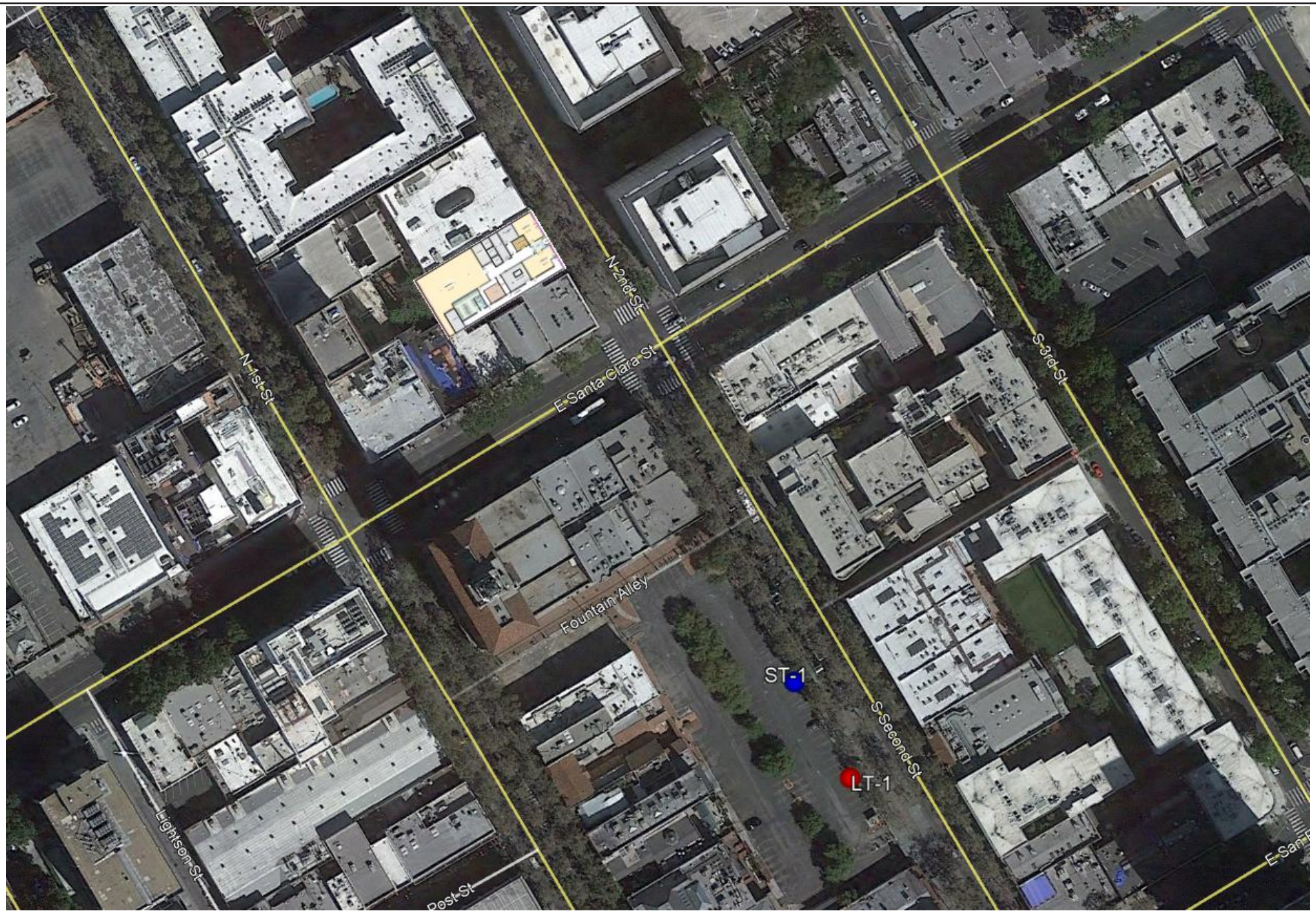


Source: Illingworth & Rodkin, July 2021

Vicinity Noise Contour Map

19 N. 2nd Street Mixed-Use SEIR

Figure 17



Source: Illingworth & Rodkin, July 2021

Noise Measurement Locations

19 N. 2nd Street Mixed-Use SEIR

Figure 18

Measurement ST-1 was conducted at the 35 South Second Street site to identify and quantify noise levels generated by the various noise sources adjacent to the site. The 10-minute average noise level measured at ST-1 from 2:10 p.m. to 2:20 p.m. on August 22, 2005 was 69 dBA L_{eq} and included seven bus movements, three light rail movements, one aircraft overflight, various traffic, parking lot, and pedestrian noise. Buses and VTA light rail vehicles typically stopped in front of the site and idled for several seconds during passenger boarding before continuing up South Second Street. VTA vehicles made audible announcements of the stop location during arrival and sounded warning bells during arrival and departure from the station. Typical maximum noise levels measured during the short-term noise measurement are summarized in Table 14.

Table 14
Typical Maximum Noise Levels Measured at ST-1

Activity	Typical L_{max} Noise Level, dBA
VTA Movement	74 to 77
VTA Idling	60 to 65
VTA Bell	75
VTA Announcement	65
Bus Movement	70 to 75
Bus Idling	65 to 70
Parking Lot Noise	60 to 65
Aircraft	60 to 65

Nearest Sensitive Receptors

The nearest sensitive receptors with respect to noise and vibration would be those located on the upper floors of the building at the southeast corner of the intersection of East Santa Clara/1st Street intersection and in the upper floors the buildings north of the project site along North 2nd Street. The existing hourly average noise levels range from 64 to 69 dBA Leq during daytime hours.

Existing Vibration Environment

Vibration measurements were measured along the VTA light rail line for a project located at 27 South First Street on Wednesday, March 28, 2018.[38] The previous measurements were made at a site located about 500 feet south of the project site.[39] The instrumentation used to conduct the measurements included a Roland model R-05 solid-state recorder and seismic grade, low noise accelerometers firmly fixed to the ground. This system was capable of accurately measuring very low vibration levels. Vibration levels were measured at the ground level approximately 60 feet from the light rail track on South First Street. This is the same train line that runs along South Second Street.

A total of six individual light rail train pass-bys were observed and recorded at the 60-foot vibration monitoring site during the testing period. Vibration levels were measured in the vertical axis because ground vibration is typically most dominant in this axis. Overall levels ranged from 59 to 64 VdB at a distance of 60 feet from the tracks.

[38] Illingworth & Rodkin, Inc., "27 South First Street Project Environmental Noise and Vibration Report," December 14, 2018.
[39] San José, City of, *Addendum to the Downtown Strategy 2040 Environmental Impact Report, (SP18-016), 27 South First Street Mixed-Use Project*.

3.13.2 Impacts and Mitigation

3.13.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to noise and vibration would be considered significant if the project would:

a) 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;

b) Result in generation of excessive groundborne vibration or groundborne noise levels; or

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.

3.13.2.2 *Project Impacts*

Significance Criteria

The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan or Municipal Code at existing noise-sensitive receptors surrounding the project site.
    - A significant noise impact would be identified if construction-related noise would temporarily increase ambient noise levels at sensitive receptors. The City of San José considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices.
    - A significant permanent noise level increase would occur if the project would result in: a) a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) a noise level increase of 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.
    - A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan or Municipal Code.
- A significant impact would be identified if the construction of the project would generate excessive vibration levels surrounding receptors. Groundborne vibration levels exceeding 0.08 in/sec PPV would have the potential to result in cosmetic damage to historic buildings, and

groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.

- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive aircraft noise levels.

In conformance with the Downtown Strategy 2040 FEIR, the project would be required to be constructed in accordance with General Plan policies and Zoning Ordinance requirements. Impacts from project noise would be less than significant with mitigation incorporated and implementation of the identified Standard Permit Conditions, described below.

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

The noise-related effects associated with the project are described below based on the results of the noise and vibration study in Appendix F. According to Policy EC-1.2 of the City's General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by 3 dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of 5 dBA DNL or more would be considered significant. The City's General Plan defines the "normally acceptable" outdoor noise level standard for the nearby residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if traffic due to the proposed project would permanently increase ambient levels by 3 dBA DNL. For reference, a 3 dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

Operational Noise Impacts

Mechanical Equipment. The City's General Plan does not include policies specifically addressing mechanical noise generated by residential land uses. However, the residential mechanical noise should be addressed with respect to the City's Municipal Code threshold of 55 dBA to minimize disturbance to the existing and future residences surrounding the project site.

The site plan shows mechanical and electrical rooms in the basement and pump rooms and a water tank. The proposed project would also include an emergency generator, which would also be located in the basement level. For a building of this size, an emergency generator with a capacity of 500 kW would be expected. A generator of this size would be expected to generate 82 dBA at a distance of 50 feet (Appendix F). Due to the generator's location and other equipment in the basement, noise levels generated by such equipment would be shielded from existing receptors surrounding the project site. The City's 55 dBA DNL threshold would not be exceeded at nearby residential land uses.

The roof level plan also shows an area in the northwest corner designated for solar panels. Solar panels do not generate significant noise and would not result in noise levels exceeding 55 dBA DNL at the nearby residential land uses.

The proposed residential building would also include air handling units (AHU) on the roof, which would likely be located at the staircase towers. Details pertaining to the number, size, and type of AHU units are unavailable at this time. AHU equipment can generate noise levels from 68 to 83 dBA at a distance of three feet from the source. Due to having a wide range of source levels and other unknown variables, an accurate assessment of mechanical equipment noise should be completed once manufacturer-provided noise level information of equipment expected for the proposed project is available and specific locations for the equipment is identified.

Conservatively, the AHU equipment located on the roof of the proposed building would potentially exceed the City's Municipal Code threshold of 55 dBA at the adjoining residential properties. Since the City's General Plan does not include policies specifically addressing mechanical noise generated by residential land uses, no General Plan policies would be violated by noise levels generated by the AHU equipment, and this would be considered a less-than-significant impact. However, mechanical equipment noise generated from the rooftop of the proposed building could potentially exceed the City's Municipal Code thresholds at the nearest receptors.

Traffic. A traffic study was not required for the proposed project since parking and vehicular access to the site is not proposed for the project. While bicycle parking will be included in the project, the project will not generate vehicular traffic trips. Therefore, the project would not result in a permanent noise increase of 3 dBA DNL or more from traffic at noise-sensitive receptors in the project vicinity. This is a less than significant impact.

Construction Impacts

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project that is 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.

Project construction proposes work hours Monday through Friday from 8:00 a.m. to 5:00 p.m., which would fall within the City's allowable construction hours of 7:00 a.m. to 7:00 p.m.

The nearest noise-sensitive receptors would be located in the upper floors of a building in the southeast corner of the East Santa Clara Street/First Street intersection and in the upper floors the buildings north of the project site along North Second Street. The hourly average noise levels range from 64 to 69 dBA L_{eq} during daytime hours.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The construction of the proposed project would involve demolition of the existing buildings located on the site, grading and trenching, and building construction. The hauling of excavated materials and construction materials would generate truck trips on local roadways, as well. For the proposed project, pile driving is not planned.

Construction activities for individual projects are typically carried out in phases. During each phase of construction, there would be a different mix of equipment operating, and noise levels would vary by phase and vary within phases, based on the amount of equipment in operation and the location at which the equipment is operating. The typical range of maximum instantaneous noise levels for the proposed project would be 70 to 90 dBA L_{max} at a distance of 50 feet (see Table 14) from the equipment. Table 15 shows the average noise level ranges, by construction phase. Hourly average noise levels generated by construction are about 65 to 88 dBA L_{eq} for a residential mixed-use building measured at a distance of 50 feet from the center of a busy construction site (Appendix F). Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

A detailed list of equipment expected to be used during each phase of project construction was provided and is summarized in Table 15. The Federal Highway Administration's (FHWA's) Roadway Construction Noise Model (RCNM) was used to calculate the hourly average noise levels for each phase of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario. This construction noise model includes representative sound levels for the most common types of construction equipment and the approximate usage factors of such equipment that were developed based on an extensive database of information gathered during the construction of the Central Artery/Tunnel Project in Boston, Massachusetts (CA/T Project or "Big Dig"). The usage factors represent the percentage of time that the equipment would be operating at full power.

For each phase, the worst-case hourly average noise level, as estimated at the property line of each surrounding land use, is also shown in Table 16. For overall construction noise levels, multiple pieces of equipment used simultaneously would add together creating a collective noise source. While every piece of equipment per phase would likely be scattered throughout the site, the noise-sensitive receptors surrounding the site would be subject to the collective noise source generated by all equipment operating at once. Therefore, to assess construction noise impacts at the receiving property lines of noise-sensitive receptors, the collective worst-case hourly average noise level for each phase was centered at the geometrical center of the site and propagated to the nearest property line of the surrounding land uses. These noise level estimates are also shown in Table 17. Noise levels in Table 17 do not assume reductions due to intervening buildings or existing barriers.

As shown in Table 17, ambient noise levels at the existing land uses in the project site vicinity would potentially be exceeded by 5 dBA L_{eq} or more at various times throughout construction. Project construction is expected to last for approximately 29 months

Table 15
Construction Equipment 50-Foot Noise Emission Limits

Equipment Category	L_{max} Level (dBA)[1,2]	Impact/Continuous
Arc Welder	73	Continuous
Auger Drill Rig	85	Continuous
Backhoe	80	Continuous
Bar Bender	80	Continuous
Boring Jack Power Unit	80	Continuous
Chain Saw	85	Continuous
Compressor[3]	70	Continuous
Compressor (other)	80	Continuous
Concrete Mixer	85	Continuous
Concrete Pump	82	Continuous
Concrete Saw	90	Continuous
Concrete Vibrator	80	Continuous
Crane	85	Continuous
Dozer	85	Continuous
Excavator	85	Continuous
Front End Loader	80	Continuous
Generator	82	Continuous
Generator (25 KVA or less)	70	Continuous
Gradall	85	Continuous
Grader	85	Continuous
Grinder Saw	85	Continuous
Horizontal Boring Hydro Jack	80	Continuous
Hydra Break Ram	90	Impact
Impact Pile Driver	105	Impact
Insitu Soil Sampling Rig	84	Continuous
Jackhammer	85	Impact
Mounted Impact Hammer (hoe ram)	90	Impact
Paver	85	Continuous
Pneumatic Tools	85	Continuous
Pumps	77	Continuous
Rock Drill	85	Continuous
Scraper	85	Continuous
Slurry Trenching Machine	82	Continuous
Soil Mix Drill Rig	80	Continuous
Street Sweeper	80	Continuous
Tractor	84	Continuous
Truck (dump, delivery)	84	Continuous
Vacuum Excavator Truck (vac-truck)	85	Continuous
Vibratory Compactor	80	Continuous
Vibratory Pile Driver	95	Continuous
All other equipment with engines larger than 5 HP	85	Continuous

Notes:
[1] Measured at 50 feet from the construction equipment, with a "slow" (1 sec.) time constant.
[2] Noise limits apply to total noise emitted from equipment and associated components operating at full power while engaged in its intended operation.
[3]Portable Air Compressor rated at 75 cfm or greater and that operates at greater than 50 psi.

Table 16 Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA)								
Activity	**Domestic Housing**		**Office Building, Hotel, Hospital, School, Public Works**		**Industrial Parking Garage, Religious Amusement & Recreations, Store, Service Station**		**Public Works Roads & Highways, Sewers, and Trenches**	
	I	**II**	**I**	**II**	**I**	**II**	**I**	**II**
Ground Clearing	83	83	84	84	84	83	84	84
Excavation	88	75	89	79	89	71	88	78
Foundations	81	81	78	78	77	77	88	88
Erection	81	65	87	75	84	72	79	78
Finishing	88	72	89	75	89	74	84	84

I - All pertinent equipment present at site.
II - Minimum required equipment present at site.
Source: U.S.E.P.A., Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.

Table 17
Estimated Construction Noise Levels at Nearby Land Uses

Phase of Construction.	Time Duration	Construction Equipment (Quantity)	Calculated Hourly Average Noise Levels, L_{eq} (dBA)									
			Ambient Noise Levels = 64 to 69 dBA L_{eq}									
			North & South Comm. (35ft)		East Comm. (130ft)		West Res. & Comm. (115ft)		Nearest Res. North (135ft)		Nearest Res. South (195ft)	
			Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?
Demolition	1/1/2023-2/24/2023	Concrete/Ind. Saw (1) Excavator (1) Tractor/Loader/ Backhoe (1)	88	Yes	77	Yes	78	Yes	77	Yes	73	No
Site Preparation	1/1/2023-3/1/2023	Grader (1) Tractor/Loader/ Backhoe (1)	87-91[a]	Yes	75-79[a]	Yes	76-80[a]	Yes	75-79[a]	Yes	72-76[a]	Yes
Grading/ Excavation	3/1/2023-3/28/2023	Excavator (1) Grader (1) Rubber-Tired Dozer (1)	87	Yes	75	Yes	76	Yes	75	Yes	72	No
Trenching/ Foundation	6/1/2023-10/18/2023	Tractor/Loader/ Backhoe (1) Excavator (1)	85	Yes	73	No	74	Yes	73	No	70	No
Building – Exterior	12/1/2023-12/4/2024	Crane (1) Forklift (1) Generator Set (1) Welder (1)	83	Yes	71	No	72	No	71	No	68	No
Building – Interior/ Architectural Coating	12/1/2023-6/1/2025	Air Compressor (1) Aerial Lift (1)	78-84[b]	Yes	66-73[b]	No	67-74[b]	Yes	66-72[b]	No	63-69[b]	No

[a] Range of hourly average noise levels reflects the site preparation phase only and in combination with the demolition phase.
[b] Range of hourly average noise levels reflects the building – interior phase only and in combination with the building – exterior phase.

Considering that the project site is within 500 feet of existing residences and within 200 feet of existing commercial uses, the proposed project would be considered a significant temporary noise impact in accordance with Policy EC-1.7 of the City's General Plan. The proposed project falls within the Downtown Strategy 2040 FEIR plan area, which included mitigation measures to reduce temporary construction noise levels at noise-sensitive receptors.

Impact NSE-1: Construction noise would exceed ambient levels by five dBA for a period of more than one year, which exceeds City thresholds defined in General Plan Policy EC-1.7, within 500 feet of residential uses or 200 feet of commercial or office uses.

The project would be required to implement the following Standard Permit Conditions and mitigation measure during all phases of construction on the project site.

Standard Permit Conditions

- Pile driving is prohibited.
- Limit construction hours to between 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Mitigation Measure

Consistent with the Downtown Strategy 2040 FEIR and General Plan Policy EC-1.3, the proposed project would be required to implement the Standard Permit Conditions above and implement the following mitigation during all phases of project construction.

MM NSE-1: Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and the construction noise logistics plan implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval, whichever occurs first.

Consistent with the Downtown Strategy 2040 FEIR, the construction noise logistics plan shall include but is not limited to the following measures:

- The project contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

- The project contractor shall locate staging areas and construction material areas as far away as possible from adjacent land uses.

With implementation of the Standard Permit Conditions and Mitigation Measure above, the proposed project would have a less than significant construction noise impact.

With the implementation of GP Policy EC-1.7, Municipal Code requirements, and the above measures included in the *Downtown San José Strategy Plan 2040 EIR*, the temporary construction noise impact would be reduced to a less-than-significant level. **[Less Impact than Approved Project with Mitigation Incorporated (Significant Unavoidable Impact)]**

b) **Would the project generate excessive groundborne vibration or groundborne noise levels?**

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. Pile driving equipment, which can cause excessive vibration, is not expected to be required for the proposed project.

The San José Historic Commercial District surrounds the project site, according to the City's Historic Resource Inventory, although the site is located outside the District.[40] An aerial shot taken from the Historic Resource Inventory identifying the project site and the surrounding historical structures is provided in Appendix F (see also discussion in *3.3. Cultural Resources*).

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. As discussed in detail below, vibration levels exceeding these thresholds would be capable of cosmetically damaging adjacent buildings. Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls.

Table 18 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV, and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used. Table 18 also summarizes the distances to the 0.08 in/sec PPV threshold for historical buildings and to the 0.2 in/sec PPV threshold for all other buildings.

Table 18
Vibration Source Levels for Construction Equipment

Equipment		PPV at 25 ft. (in/sec)	Minimum Distance to Meet 0.08 in/sec PPV (feet)	Minimum Distance to Meet 0.2 in/sec PPV (feet)
Clam shovel drop		0.202	58	26
Hydromill (slurry wall)	in soil	0.008	3	1
	in rock	0.017	6	2
Vibratory Roller		0.210	60	27
Hoe Ram		0.089	28	12
Large bulldozer		0.089	28	12
Caisson drilling		0.089	28	12
Loaded trucks		0.076	24	10
Jackhammer		0.035	12	5
Small bulldozer		0.003	1	<1

Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., July 2021.

[40] www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

As shown in Figure 5 of Appendix F, four existing buildings classified as historical in the City's inventory would adjoin the site (to the south, to the southwest, to the west, and to the northwest). Additionally, the nearest building of normal conventional construction would adjoin the site to the north. The buildings to the north, to the south, and to the southwest would be located within 5 feet of the project site boundaries. The historical buildings to the west and to the northwest would be 35 and 25 feet, respectively from the project site. Appendix F, Figure 5 shows additional historical buildings south of East Santa Clara Street. These buildings would be more than 150 feet from the project site. As shown in Table 19, a historical building located 60 feet or more from potential construction activities would not be exposed vibration levels exceeding 0.08 in/sec PPV.

Table 19 summarizes the vibration levels at the three historical buildings and the conventional building immediately adjoining the site. Vibration levels are highest close to the source and then attenuate with increasing distance at the rate, where D is the distance from the source in feet and D_{ref} is the reference distance of 25 feet. While construction noise levels increase based on the cumulative equipment in use simultaneously, construction vibration levels would be dependent on the location of individual pieces of equipment. That is, equipment scattered throughout the site would not generate a collective vibration level, but a vibratory roller, for instance, operating near the project site boundary would generate the worst-case vibration levels for the receptor sharing that property line. Further, construction vibration impacts are assessed based on damage to buildings on receiving land uses, not receptors at the nearest property lines. Therefore, the distances used to propagate construction vibration levels (as shown in Table 18), which are different than the distances used to propagate construction noise levels (as shown in Table 17), were estimated under the assumption that each piece of equipment from Table 15 was operating along the nearest boundary of the project site, which would represent the worst-case scenario.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) may generate substantial vibration in the immediate vicinity of the historical or conventional buildings adjoining the project site. Note that no pile driving is proposed. As shown in Table 18, the 0.08 in/sec PPV threshold would potentially be exceeded within about 60 feet of the surrounding buildings, and the 0.2 in/sec PPV threshold for conventional buildings would be exceeded within 27 feet. Due to the close proximity of the buildings immediately surrounding the site, the use of most construction equipment along the shared property line would potentially exceed the City's thresholds, as shown in Table 19.

Table 19
Vibration Source Levels for Construction Equipment at Nearby Structures

Equipment		PPV (in/sec)				
		North Conventional Building (5 ft)	**South & SW Historical Buildings (5 ft)**	**West Historical Building (35 ft)**	**NW Historical Building (25 ft)**	**East Conventional Building (75 ft)**
Clam shovel drop		**1.186**	**1.186**	**0.140**	**0.202**	0.060
Hydromill (slurry wall)	in soil	0.047	0.047	0.006	0.008	0.002
	in rock	**0.100**	**0.100**	0.012	0.017	0.005

Table 19 Vibration Source Levels for Construction Equipment at Nearby Structures					
Equipment	**PPV (in/sec)**				
	North Conventional Building (5 ft)	**South & SW Historical Buildings (5 ft)**	**West Historical Building (35 ft)**	**NW Historical Building (25 ft)**	**East Conventional Building (75 ft)**
Vibratory Roller	**1.233**	**1.233**	**0.145**	**0.210**	0.063
Hoe Ram	**0.523**	**0.523**	0.061	**0.089**	0.027
Large bulldozer	**0.523**	**0.523**	0.061	**0.089**	0.027
Caisson drilling	**0.523**	**0.523**	0.061	**0.089**	0.027
Loaded trucks	**0.446**	**0.446**	0.052	0.076	0.023
Jackhammer	**0.206**	**0.206**	0.024	0.035	0.010
Small bulldozer	0.018	0.018	0.002	0.003	0.001
Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., July 2021.					

A study completed by the US Bureau of Mines analyzed the effects of blast-induced vibration on buildings in USBM RI 8507.[41] The findings of this study have been applied to buildings affected by construction-generated vibrations.[42] As reported in USBM RI 8507 and reproduced by Dowding, damage probability from vibration is expressed in terms of "threshold damage," "minor damage," and "major damage," at varying vibration levels. Threshold damage, which is described as cosmetic damage in this report, would entail hairline cracking in plaster, the opening of old cracks, the loosening of paint or the dislodging of loose objects. Minor damage would include hairline cracking in masonry or the loosening of plaster, and major structural damage would include wide cracking or shifting of foundation or bearing walls. Maximum vibration levels of 0.2 in/sec PPV or lower would result in virtually no measurable damage. With maximum vibration levels of 1.2 in/sec PPV, there would be about 20% chance of threshold or cosmetic damage, which no minor or major damage would be expected at the buildings immediately adjoining the project site.

Heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel drops, would have the potential to produce vibration levels of 0.08 in/sec PPV or more at historic buildings within 60 feet of the project site and to produce vibration levels of 0.2 in/sec PPV or more at conventional buildings within 27 feet of the project site.

Neither cosmetic, minor, or major damage would occur at historical or conventional buildings located more than 60 feet from the project site. At these locations, and in other surrounding areas where vibration would not be expected to cause cosmetic damage, vibration levels may still be perceptible. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce

[41] Siskind, D.E., M.S. Stagg, J.W. Kopp, and C.H. Dowding, Structure Response and Damage Produced by Ground Vibration form Surface Mine Blasting, RI 8507, Bureau of Mines Report of Investigations, U.S. Department of the Interior Bureau of Mines, Washington, D.C., 1980.
[42] Dowding, C.H., Construction Vibrations, Prentice Hall, Upper Saddle River, 1996.

perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

Impact NSE-2: Project construction would generate vibration levels exceeding the General Plan Policy EC-2.3 threshold of 0.08 in/sec PPV at historic properties within 60 feet of the project site and 0.2 in/sec PPV at conventional buildings within 30 feet of the site. Such vibration levels would be capable of cosmetically damaging the adjacent historic and commercial buildings. **[Less Impact than Approved Project with Mitigation Incorporated (Significant Unavoidable Impact)].**

Mitigation Measures

The Downtown Strategy 2040 FEIR recognized that construction vibration for future projects in Downtown could exceed vibration thresholds and included mandatory measures to be implemented by future projects to reduce vibration impacts. Consistent with General Plan Policy EC-2.3, the proposed project would implement the following mitigation measures during all phases of construction on-site.

MM NSE-2 Prior to the issuance of any demolition, grading, or building permits, the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The Plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer (HPO) for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

- A description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.

- Use of heavy vibration-generating construction equipment shall be prohibited within 61 feet of historic buildings and buildings eligible for listing as historic, if feasible.

- Document conditions at all historic structures located within 61 feet of construction and at all conventional structures within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

    - Vibration limits shall be applied to vibration-sensitive structures located within 61 feet of any construction activities identified as sources of high vibration levels.

    - Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 61 feet and for each conventional structure within 30 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion, and shall include internal and external crack monitoring in structures, settlement, and distress, and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.

- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.

- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the affected structures.

- 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-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey will be submitted to the City of San José's Director of Planning, Building and Code Enforcement or the Director's designee.

With implementation of the Mitigation Measure NSE-2, the project would have a less than significant construction vibration impact. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

c) **For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

Norman Y. Mineta San José International Airport is a public-use airport located approximately 1.7 miles northwest of the project site. According to the City's Airport Master Plan Environmental Impact Report,[43] the project site lies right around or slightly outside of the 60 dBA CNEL/DNL contour line. According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise.

Assuming standard construction materials for aircraft noise below 60 dBA DNL, the future interior noise levels resulting from aircraft would below 45 dBA DNL. Therefore, future interior noise at the proposed building would be compatible with aircraft noise. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Non CEQA Effects

In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. However, General Plan Policy EC-1.1 requires that existing ambient noise levels be analyzed for new residences and that noise attenuation be incorporated into the project in order to reduce interior and exterior noise levels to acceptable limits.

The Environmental Leadership Chapter in the General Plan sets forth policies with the goal of minimizing the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies in the City of San José. The applicable General Plan policies were presented in detail in the regulatory framework section and are summarized below for the project:

- The City's acceptable exterior noise level standard is 60 dBA DNL or less for the proposed residential land uses.
- The City's acceptable interior noise level standard is 45 dBA DNL or less for the proposed residential land uses.

[43] David J. Powers & Associates, Inc., Integrated Final Environmental Impact Report, Amendment to Norman Y. Mineta San Jose International Airport Master Plan, April 2020.

- The Cal Green Code standards specify an interior noise environment attributable to exterior sources not to exceed an hourly equivalent noise level ($Leq_{(1\text{-}hr)}$) of 50 dBA in occupied areas of nonresidential uses during any hour of operation.

Future Exterior Noise Environment

The City of San José does not consider private balconies as outdoor use areas subject to the General Plan exterior noise thresholds. The only common outdoor use area associated with the proposed project would include the residential roof deck. The center of the roof deck would be set back approximately 105 feet from the centerline of North Second Street and approximately 70 feet from the nearest VTA tracks. The site plan shows the elevation for the roof deck to be about 229 feet above the ground. The roof deck would be adequately shielded from the noise sources below and future exterior noise levels would be below 60 dBA DNL. The future noise levels at the center of the common use outdoor area would be compatible with the City's normally acceptable threshold of 60 dBA DNL. Common use outdoor area would be compatible with the City's normally acceptable threshold of 60 dBA DNL.

Future Interior Noise Environment

<u>Proposed Residential Component</u>. The City's acceptable interior noise level standard is 45 dBA DNL or less for residential land uses. Interior noise levels vary depending on the design of the buildings and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is often the method selected to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion.

Residential units are located on floors three through 22 of the proposed building. Units located along the eastern façade nearest North Second Street would be set back from the centerline of the roadway by approximately 55 feet and from the nearest VTA track by approximately 20 feet. At this distance, the units facing North Second Street would be exposed to future exterior noise levels ranging from about 63 to 72 dBA DNL. Assuming windows to be partially open, future interior noise levels would range from 48 to 57 dBA DNL.

Units along the southern façade would be partially shielded from traffic along North Second Street and East Santa Clara Street by the existing buildings adjoining the project site. However, due to the existing buildings having a maximum height of the three stories, residential units located on the upper floors of the proposed buildings would have direct line-of-sight. Units along the southern building façade would be exposed to future exterior noise levels ranging from 66 to 72 dBA DNL. Assuming windows to be partially open, future interior noise levels would range from 51 to 57 dBA DNL.

Units along the northern façade would be partially shielded from traffic along North Second Street and completely shielded from traffic along East Santa Clara Street. The setbacks from the centerline of North Second Street would range from 55 to 185 feet. At these distances, units along the northern building façade would be exposed to future exterior noise levels ranging from below 60 to 72 dBA DNL. Assuming windows to be partially open, future interior noise levels would range from below 45 to 57 dBA DNL.

To meet the interior noise requirements set forth by the City of San José of 45 dBA DNL, implementation of noise insulation features would be required for units facing East Santa Clara Street.

Commercial Land Uses. Commercial uses included in the proposed project would be located on the first and second floors. The setbacks from the centerline of North Second Street would be 45 feet and from the nearest VTA track would be 15 feet. Due to the elevation of the existing buildings adjoining the project site to the south, all commercial uses would be shielded from traffic along East Santa Clara Street. Based on the results of *Downtown San José Strategy Plan 2040 EIR,* daytime hourly average noise levels at the ground level of the building exterior would be up to 74 dBA L_{eq} at the southern building façade, with day-night average noise levels up to 72 dBA DNL.

Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems is normally required so that windows may be kept closed at the occupant's discretion and would provide an additional 5 dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA $L_{eq(1\text{-}hr)}$.

Project Conditions of Approval

The following noise insulation features shall be incorporated into the project to reduce interior noise levels to 45 dBA DNL or less at residential interiors:

- The project's design shall provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.

- The project shall provide appropriately rated windows and doors to ensure the interior noise threshold of 45 dBA DNL is met, confirmed prior to the issuance of a building permit. Preliminary calculations indicate that residential units along the eastern building façade would require windows and doors with a minimum rating of 31 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold.

- Units along the southern façade shall install windows and doors with minimum STC ratings of 28 with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to

requirements set forth in the State Building Code and the Cal Green Code. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and to reduce commercial interiors to 50 $L_{eq(1\text{-}hr)}$ or below. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

LRT Vibration and Land Use Compatibility

The Environmental Leadership Chapter in the Envision San José 2040 General Plan sets forth policies with the goal of minimizing the impact of heavy and light rail vibration on people through appropriate land use policies in the City of San José. Policy EC-2.1 requires new development within 100 feet of light and heavy rail lines or other sources of groundborne vibration, to use setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration (FTA).

The FTA vibration impact assessment criteria (summarized in Table 18) were used to evaluate vibration levels produced by trains passing the project area. The FTA vibration impact criteria are based on maximum overall levels for a single event. The impact criteria in Table 18 provide thresholds based on the number of train passbys in a given day: frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day).

Future Vibration Environment. A discussion of recent light rail train activity was included in the *Downtown San José Strategy Plan 2040 EIR*. This stated that vibration levels from light rail trains passing through the plan area would not exceed the "frequent events" category from FTA criteria shown in Table 18 at a distance of 60 feet from the tracks. Per Policy EC-2.1 of the City's General Plan, buildings proposed within 100 feet of the VTA tracks need to demonstrate compliance with the FTA standards.

The nearest building façade would be approximately 25 feet from the nearest VTA tracks. Propagating the measured vibration levels taken at 27 South First Street[2] to a distance of 25 feet using a fall-off rate of 3 dB per doubling of the distance, vibration levels are estimated to range from 63 to 67 VdB at the nearest building façade. Based on the number of events observed in a relatively short span of time in March 2018, sites along this light rail line would be subject to 70 or more events per day. This is not expected to change under future project conditions. The proposed mixed-use residential building would fall into Category 2, which has a threshold of 72 VdB for frequent events. With vibration levels up to 67 VdB at the nearest building façade, the proposed project is expected to meet the vibration threshold. The project would be compatible with the future vibration environment at the project site.

Conclusion: All project-level impacts related to noise and vibration would be reduced to a less than significant level with incorporation of mitigation and standard permit conditions identified above.

3.14 Population and Housing

3.14.1 Environmental Setting

3.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[44] The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation related pollution and greenhouse gas (GHG) emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[45]

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

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating population and housing impacts from development projects. Policies applicable to the project are presented below.

[44] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 27, 2018. http://hcd.ca.gov/community-development/housingelement/index.shtml
[45] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/

Envision San José 2040 Relevant Population and Housing Policies	
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.

3.14.1.2 *Existing Conditions*

Based on information from the State Department of Finance, the City of San José's population was estimated to be 945,942 in April 2020 and had an estimated total of 314,038 housing units, with an average of 3.2 persons per household.[46] ABAG projects that the City's population will reach 1,445,000 with 472,000 households by 2040.[47]

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth). The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area.

3.14.2 Impacts and Mitigation

3.14.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to population and housing would be considered significant if the project would:

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

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

[46] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State— January 1, 2011-2019." May 2019. Accessed October 7, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/
[47] http://projections.planbayarea.org/

3.14.2.2 *Project Impacts*

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

The project proposes 220 affordable senior residential units and would accommodate an estimated 704 residents (based on 3.2 residents per unit). This does not represent substantial population growth. The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area. The proposed residential development is consistent with the project site's General Plan land use designation and, therefore, would not add growth beyond that anticipated from buildout of the General Plan. Please refer to *Section 3.11. Land Use and Planning* and *Section 4. Growth-Inducing Effects*. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project site is currently occupied by commercial office uses and does not contain any housing. Thus, the residential project would not displace existing housing or require the construction of replacement housing. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

3.15 Public Services

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

California Government Code Section 65996

California Government Code Section 65996 stipulates that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Public Service Policies	
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
Policy FS-5.6	When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

3.15.1.2 *Existing Conditions*

Fire Protection

Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station #1, located about 0.3 miles northwest of the site at 225 North Market Street.

Police Protection

Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Schools

The project site is in the San José Unified School District (SJUSD) area boundary. This district operates a combined 42 schools (27 elementary schools, six middle schools, and nine high schools) serving approximately 31,524 students.[48] The project site is within the Horace Mann Elementary School (elementary school), Muwekma Ohlone Middle School (middle school), and San José High School attendance boundaries assigned by the SJUSD.

Parks

Parks and recreation facilities within the project area are provided by the City of San José. The closest park facility to the project site is St. James Park, a 6.8-acre City neighborhood park located 550 feet north of the project site. It contains youth playgrounds, community center, barbecue pits, restrooms, an exercise course, and picnic areas.

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Dr. Martin Luther King Jr. Library, approximately 0.28 miles southeast of the project site.

3.15.2 Impacts and Mitigation

3.15.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to public services would be considered significant if the project would result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

[48] Envision San José 2040 General Plan Final Program EIR, certified November 2011.

a) Fire Protection;

b) Police Protection;

c) Schools;

d) Parks; or

e) Other Public Facilities.

3.15.2.2 *Project Impacts*

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

a) **Fire protection?**

The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for fire protection services. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the proposed residential use would not significantly impact fire protection services or require the construction of new or remodeled facilities.

The General Plan EIR concluded that, with the buildout of the General Plan, additional fire staff and equipment may be required to adequately serve a larger population, but no new fire stations would be required other than those already planned. Periodic operation and capital improvements may be required for fire protection services, but those improvements would not result in significant environmental impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) **Police protection?**

The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for police protection services. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded police facilities.

In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety.

The General Plan EIR concluded that the buildout under the General Plan could require new police facilities, which will require supplemental environmental review but are not anticipated to result in significant, adverse environmental impacts. Periodic operation and capital improvements may be required for police services, but those improvements would not result in significant environmental impacts.

The proposed development would not significantly impact police protection services or require the construction of new or remodeled facilities. **[Same Impact as Approved Project (Less than Significant Impact)].**

c) **Schools?**

The project proposes to redevelop the site with residential and commercial uses. Although residential, the senior housing component would not generate new students. In accordance with California Government Code Section 65996, the developer may be required to pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project. Development fees for SJUSD are currently set at a base-level of $3.48/sq. ft. for new residential development and $0.56/sq. ft. for commercial/retail development. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) **Parks?**

The City's Parkland Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The amount of proposed development represents a small fraction of the total growth identified in the General Plan. However, the project would be required to make a payment of in-lieu fees, by generating increase population that would utilize park services. The project, by itself, would not require the construction of new or expanded parks, resulting in less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**.

e) **Other public facilities?**

Although the project would incrementally increase residential development and population growth, the proposed 220 senior housing units would not require the construction or expansion of additional public facilities or libraries. The project is consistent with the General Plan designation for the site; the General Plan EIR concluded that development allowed under the General Plan would be adequately served by existing and planned library facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Conclusion: Similar to the development evaluated in the Downtown Strategy 2040 FEIR, all project-level impacts associated with public services would be less than significant.

3.16 Recreation

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

State

Assembly Bill 1191 and 1359 – Quimby Act

The Quimby Act, which is within the Subdivision Map Act, authorizes the legislative body of a city or county to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative or parcel subdivision map, if specified requirements are met. On September 8th, 2015 Governor Brown signed AB 1359, the purpose of which was to amend the existing Quimby Act to authorize local governments to spend Quimby Act funds beyond parks that serve the development from where the funds were sourced. To reallocate the funds in this manner, AB 1359 requires the legislative body to hold a public hearing before using fees as prescribed in the bill.

Subsequently, on September 8th, 2015 Governor Brown signed AB 1191, the purpose of which was to amend the existing Quimby Act to authorize the legislative bodies of cities and counties to require land dedication or to impose fees for future park or recreational purposes as a required condition of approval of a tentative or parcel subdivision map. AB 1191 also eliminated the requirement for a local municipality to repay any unspent funds accrued through the Quimby Act after a five-year period resulting from such fees.

Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. See *Section O. Public Services* for additional discussion.

Greenprint 2009 Update

The Greenprint is a strategic plan which was developed by the City to help guide future expansion of parks, recreational facilities, and community services over a 20-year period. The Greenprint creates a comprehensive policy and program to support daily and long-term decision making as pertaining to capital projects, recreation programs, and services. In 2009, the Greenprint Plan was updated with the intention of bringing the document into alignment with the 2020 General Plan. The 2009 update was then written into the 2040 General Plan.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Recreation Policies	
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4-mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
Policy CD-6.5	Design quality publicly-accessible open spaces at appropriate locations that enhance the pedestrian experience and attract people to the Downtown. Use appropriate design, scale, and edge treatment to define, and create publicly-accessible spaces that positively contribute to the character of the area and provide public access to community gathering, recreational, artistic, cultural, or natural amenities.

3.16.1.2 *Existing Conditions*

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks. The City has 51 community centers and over 57 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

St. James Park, a 6.8-acre City neighborhood park, is located to the north of the site between E. St. John Street and E. St James Street. It contains youth playgrounds, a community center, barbecue pits, restrooms, an exercise course, and picnic areas.

3.16.2 Impacts and Mitigation

3.16.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to recreation would be considered significant if the project would:

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

b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

3.16.2.2 *Project Impacts*

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

The proposed project would generate residents that would utilize nearby parks, however, the project, by itself, would not physically deteriorate or require the construction or expansion of park facilities. The Park Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The City's Parkland Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The amount of proposed development represents a small fraction of the total growth identified in the General Plan. However, the project would be required to make a payment of in-lieu fees, because of the increased population that would utilize park services. The project, by itself, would not require the construction of new or expanded parks, resulting in less than significant impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

Conclusion: Similar to the development analyzed in the Downtown Strategy 2040 FEIR, the proposed project-level impacts associated with recreation would be less than significant.

3.17 Transportation

The project site is located within the Downtown Core Area Boundary. The Downtown Strategy 2040 FEIR exempts development within the Downtown Core Area Boundary from the City's Transportation Impact Policy and related traffic mitigation requirements. The City's Department of Public Works concluded that the project would not require a local transportation analysis because no onsite parking and/or off-site parking arrangements with neighboring parking lot owners are proposed for the project.[49]

3.17.1 Environmental Setting

3.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

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

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay—described solely by level of service or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions were required to implement a VMT policy by July 1, 2020. SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Projects located within 0.50 mile of transit are generally be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Final Plan Bay Area 2040

The Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) adopted the Final Plan Bay Area 2040 in July 2017. The Final Plan Bay Area 2040 is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county San Francisco Bay Area. This plan focuses on the following strategies:

[49] Department of Public Works email to Hexagon Transportation Consultants (Christy Cheung, 12/22/2020).

- Forecasting transportation needs through the year 2040.
- Preserving the character of our diverse communities.
- Adapting to the challenges of future population growth.

This effort grew out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375, Steinberg), which requires each of the state's 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks. Plan Bay Area 2040 is a limited and focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013.

Santa Clara County Congestion Management Program

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

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a new "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.[50] According to the policy, an employment facility (e.g., office, R & D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee, or the existing average citywide or regional per capita VMT respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation where applicable. The LTA also addresses CEQA issues related to pedestrian, bicycle access, and transit.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are as follows:

[50] The new policy took effect on March 29, 2018.

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit, and
6. Transportation Projects that Reduce or Do Not Increase VMT.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Transportation Policies	
Policy IE-1.5	Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within the Downtown, North San José, the Berryessa International Business Park and Edenvale.
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. • Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems. • The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that

Envision San José 2040 Relevant Transportation Policies	
	identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-1.3	Further the Major Strategies of this Plan to focus growth in appropriate locations; design complete streets for people; promote Grand Boulevards, Main Streets, and Downtown; support transit; and foster a healthful community.
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
Policy CD-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.

Envision San José 2040 Relevant Transportation Policies	
	1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the applicable Land Use / Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks above parking structures.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-6.9	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
Policy LU-2.2	Include within the Envision General Plan Land Use / Transportation Diagram significant job and housing growth capacity within the following identified Growth Areas: • Downtown – The City's Downtown Strategy plans for ambitious job and housing growth capacity in the Downtown area to reinforce its role as San José's civic, cultural and symbolic center and to support key infrastructure investments, including the planned BART and High-Speed Rail systems.
Policy LU-3.5	Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

Envision San José 2040 Relevant Transportation Policies	
Policy IP-2.8	Allow development of residential units at the density and in the form approved in land use entitlements in place upon adoption of the Envision San José 2040 General Plan, including capacity specified in the adopted Downtown Strategy, North San José Area Development Policy, Evergreen-East Hills Development Policy, Specific Plans, and potential dwelling unit yield from residential properties identified on the City's Vacant Land Inventory. When the City Council commences the second Horizon of the Envision General Plan, new or revised proposals for development on sites with previously approved residential entitlements should conform to the Land Use / Transportation Diagram.

3.17.1.2 *Existing Conditions*

Transportation Facilities

The project site is located along North Second Street between East St. John Street and East Santa Clara Street. In the project vicinity, North Second Street consists of a two-lane, one-directional roadway. East St. John Street is a two-lane, two-directional roadway, and East Santa Clara Street is a four-lane, two-directional roadway.

Sidewalks extend along both sides of North Second Street as well as other streets in the immediate project area. Pedestrian crosswalks with signal heads and accessible ramps are located on each leg of the nearby signalized intersections.

Striped bicycle routes are provided along East St. John Street and portions of North Second Street. The City is proposing to install a bike path along North Second Street. The San José Better Bike Plan 2025 identifies Class II bike lanes along North Second Street in the project vicinity.

The project lies within close proximity to major transit services. Existing transit service to the study area is provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak. The downtown San José area is served directly by many local buses. The nearest bus stops to the project site are located at the intersections of North Second Street/East Santa Clara Street (Local Routes 72 & 73), East Santa Clara Street/First Street (Local Routes 22, 23, 64A, and 64 B, as well as Rapid Routes 500, 522, and 523), and North First Street/East Santa Clara Street (Local Routes 72 & 73).

The St. James Light Rail Train (LRT) Station is located approximately 850 feet north of the project site on North First Street at St. James Park. The San Antonio LRT station is located approximately 1,300 feet south of the project site on South Second Street. Proximity to transit would encourage the use of alternative methods of transportation to and from the site.

3.17.2 Impacts and Mitigation

3.17.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to traffic and transportation would be considered significant if the project would:

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

b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b);

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

d) Result in inadequate emergency access.

3.17.2.2 *Project Impacts*

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

As described above, the project site is located near major transit services, including LRT, bus routes, and Diridon Station.

Existing sidewalks along North Second Street as well as crosswalks at the nearby signalized intersections provide pedestrian access to and from the project site. The network of sidewalks and crosswalks in the study area has good connectivity and provide safe routes to transit stops and other points of interest in the downtown area.

The proposed project would provide 62 long-term bicycle parking spaces and 12 bicycle spaces for the ground-floor commercial uses on the basement level. In addition, the proposed project would provide six short-term bicycle parking spaces, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would offer future residents alternative methods of transportation to and from the site. Because the project includes on-site affordable housing, the project's loading space requirement would be waived consistent with Chapter 20.190 (Affordable Housing Density Bonuses and Incentives) of the San José Municipal Code.

Based on the discussion above, the project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

City Council Policy 5-1 uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development under CEQA. CEQA Guidelines Section 15064.3(b) indicates that "generally, [land use] projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact." The St. James Light Rail Train (LRT) Station is located approximately 850 feet north of the project site on North First Street at St. James Park. The San Antonio LRT station is located approximately 1,300 feet south of the project site on South Second Street. The LRT and Caltrain services provide access to the Diridon Transit Center, located approximately one mile west of the project site at Cahill Street. In addition, streets within one block of the project site are served by bus routes.

Buildout of the Downtown Strategy 2040 was analyzed according to City Council Policy 5-1. Based on the increased density near high quality transit options, the Downtown Strategy 2040 was found to decrease residential VMT per capita (from 8.25 in 2015 to 7.54 in 2040). Employment VMT was also found to decrease (from 10.12 in 2015 to 8.49 in 2040). However, the Downtown Strategy 2040 found that limited areas would experience VMT increases above the levels established in Policy 5-1. However, Policy 5-1 is not appropriate for full analysis of program-level impacts. Where a proposed project's location indicates the potential for VMT to exceed the City's thresholds established by Policy 5-1, a project-specific analysis would be conducted, and if the analysis demonstrates that VMT will exceed the City's threshold for that use, feasible measures (e.g., transportation demand management) would be applied to sufficiently reduce the project's VMT. Thus, the Downtown Strategy 2040 EIR concluded that impacts under the Downtown Strategy 2040 to VMT would be less than significant.

Based on the Downtown Strategy 2040 FEIR, future development within the downtown would result in low VMT due to the concentration of uses and transit services. The proposed project is located within the downtown area which does not exceed the VMT per job and residential VMT per capita thresholds (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). The project, therefore, is consistent with CEQA Guidelines Section 15064.3(b). **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project is the construction of a single building on a developed site, and would not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses. A local transportation analysis to evaluate traffic operations for the project was not required by the City's Public Works Department, primarily because no parking is proposed. In addition, the applicant has requested a waiver to allow for no loading spaces. The City will coordinate with the project team to address any site circulation/access items. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) **Would the project result in inadequate emergency access?**

The Downtown Strategy 2040 EIR concluded that build out would not result in incompatible uses of roadways or introduce any new features that would otherwise impede the movement of emergency vehicles. Therefore, development of the project is not expected to result in inadequate emergency access or hazards with the implementation of 2040 General Plan Policies and City standards. The proposed project would not result in incompatible uses of roadways or introduce any new features that would otherwise impede the movement of emergency vehicles. The project fronts directly onto a public roadway, North Second Street, and is accessible via North Second Street, which provides adequate access to the site for emergency vehicles. The applicant will work with the City and SJFD to assure that emergency vehicle and firefighter access are adequately addressed in final design. The impacts to emergency access would, therefore, be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Conclusion: Similar to the development evaluated in the Downtown Strategy 2040, all project-level impacts related to transportation would be less than significant.

3.18 Tribal Cultural Resources

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

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

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources,[51] or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

The Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

[51] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Senate Bill 18

The intent of SB 18 is to aid in the protection of traditional tribal cultural places through local land use planning by requiring city governments to consult with California Native American tribes on projects which include adoption or amendment of general plans (defined in Government Code Section 65300 et seq.) and specific plans (defined in Government Code Section 65450 et seq.). SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process.

Local

General Plan

The Envision San José 2040 General Plan includes the following tribal cultural resource policies applicable to the Proposed Project:

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
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.

3.18.1.2 *Existing Conditions*

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. See additional discussion under "Regulatory Framework" above.

As discussed below, on July 30, 2021, the City sent a notice regarding the project to the Ohlone Tribe regarding interest in consultation on the proposed project. As of June 6, 2022, the City has not received a response. In addition, the City received a notice of request for consultation from Tamien Nation on June 17, 2021. The City sent a notice regarding the project to the Ohlone Tribe regarding interest in consultation on the proposed project on July 28, 2021. The results of consultation are discussed below.

3.18.2 Impacts and Mitigation

3.18.2.1 *Thresholds of Significance*

a) For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to tribal cultural resources would be considered significant if the project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

   i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or

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

3.18.2.2 *Project Impacts*

a) For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to tribal cultural resources would be considered significant if the project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

   i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or

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

   Tribal cultural resources consider the value of a resource to tribal cultural tradition, heritage, and identity, in order to establish potential mitigation and to recognize that California Native American tribes have expertise concerning their tribal history and practices. No tribal cultural resources have been listed or determined eligible for listing in the California Register or a local register of historical resources.

   AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the

impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency.

In 2017, the City sent a letter to tribal representatives in the area to welcome participation in the consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José.

The City of San José sent notification of the project to The Ohlone Tribe on July 30, 2021, and did not receive any request for consultation for this project.

At the time of preparation of this SEIR, two additional tribes have either sent written requests for notification of projects to the City of San José or provided a verbal request.

- On June 30, 2021, Kanyon Sayers-Roods of the Band of Costanoan Ohlone people verbally requested AB 52 notification for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or an Environmental Impact Report. Accordingly, the project's AB 52 notification was sent electronically on July 29, 2021. To date, no response has been provided.

- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification and the written notice received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, AB 52 notification was sent electronically and via mail to Tamien Nation on July 28, 2021. On September 5, 2021, the Tamien Nation representative responded and requested to consult on the project. In response, the City held a consultation meeting with Chairwoman Quirina Geary, representative of the Tamien Nation, on October 14, 2021, and Chairwoman Geary requested mitigation measures for cultural resources, including cultural sensitivity training before the start of excavation and tribal monitoring during ground disturbing activities to be implemented to reduce potential impacts to previously undocumented tribal cultural resources.

Any subsurface artifacts found on-site would be addressed consistent with the measures identified in the Downtown Strategy 2040 FEIR, as well as mitigation measure CR-3 in *Section 3.5. Cultural Resources*. **[New Less Than Significant Impact with Mitigation (Less than Significant Impact)]**

Conclusion: Similar to the development evaluated in the Downtown Strategy 2040 FEIR, project-level impacts related tribal resources will be less than significant impact with mitigation incorporated.

3.19 Utilities and Service Systems

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

Assembly Bill 939 (1989)

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

Assembly Bill 341 (2011)

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

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

Senate Bill 1383 (2016)

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

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

In January 2017, the State of California adopted the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

Local

San José Zero Waste Strategic Plan/Climate Smart San José

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

Construction and Demolition Diversion Deposit Program

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

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

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

Council Policy 8-13 "Green Building Policy" for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City's residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy MS-19.3	Expand the use of recycled water to benefit the community and the environment.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

3.19.1.2 *Existing Conditions*

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San Jose Water Company

- Storm Drainage: City of San José
- Solid Waste: Garden City Sanitation (solid waste), California Waste Solutions (recycling), GreenWaste Recovery (yard waste)
- Natural Gas & Electricity: PG&E

Per City regulations, mixed-use developments may commingle the residential solid waste and commercial solid waste generated at the mixed-use development. The commingled waste shall be collected by the city's authorized multi-family dwelling solid waste collector if the total square footage of commercial building space in the mixed-use development is less than fifteen percent of the total building space (SJMC Sec 9.10.1810 combined waste streams). The commingled waste shall be collected by Republic Services if the total square footage of commercial building space in the mixed-use development is fifteen percent or more of the total building space.

Existing Water Supply System

Water service to the project site is provided by San José Water Company (SJWC). The project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed residential uses.

Groundwater

SJWC draws water from the Santa Clara Valley Subbasin in the north part of Santa Clara County. The basin is 22 miles long and 15 miles wide with an operational storage capacity estimated to be 350,000 acre-feet. Groundwater is a substantial source of water for SJWC. In 2014, groundwater accounted for about 57 percent of SJW's total potable supply.

Surface Water

SJWC has "pre-1914 surface water rights" to raw water in Los Gatos Creek and local watersheds in the Santa Cruz Mountains. Prior to 1872, appropriative water rights could be acquired by simply taking and beneficially using water. In 1914, the Water Code was adopted, grandfathering in all existing water entitlements to license holders. SJWC filed for a license in 1947, and in 1976 was granted a license allowing it to draw 6,240 acre-feet per year (AFY) from Los Gatos Creek. SJWC has since upgraded the collection and treatment system that draws water from this watershed, which has increased the capacity of this entitlement to approximately 11,200 AFY for an average rain year.

Recycled Water

South Bay Water Recycling (SBWR) has been serving Silicon Valley communities since 1993. In 1997, SJWC entered into a Wholesaler-Retailer Agreement with the City of San José to provide recycled water to SJWC's existing and new customers near SBWR recycling water distribution facilities. In accordance with the terms of this agreement, SJWC allowed SBWR to construct recycled water pipelines in its service area; SJWC would only own the recycled water meters while SBWR would own, operate, and maintain the recycled water distribution system. In 2010, the Wholesaler-Retailer Agreement was amended to allow SJWC to construct recycled water infrastructure that would be owned, operated, and maintained by SJWC. In 2012, the agreement was again amended to allow SJWC to construct additional recycled water infrastructure.

Wastewater/Sanitary Sewer System

The City's sanitary sewer/wastewater treatment system has two distinct components: 1) a network of sewer mains/pipes that conveys effluent from its source to the treatment plant; and 2) the water pollution control plant that treats the effluent, including a system of mains/pipes that transports a portion of the treated wastewater for non-potable uses (e.g., irrigation of landscaping, agricultural irrigation, dust suppression during construction, etc.).

Sanitary sewer lines in the project area are owned and maintained by the City of San José. Wastewater generated on the project site is discharged to the existing 10-inch vitrified clay pipe (VCP) sanitary sewer line located in North Second Street.

Wastewater treatment service for the project area is provided by the City of San José through the San José-Santa Clara Regional Wastewater Facility (RWF). The RWF is located in Alviso and serves over 1,500,000 people in San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The RWF treats approximately 110 million gallons per day (mgd) of sewage during dry weather flow, and has a capacity of 167 mgd.[52] The City of San José generates approximately 69.8 mgd of dry weather average flow.[53] Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

Existing Solid Waste Disposal System

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[54] Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

Existing Storm Drainage System

The project site is served by an underground storm drainage line maintained by the City of San José. Runoff from project area is directed to the existing 12-inch reinforced concrete pipe (RCP) storm drainage line located in North Second Street.

Electricity and Natural Gas

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and PG&E delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive

[52] San José, City of. "San José/Santa Clara Regional Wastewater Facility." Accessed April 29, 2020. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.
[53] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.
[54] Santa Clara, County of, *Five-Year CIWMP/RAIWMP Review Report.* June 2016.

100 percent GHG-free electricity from entirely renewable resources. It is assumed that, once operational, the project would utilize SJCE.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent, and two percent was unspecified.[55]

Total energy usage in California was approximately 7,881 trillion Btu in the year 2017, the most recent year for which this data was available. In 2017, California was ranked second in total energy consumption in the nation, and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. This energy is mainly supplied by natural gas, petroleum, nuclear electric power, and hydroelectric power.

3.19.2 Impacts and Mitigation

3.19.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to utilities and service systems would be considered significant if the project would:

a) Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects;

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years;

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments;

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or

e) Not comply with federal, state, and local management and reduction statutes and regulations related to solid waste.

[55] PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

3.19.2.2 *Project Impacts*

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

The project would incrementally increase demands on utility services. The increase in utility demand is expected to be minor, since it represents a small fraction of the total growth identified in the City's General Plan and is occurring on an infill site.

Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. The project proposes to construct a water conveyance lateral that would tie into SJWC's water distribution system. The project has been designed to minimize the use and waste of water in accordance with the State and local regulations (identified in the setting above). The proposed project would be consistent with planned growth analyzed in the Downtown Strategy 2040 FEIR. Water demand for development allowed under the Downtown Strategy 2040 would not exceed water supply. Therefore, the project would not result in the relocation or construction of new or expanded water facilities.

The City of San José owns and maintains the sanitary sewer drain system in the project area. An existing 10-inch VCP sanitary sewer main extends along North Second Street and would serve the project. The project proposes to construct a sanitary sewer lateral that would tie into the sanitary sewer main in Second Street. The RWF treats approximately 110 mgd of sewage during dry weather flow, and has a capacity of 167 mgd. Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF. Therefore, the project would not result in the relocation or construction of new or expanded wastewater facilities.

As described in Section 3.6. Energy, the project would have a less than significant impact related to electricity use that would result primarily for building heating and cooling, lighting, cooking, and water heating. The City of San José passed an ordinance in December 2020 that prohibits the use of natural gas infrastructure in new buildings. This ordinance applies to any new construction (with the exception of hospitals, restaurants, etc.) starting August 1, 2021. In addition, the project would incorporate a number of efficiency measures to minimize the consumption of energy, such as the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code. In addition, as described previously the project would be required to submit a LEED, GreenPoint, or Build-It-Green checklist as part of their development permit applications in accordance with Council Policy 6-32, which promotes practices to minimize the use and waste of energy, water, and other resources in the City of San José. Therefore, the project would not result in the relocation or construction of new or expanded energy facilities.

The provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are

anticipated as a result of the project as the project is not anticipated to result in the relocation or construction of new or expanded telecommunication facilities.

As described in Section 3.10. Hydrology and Water Quality, the project would not significantly impact storm drainage facilities. The project proposes to construct a storm sewer lateral that would tie into the City's existing 12-inch storm main in North Second Street. Storm water runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan. Therefore, the project would not result in the relocation or construction of new or expanded storm water facilities.

For the reasons presented above, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project would incrementally increase demands on utility services. Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. The project would connect to the City's existing sanitary sewer system and would be required to comply with all Public Works requirements for sewer connections. Wastewater would be disposed at the City's Regional Wastewater Facility which has capacities to accommodate the increased demand generated by the project.

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

c) **Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

Wastewater from the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 mgd of wastewater but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards.[56] Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

[56] City of San José, *San José/Santa Clara Regional Wastewater Facility*, 2016.

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

The project would result in an incremental increase in solid waste generation. According to Santa Clara County's IWMP, Santa Clara County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution that set a goal of 75 percent waste diversion by 2013 and zero waste (at least 90% waste diversion) by 2022. The City generates approximately 700,000 tons per year of solid waste that is disposed of in landfills, including 578,000 tons per year at landfills in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

During project construction, the project would be required to comply with federal, state and local programs and regulations. CALGreen requirements would require the project to develop a waste management plan and recycle or salvage 50 percent of nonhazardous construction and demolition debris. The Downtown Strategy 2040 FEIR concluded that future development under the Downtown Strategy 2040 would not conflict with any state and local regulations related to solid waste. Therefore, project construction would not generate solid waste in excess of state or local standards.

The project's operation would generate approximately 178 tons per year of solid waste.[57] The increase in waste generated by full build out under the Downtown Strategy 2040 FEIR, including the proposed project, would not cause the City to exceed the capacity of existing landfills that serve the City. The proposed project is consistent with the development assumptions in the Downtown Strategy 2040; and would have a less than significant impact on landfill capacity. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Final project design would be required to comply with all federal, state, and local statutes and regulations related to solid waste disposal. **[Same Impact as Approved Project (Less than Significant Impact)]**

Conclusion: Similar to the development analyzed in the Downtown Strategy 2040 FEIR, project-level impacts related to utilities and service systems would be less than significant.

[57] Based on a rate of 4 pounds/person/day for "multi-family residential" for 220 residential units and 93 pounds/day for 18,643 s.f. of commercial uses (5 lbs/1,000 s.f./day), from CalRecycle's Estimated Solid Waste Generation Rates, accessed online at www2.calrecycle.ca.gov/WasteCharacterization/General/Rates

3.20 Wildfire

3.20.1 Environmental Setting

3.20.1.1 *Regulatory Framework*

State

Public Resources Code Section 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code Section 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate Very-High Fire Hazard Severity Zones (VHFHSZs) in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

The 2016 California Fire Code Chapter 49 establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating wildfire impacts from development projects. Relevant policies applicable to the project are presented below.

Envision San José 2040 Relevant Wildfire Policies	
Policy EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
Policy EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
Policy EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

3.20.1.2 *Existing Conditions*

The project site, located in an urbanized part of the City, is surrounded by residential development and commercial development, and is not located within a Very-High Fire Hazard Severity Zone (VHFHSZ) for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

3.20.2 Impacts and Mitigation

3.20.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to wildfire would be considered significant if the project would:

a) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, substantially impair an adopted emergency response plan or emergency evacuation plan;

b) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;

c) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or

d) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

3.20.2.2 *Project Impacts*

a) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project substantially impair an adopted emergency response plan or emergency evacuation plan?**

The project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As stated above in Section 3.9. Hazards and Hazardous Materials, the project would not create any barriers to emergency or other vehicle movement in the area and final design would incorporate all Fire Code requirements. **[Same Impact as Approved Project (No Impact)]**

b) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?**

The project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area. **[Same Impact as Approved Project (No Impact)]**

c) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?**

Due to the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, the project would not require the installation or maintenance of associated fire suppression or related infrastructure. **[Same Impact as Approved Project (No Impact)]**

d) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?**

See above discussion. The project would not expose people or structures to significant wildfire risks given its highly urban location away from natural areas susceptible to wildfire. **[Same Impact as Approved Project (No Impact)]**

Conclusion: As identified in the Downtown Strategy 2040 FEIR, there would be no project-level impacts related to wildfire as a result of the project.

This Page Intentionally Left Blank

SECTION 4 CUMULATIVE IMPACTS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant, effects taking place over a period of time. CEQA Guidelines 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. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all the pending development listed result in a cumulatively significant impact on the resources in question; and if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts.

Section 15130(B) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. The project would primarily contribute to the cumulative effects of development in the area surrounding the Downtown core; therefore, the cumulative discussion is focused on the area defined within the Downtown Strategy 2040, except where otherwise indicated.

A list of the cumulative development in the project area used for this analysis is presented in Table 20 (taken in part from the City's website[58] for planned or approved projects are located within 1,000 feet of the project site.

Table 20
Cumulative Projects List

Project Name	Location	Description	Status
Eterna Tower	17 East Santa Clara Street	This project is located at 17 East Santa Clara Street, which adjoins the 19 North Second Street site to the southwest. This project is currently under review and consists of a mixed-use building with approximately 2,500 square feet of commercial space and 200 residential units.	Pending

[58] San José, City of, Private / Key Economic Development Projects Map, Web: https://gis.sanjoseca.gov/maps/devprojects/

Table 20 Cumulative Projects List			
Project Name	**Location**	**Description**	**Status**
VTA's BART Silicon Valley Phase II	Regional, with station planned beneath 17 East Santa Clara Street	Expansion of BART's rail service to Downtown San José via a new six-mile extension from the existing Berryessa/North San Jose Station through downtown San José to the Santa Clara Caltrain Station.	Approved but not Constructed
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.	Approved but not Constructed
NSP3 Tower	201 West Julian Street	Construction of an 18-story residential tower with up to 314 residential units and retail space.	Approved but not Constructed
Starcity	199 Bassett Street	Construction of 803 co-living units with 3,800 square feet of retail space.	Approved but not Constructed
6th Street Project	73 North Sixth Street	Construction of a 10-story mixed-use building with up to 197 residential units and approximately 2,366 square feet of commercial space.	Approved but not Constructed
Fourth Street Housing	100 North Fourth Street	Construction a 23-story mixed-use building with approximately 10,733 square feet of commercial and up to 316 units of housing.	Approved but not Constructed
Museum Place[59]	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.	Approved but not Constructed
Tribute Hotel	211 South First Street	Construction of a 24-story, 279 room hotel integrated into a historic building.	Approved but not Constructed
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.	Approved, under construction
CityView Plaza	150 Almaden Boulevard	Construction of three 19-story buildings with up to approximately 3.8 million square feet of office and commercial space.	Approved but not Constructed
Almaden Corner Hotel	8 North Almaden Boulevard	Construction of a 19-story hotel with up to 272 rooms and a restaurant and bar.	Approved but not Constructed
Fountain Alley Mixed Use	35 South Second Street	This project is located at 35 South Second Street, approximately 330	Pending

[59] There is an entitlement for construction of Museum Place that could move forward at any time. Modifications to the original project are currently under review.

Table 20 Cumulative Projects List			
Project Name	**Location**	**Description**	**Status**
		feet south of the project site. The project would include a 21-story mixed-use building with 194 residential units and 405,000 square feet of office space and 31,959 square feet of ground-level retail.	
Fountain Alley Office	26 South First Street	This project is located at 26 South First Street and is approximately 340 feet southwest of the project site. This project includes a six-story building with 91,992 square feet of commercial office and retail space. While the construction schedule is unknown at this time, construction could occur simultaneously or concurrently.	Approved but not yet constructed
27 West	27 South First Street	This project is located at 27 South First Street, which is about 415 feet southwest of the project site. This project has been approved and consists of a 22-story mixed-use building with 374 residential units and 35,712-sf of retail space.	Partially Completed
Miro (SJSC Towers)	39 North Fifth Street	This project is located at 39 North 5th Street, which is located 765 feet east of the project site.	Partially Completed
Hotel Clariana Addition	27 South Fourth Street	This project is located at 27 South Fourth Street, which is about 510 feet southeast of the project site. This project is currently under review and would consist of a five-story hotel and seven-story condominium building.	Pending
BDG Mixed-Use	148 to 150 East Santa Clara Street, 17 South Fourth Street, and 130 to 134 East Santa Clara Street	This project is more than 465 feet southeast of the project site. This project would consist of a six-story mixed-use building with ground-level retail/restaurant uses and office space on the upper floors. While the construction schedule is unknown at this time, construction could occur simultaneously.	Pending
Icon-Echo	147 East Santa Clara Street	This project is located about 650 feet east of the project site, and would include the construction of two towers: a residential tower with 415 units and an office tower with 525,000-sf of office space.	Pending

4.1 Cumulative Project Impacts

Based on the analysis in this SEIR, the proposed project would result in less than significant impacts to aesthetics, agricultural/forestry resources, biological resources, geology and soils, hydrology and water quality, mineral resources, population and housing, public services, recreation, transportation, utilities, and wildfire with implementation of standard permit conditions. As a result, the project's contribution to a cumulatively significant impact in any of these resource areas would not be considerable.

Cumulative impacts were addressed in the Downtown Strategy 2040 FEIR, which included development proposed by the project. The Downtown Strategy 2040 FEIR identified significant, unavoidable cumulative impacts from buildout of the Strategy from an increase in criteria air pollutants and global GHG emissions. The City Council adopted statements of overriding considerations for these cumulative impacts.

The project would result in significant impacts related to air quality, cultural resources, hazards and hazardous materials, and land use/planning, and noise and vibration. Mitigation is identified to reduce the project impacts to these resources to a less than significant level.

Air Quality: No single project is sufficient in size to, by itself, result in non-attainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As shown in *Section 3.3*'s Table 6 and 7, the proposed project would not result in construction period or operational period emissions in excess of the BAAQMD significance thresholds for criteria pollutants. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. Additionally, the Downtown Strategy 2040 FEIR concluded that even with the implementation of General Plan Policy MS-13.1 and project specific measures (such as the project's MM AQ-1 for TACs), impacts from buildout of the plan area would be unavoidable and the City Council adopted a statement of overriding condition for this impact. Because the project is included in the buildout scenario for Downtown Strategy 2040, this cumulative impact has already been addressed in the Downtown Strategy 2040 FEIR. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

Cultural Resources: The geographic area for cultural resources is dependent on the location. For this project, the geographic study area is the surrounding area within approximately 1,200 feet of the project site. The study area has been determined based on the potential to impact historical resources and uncover archaeological resources, especially historic resources abutting the site, including 28 North First Street (City Landmark, HL01-140) and 34 North First Street (City Landmark, HL01-135). The San José Historic Commercial District is south of the project site, but is included in the project's study area. In addition, St. James Square City Landmark District is located north of the project site.

The project would result in significant impacts to historic cultural resources. Specifically, the historic integrity of the Realty Building, a City Landmark at 19 North Second Street, would be significantly impacted by proposed demolition and construction activities. Although mitigation measures are identified in this SEIR (see MMs CR-1a through CR-1d), this impact would remain significant and unavoidable. In addition, potentially significant impacts from project construction may occur on adjacent historic resources. Mitigation is presented in this SEIR to lessen and avoid construction

impacts in *Section 3.11 Noise and Vibration* (see MM NSE-2). With this mitigation, the project's construction impacts to the adjacent historic buildings would be reduced to less than significant.

In addition to the proposed project, there are four recently approved projects in the area (82-96 East Santa Clara Street File No. HP21-003, Bank of Italy File No. HP20-003, Knox Goodrich and FAB building File Nos. HP19-007 and H19-041, and Hotel Clariana Expansion Project File No. H17-059). The four approved projects were individually analyzed and found to be consistent with applicable design guidelines and standards. While the development/redevelopment of the parcels within the San José Commercial District could cumulatively change the visual character of the area, with the applicable design guidelines and standards ensure that the combined effect of these projects would not significantly impact its historic integrity and significance.

The Downtown Strategy 2040 FEIR identified potential impacts on cultural resources from potential alteration of historic buildings. The EIR identified mitigation for these impacts that requires evaluation of development sites by a qualified cultural resources consultant and adherence to specific recommendations of the consultant based on site-specific review. The combined effect of these projects would not significantly impact its historic integrity and significance. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not have a cumulatively considerable impact on cultural resources.

In addition to impacts on historic resources, the project was found to have potential impacts to subsurface archaeological impacts. With implementation of the Mitigation Measure CR-3, impacts to subsurface resources would be less than significant. Consistent with the findings of the Downtown Strategy 2040 FEIR, the project would not a have cumulatively considerable impact on subsurface archaeological resources. **[New Less Than Significant Cumulative Impact (Significant Unavoidable Cumulative Impact)]**

Hazardous and Hazardous Materials: The geographic area for hazards and hazardous materials is defined as locations within 1,000 feet of the project site. Grading and construction of the proposed project could potentially expose construction workers and the public to residual soil and groundwater contaminants if present on the site. Specific mitigation was identified in this SEIR to sample for potential contaminants and provide remediation measures for any materials that exceed regulatory thresholds (see MM HAZ-1). Additionally, the project would be subject to identified Standard Permit Conditions to reduce impacts related to LBP and ACMs. Any pending, approved, or recently constructed projects would be subject to the Standard Permit Conditions and any applicable site-specific mitigation measures. The project, therefore, would not result in significant cumulative impacts related to hazardous materials. **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

Land Use and Planning: The project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources. No mitigation is available beyond the mitigation measures presented in the Cultural Resources Section for this impact. **[New Significant Unavoidable Impact (Less than Significant Impact)]**.

Noise and Vibration: The project's noise and vibration impacts would be localized and therefore the geographic area for cumulative impacts is the project site and sites within 1,000 feet. The project would result in potential construction noise and construction vibration impacts to historic and nearby resources. Specific mitigation was identified in this SEIR to minimize noise and repair any effects from vibration impacts (see MMs NSE-1 and NSE-2).

The cumulative projects are located within the boundary of the Downtown Strategy 2040 FEIR. According to the Strategy Plan FEIR, implementation of the construction noise and vibration mitigation measures in combination with Policies EC-1.7 and EC-2.3 of the City's General Plan and the construction allowable hours identified in the City's Municipal Code. Each individual project would be required to incorporate measures to further reduce noise and vibration levels emanating from the individual sites. With the implementation of construction noise and vibration mitigation measures included in the Downtown Strategy FEIR and the construction noise and vibration mitigation measures from the individual projects, construction noise and vibration levels would be minimized. Therefore, potential cumulative construction impacts would be less than significant.

The project, therefore, would not result in significant cumulative impacts related to noise and vibration**.** **[Same Impact as Approved Project (Less Than Significant Cumulative Impact)]**

SECTION 5 GROWTH-INDUCING IMPACTS

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

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project is implementing part of a larger strategy plan for Downtown and is consistent with planned downtown growth in the Downtown Strategy 2040 and the General Plan. The growth-inducing effects of that planned development were analyzed in the Downtown Strategy 2040 FEIR, as supplemented and addended, for these aforementioned plans.

The project is proposed on an infill site in the downtown San José. The site is surrounded by existing infrastructure and existing development. The project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

Development of the project site would introduce a 146,458 gross square foot, 22-story high rise mixed-use building with commercial uses into a mixed-use area surrounded primarily by commercial buildings. The proposed project would generally be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses.

Development of this site consistent with the proposed project would result in a net increase in jobs and housing Citywide. There is currently a shortage of available jobs relative to available housing within the City of San José. This jobs/housing imbalance is expected to reverse with full build out of the General Plan. The increase in jobs and housing resulting from the project would have a negligible effect on the overall jobs/housing imbalance within the City.

Based on the above discussion, the project would not result in a growth inducing impact.

This Page Intentionally Left Blank

SECTION 6 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

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

If the proposed project is implemented, development of this site would involve the use of nonrenewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that could not reasonably be re-created. Construction also involves significant consumption of energy, typically petroleum-based fuels, that deplete supplies of nonrenewable resources. After the project is constructed, building occupants would use some nonrenewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water.

The City of San José passed the Reach Code ordinance in December 2020 that prohibits the use of natural gas infrastructure in new buildings. This ordinance applies to any new construction starting August 1, 2021.

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

This Page Intentionally Left Blank

SECTION 7 SIGNIFICANT AND UNAVOIDABLE IMPACTS

As defined in the CEQA Guidelines, a significant impact on the environment is "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project…" Final determination of the significant impacts is made by the decision-making body of the Lead Agency with final approval authority over the project.

All significant impacts of the proposed project associated with the specific project and site would be reduced to a less than significant level with the implementation of mitigation measures identified in this SEIR except for the following:

- **Cultural Resources:** The project would result in significant and unavoidable impacts to an historical resource, which will be unavoidable even with mitigation incorporated because the project would result in the demolition of the on-site City Landmark, and the limited retention of the historic façade which would cause a substantial adverse change in the significance of the locally designated City Landmark.

- **Land Use and Planning:** The project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources.

This Page Intentionally Left Blank

SECTION 8 ALTERNATIVES

8.1 Introduction

CEQA Guidelines Section 15126.6 requires the consideration of a range of reasonable alternatives to the proposed project that could feasibly attain most of the objectives of the project. The Guidelines further require that the discussion focus on alternatives capable of eliminating significant adverse impacts of the project or reducing them to a less than significant level. The key provisions of the CEQA Guidelines regarding analysis of alternatives are presented below:

- The analysis should focus on alternatives to the project, including alternative locations, that are capable of avoiding or substantially lessening the significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly.

- The No Project alternative shall be evaluated along with its impact. The No Project analysis shall discuss the existing conditions at the time the Notice of Preparation is published, as well as what would reasonably be expected to occur in the foreseeable future if the project were not approved based on current plans.

- The range of alternatives required in an EIR is governed by a "rule of reason" that considers only those alternatives necessary to permit a reasoned choice. The alternatives are limited to those that would avoid or substantially lessen the significant environmental effects of the project. The CEQA Guidelines do not specify a precise number of alternatives to be evaluated in an EIR.

- For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

- An EIR need not consider an alternative whose effects cannot be reasonably ascertained and whose implementation is remote and speculative.

The range of feasible alternatives analysis is intended to foster meaningful public participation and informed decision making. Among the factors that may be taken into account when addressing the feasibility of alternatives are environmental impacts, site suitability, economic viability, availability of infrastructure, general plan consistency, regulatory limitations, jurisdictional boundaries, and whether the proponent could reasonably acquire, control, or otherwise have access to an alternative site, per CEQA Guidelines Section 15126.6(f)(1).

An EIR must briefly describe the rationale for selection and rejection of alternatives. The lead agency may make an initial determination of which alternatives are feasible and merit in-depth consideration, and which are infeasible (see CEQA Guidelines Section 15126.6(f)(3)). Alternatives may be eliminated from detailed consideration in the EIR if they fail to meet project objectives, are infeasible, or do not avoid any significant environmental effects.

8.2 Significant Impacts of the Project

The SEIR identified impacts of the project that would be significant but have mitigation available to reduce the impacts to less than significant levels in most cases. These resource sections are as follows:

- **Air Quality**: Emission from the construction of the project would result in 14.51 (infant) cancer cases per one million, which exceeds the maximum single-source unmitigated cancer risk of 10 in one million threshold established by the BAAQMD. Mitigation measure AQ-1 would reduce this impact to less than significant.

- **Cultural Resources**: The partial demolition of the City Landmark, with the exception of the façade, the exterior walls, and portions of the interior as well as construction of a new 22-story building would cause a substantial adverse change to this historic resource and, therefore, the project would have a significant impact. Mitigation measures CR-1a through CR-1d, as identified in this SEIR, would reduce, but not fully avoid, the substantial loss of a historical resource and the impact would remain significant and unavoidable. Demolition and construction activities for the project could also physically damage adjacent historic resources (i.e., from operation of construction equipment, staging, and material storage). With implementation of mitigation identified in this SEIR in *Section 3.11 Noise and Vibration* (see MM NSE-2), the potential for project construction-related impacts to adjacent historic resources would be reduced to less than significant.

  Given the possibility for historic-era buried and pre-contact archaeological deposits, excavation for the project would result in potentially significant impacts on archaeological resources. Mitigation measure CR-2 would reduce potential impacts to less than significant.

- **Tribal Cultural Resources**: Given the possibility for historic-era buried and pre-contact archaeological deposits, excavation for the project would result in potentially significant impacts on archaeological resources. Mitigation measure CR-2 would reduce potential impacts to less than significant.

- **Hazards and Hazardous Materials**: Construction of the proposed project could potentially expose construction workers and the public to HVOCs and heavy metals during the construction phase of the project. Mitigation measure HAZ-1 would reduce the impact to less than significant.

- **Noise and Vibration:** Construction noise would exceed ambient levels by five dBA for a period of more than one year, which exceeds City thresholds defined in General Plan Policy EC-1.7, within 500 feet of residential uses or 200 feet of commercial or office uses. in the vicinity of residential and commercial uses. Mitigation measure NSE-1 would minimize the noise impacts of the project.

  Project construction would generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at historic properties adjoining the site and 0.2 in/sec PPV at conventional buildings adjoining the site. Such vibration levels would be capable of cosmetically damaging the adjacent buildings. Mitigation is identified in this SEIR to repair any effects from vibration impacts (see MM NSE-2).

8.3 Project Objectives

The proposed project would contribute to the job growth and residential development as envisioned in the Downtown Strategy 2040 and General Plan by accommodating the demand for affordable senior housing in downtown San José as well as the provision of commercial uses. Specifically, the objectives of the proposed project are as follows:

- Contribute to the job growth and the development of affordable housing as envisioned in the Downtown Strategy 2040 and the General Plan by providing a high density housing project of approximately 220 affordable senior housing units and approximately 18,500 square feet of commercial space.

- Locate high density development near transit corridors.

- Provide high density affordable housing close to light rail to encourage future residents to take public transit, thereby reducing traffic congestion.

- Provide on-site community benefits for the residents including a rooftop deck.

- Provide bicycle parking for residents to help support the goals of the Envision San José 2040 General Plan in promoting San José as a thriving bicycling community.

- Assist the City of San José to satisfy its capital regional housing needs allocation for below market rate housing.

- Align with the following broad goals and objectives of the Downtown Strategy 2040 and General Plan:

    - Make Downtown a memorable and creative metropolitan center where people live, work, learn, play, shop, dine, and engage in public life;
    - Enhance the identity of Downtown San José as the urban and cultural center of Silicon Valley, and further enhance San José as an international city;
    - Create an accessible, walkable, bike-friendly, and transit-rich Downtown; and
    - Promote and prioritize development that serves the needs of the entire city, valley, and Bay Area region.

8.4 Selection of Alternatives

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines advise that such factors can include (but are not necessarily limited to) the suitability of an alternative site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

8.4.1 Alternatives Considered but Rejected

8.4.1.1 *Alternative Location*

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."[60] The proposed project is 220 affordable senior residential units with some commercial space located in the downtown core. The applicant does not own another property that is not already planned for development that could be used for construction of the senior housing project. For these reasons, an alternative location was not analyzed.

8.4.1.2 *Minimal Setback Design Alternative*

The minimal setback design alternative would consist of a 22-story tower with 220 residential units and commercial spaces on the first two floors. This alternative would require partial demolition of the historic Realty Building, with a setback of the new building behind the Realty Building of approximately eight feet. In addition, the stairs to the upper second floor would not be retained with this alternative.

Under this alternative, the environmental impacts would be the same as the proposed project in the areas of air quality (construction TACs), cultural resources (historic and archaeologic), hazardous materials, and construction vibration. The only difference is that this design would be less consistent with the Secretary of Interior's Standards, since everything except the front façade of the Realty Building would be demolished and the setback of the new building behind the Realty Building would be reduced. This alternative, therefore, would result in the exacerbation of project impacts to historic resources. In addition, this alternative would not meet any of the project objectives. For these reasons, this alternative was not considered further.

8.5 Project Alternatives

Based on the analysis in this SEIR, the proposed project would result in less than significant impacts to aesthetics, agricultural/forestry resources, biological resources, geology and soils, hydrology and water quality, mineral resources, population and housing, public services, recreation, transportation, utilities, and wildfire with implementation of standard permit conditions. The project would result in significant impacts related to air quality, cultural resources, hazards and hazardous materials, and land use/planning, and noise and vibration. Mitigation is identified to reduce the project impacts to these resources to a less than significant level with the exception of cultural historic resources and land use/planning. Impacts in these areas would be significant and unavoidable.

As discussed above, a range of project alternatives were evaluated as part of preparation of this SEIR. These alternatives would reduce the impacts identified in *Section 8.2* compared to the proposed project. A comparison of the differences in impacts between the project alternatives is provided in Table 21 of this SEIR.

The Realty Building on the project site is a designated San José City Landmark and is individually eligible for listing in the NRHP and CRHR.; therefore, the project must comply with the Secretary of

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

the Interior's Standards for the Treatment of Historic Properties (Standards) in order it to avoid a significant impact to a historical resource under CEQA. The historic evaluation of the project found that the proposed design would not comply with all of the Standards for Rehabilitation. In order to evaluate how the significant impact could be lessened or avoided, the following four alternatives were studied.

1. No Project Alternative
2. Preservation/Adaptive Reuse Alternative
3. Reduced Alternative
4. Decreased Alternative

The following section discusses the four alternatives evaluated in this EIR and the comparative environmental effects of each.

8.5.1 No Project Alternative

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

Because the No Project Alternative would not result in any redevelopment of the project site, this alternative would avoid all of the environmental impacts from the project, in the areas of air quality (construction TACs), cultural resources (historic and archaeologic), hazardous materials, land use/planning, and construction noise and vibration.

It is possible that in the future, an alternative development may be proposed at the project site. Based on the General Plan designation of *Downtown*, other permitted uses could include high intensity mixed-use residential and commercial. Future development that proposes an addition of more than two stories that is not setback from the Realty Building façade and does not meet the Standards would likely result in a significant impact to the City Landmark on the property. Note that any future use on the site would require review and approval by the City of San José, including CEQA evaluation.

Conclusion: Implementation of the No Project – No Development Alternative would avoid all the significant environmental impacts of the project, as identified in this EIR. In addition, any future proposal to develop the site with a different project would be subject to review by the City of San José. The No Project Alternative would not meet any of the project objectives to provide high density affordable senior housing and commercial uses in the downtown area of the City of San José.

8.5.2 Preservation/Adaptive Reuse Alternative

This alternative consists of the adaptive reuse of the historic Realty Building. Adaptive reuse refers to the process of taking an existing structure and updating or adapting it for a new use or purpose. Given the square footage of the existing building (15,000 gross square feet), approximately 20 residential units could be accommodated.[61] However, modifications may be required to make the structure habitable; this alternative assumes that these alterations would be to the interior and comply with the Standards for Rehabilitation and other relevant Design Guidelines.

[61] This assumes 80% usable square footage (12,000 square feet) and residential units of approximately 600 square feet.

Based on the General Plan designation of *Downtown*, permitted uses could include high density mixed-use residential and commercial. Given the limited size of the Realty Building, high density uses would not be feasible. Allowable uses under the DC – Downtown Commercial zoning include residential, office, general retail, education and training, entertainment, general and food services, and certain public uses.

The preservation/adaptive reuse alternative would avoid the significant unavoidable impacts to the historic resource on the property and the associated land use impact. This alternative would also minimize or avoid impacts of the project associated with air quality (construction TACs), cultural resources (historic and archaeologic), hazardous materials, and construction noise and vibration.

Conclusion: Implementation of the Preservation/Adaptive Reuse Alternative would avoid all the significant environmental impacts of the project. However, the Preservation Alternative would not meet any of the project objectives to provide high density affordable senior housing and commercial uses in the downtown area of the City of San José.

8.5.3 Reduced Alternative

The Reduced Alternative is a design option that would consist of a maximum two-story addition on top of the City Landmark that is set back 15 feet from the front façade of the building. This Alternative would maintain the City Landmark, but result in the removal of the existing interior staircase to the second floor of the building. The Reduced Alternative could accommodate an estimated approximately 55 residential units[1] and 5,000 square feet of commercial space on the ground floor. Compared to the proposed project, the Reduced Alternative would result in a reduction of 165 residential units and an approximately 75 percent reduction in gross building square footage.

Under the Reduced Alternative, the City Landmark would require modifications for the two-story addition. These modifications could result in changes that may not fully comply with all the Standards for Rehabilitation and other relevant Design Guidelines.

The environmental impacts of the Reduced Alternative would be the same as the proposed project in the areas of air quality (construction TACs), cultural resources (archaeologic), hazardous materials, and construction noise and vibration under the Reduced Alternative. The only difference is that the design of this alternative could be more consistent with the Standards for Rehabilitation because the general size and scale of the Realty Building would be preserved. This alternative could potentially avoid the significant unavoidable impact to the City Landmark building because it would only alter the stairs on the building. This would also avoid the significant land use impact associated with the historic resource. Construction impacts (air quality, noise, vibration, and disruption of nesting birds) would be somewhat lessened due to the smaller size of the project, but all identified mitigation measures and Standard Permit Conditions would still be required. The exposure to soil and/or groundwater contamination would be the same if new construction proposed below-ground disturbance.

Conclusion: The Reduced Alternative would meet the project objectives to provide housing near the light rail, assist the City in meeting its capital regional housing needs allocation (to a lesser degree than the proposed project), and provide bicycle parking for residents. However, this alternative does not meet the project objectives to develop 220 affordable senior housing units in the downtown core, since

[1] This assumes 80% usable square footage for the upper floor floors and residential units of approximately 600 square feet.

it reduces the size of the proposed project by 160 units and reduces the proposed commercial space by 13,500 square feet.

8.5.4 Decreased Alternative

The Decreased Alternative would consist of a 22-story tower with 120 residential units. Compared to the proposed project, this Alternative would result in a reduction of 100 residential units and an approximately 56 percent reduction in gross building square footage. Three of the exterior walls of the Realty Building would be retained along with its historic façade. The interior core of walls, stairs, and entry would also be retained, as would the existing second-floor roof diaphragm. The new building would be set back approximately 58 feet from the front façade of the Realty Building, thus preserving the historic integrity of the general massing of the two-story portion of the City Landmark that is visible from the street.

The Decreased Alternative would allow for a multi-family residential building with a reduction in units. This alternative would allow development of a 22-story residential building consisting of 120 residential units and possibly some commercial uses.

The Decreased Alternative could lessen, but generally not avoid the significant environmental effects of the proposed project in the areas of air quality (construction TACs), cultural resources (historic and archaeologic), hazardous materials, and construction vibration (see Table 21 below). This alternative would lessen environmental impacts associated with construction because the residential tower would be narrower due to the significant setback from the City Landmark façade. The decreased size of the project could potentially reduce construction air pollutants, noise and vibration, and visual effects from the narrower 22-story building. The Decreased Alternative would also potentially lessen the impact to the City Landmark because the residential tower would be significantly setback from the historic front façade; however, the height of tower would still not conform to the Standards for Rehabilitation since its size, scale, massing, and proportion would materially impair the historic integrity of the City Landmark. Mitigation measures identified for the proposed project would still be required for this alternative to reduce impacts to less than significant.

Conclusion. The Decreased Alternative would result in environmental impacts comparable to the proposed project, although it would improve the proposed project's conformance with the Standards for Rehabilitation, but not to a less than significant level. The Decreased Alternative does not meet all the project objectives to develop 220 affordable senior housing units in the downtown core, since it reduces the size of the proposed project by 100 units and may also reduce the proposed commercial space to accommodate a maximum of 120 units in a smaller structure.

8.6 Comparison of Environmental Impacts for Alternatives

Table 21 below compares the impacts of the alternatives studied and outlines whether they avoid or substantially lessen the significant environmental effects of the project.

Table 21 Comparison of Environmental Impacts for Alternatives to the Project					
Significant Impacts of the Project	**Alternatives**				
	Proposed Project	**No Project Alternative**	**Preservation/ Adaptive Reuse Alternative**	**Reduced Alternative**	**Decreased Alternative**
Air Quality					
Community risk from construction emissions of TACs.	LSM	No Impact	No Impact	Less	Same
Cultural Resources					
Demolition of the City Landmark would cause a substantial adverse change to this historic resource	SU	No Impact	No Impact	Less	Same
Construction impacts to nearby historic resources.	LSM	No Impact	No Impact	Less	Same
Construction impacts to unknown buried archaeological resources and/or human remains.	LSM	No Impact	No Impact	Less	Same
Hazards and Hazardous Materials					
Potential release on hazardous materials during construction if present on site.	LSM	No Impact	No Impact	Less	Same
Land Use and Planning					
Impact due to non-compliance with Historic Preservation Chapter of the Municipal Code (Chapter 13.48)	SU	No Impact	No Impact	Less	Same
Noise and Vibration					
Impacts due to construction-related noise	LSM	No Impact	No Impact	Less	Same
Impacts due to construction-related vibration levels.	LSM	No Impact	No Impact	Less	Same
Meets Project Objectives?	Yes	No	No	No	Partially
Environmentally Superior Alternative	No	No	No	Yes	No
LTS = Less Than Significant Impact LSM = Less than Significant with Mitigation Applied. Less = Substantial impact reduction compared to the project, but not necessarily to a less than significant level					

8.7 Environmentally Superior Alternative

The CEQA Guidelines specify that an EIR must identify the environmentally superior alternative among those alternatives discussed. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives [Section 15126.69(e)(2)].

Based upon the previous discussion, the environmentally superior alternative would be the No Project Alternative, which would avoid the identified significant impacts of the proposed project. The Preservation/Adaptive Reuse Alternative would eliminate the impacts to historic resources and land use/planning with respect to non-compliance with City policies on listed City Landmarks, and would also result in fewer impacts related to air pollutant emissions and vibrational impacts due to the reduction in overall size of the project. This alternative would avoid the significant impacts to the historic resource on the site.

The Preservation/Adaptive Reuse Alternative does not meet the primary project objective to provide a high density housing project of 220 affordable senior housing units and 18,500 square feet of commercial space in the downtown core.

This Page Intentionally Left Blank

SECTION 9 REFERENCES

AEI Consultants, *Phase I Environmental Site Assessment, 19 North 2nd Street,* August 12, 2021.

Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/

Association of Environmental Professionals, *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April 2016.

Bay Area Air Quality Management District, *Recommended Methods for Screening and Modeling Local Risks and Hazards, Version 3.0*, 2012.

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines*, revised April 2017.

Bay Area Air Quality Management District, *Final 2017 Clean Air Plan,* adopted April 19, 2017.

California Building Standards Commission, California Building Standards Code (California Code of Regulations, Title 24), 2018

California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 27, 2018. http://hcd.ca.gov/community-development/housingelement/index.shtml

California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed December 7, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Energy Commission (CEC), *2013 Natural Gas Issues Trends, and Outlook*, July 2014.

CEC, 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, 2016.

CEC, California Energy Demand 2018-2030 Revised Forecast, January 2018.

CEC, *Energy Almanac, Total Electricity System Power,* June 21, 2018.

CEC, Energy Consumption Data Management System, *Electricity Consumption by County*, 2016.

CEC, *Supply and Demand of Natural Gas in California,* 2018.

California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed August 27, 2019. Available at: https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

California Geological Service, Earthquake Zones of Required Investigation San Jose West Quadrangle, 2002.

California Geological Service, EQ Zapp: California Earthquake Hazards Zone Application, 2019.

Charles Mikulik Archaeological Consulting, LLC. *Results of a Historical/Archaeological Review and Assessment for the Building Development Project at 19 North 2nd Street, San Jose, Santa Clara County, California,* May 2021.

David J. Powers & Associates, Inc., Integrated Final Environmental Impact Report, Amendment to Norman Y. Mineta San Jose International Airport Master Plan, April 2020.

Dowding, C.H., Construction Vibrations, Prentice Hall, Upper Saddle River, 1996.

EIA, *California Energy Consumption Estimates, 2016,* October 19, 2017.

EIA, *Natural Gas Conversion Calculator.*

EIA, *Natural Gas Summary,* September 28, 2018.

Harris, Cyril M., *Dictionary of Architecture and Construction,* 1975.

Illingworth & Rodkin, Inc., "27 South First Street Project Environmental Noise and Vibration Report," December 14, 2018.

Illingworth & Rodkin, *19th N. 2nd Street Affordable Senior Housing Project Air Quality Assessment,* July 2021.

Illingworth & Rodkin, *19th North Second Street Project Environmental Noise and Vibration Assessment,* July 2021.

National Park Service, HABS Guidelines. Available at: https://www.nps.gov/hdp/standards/habsguidelines.htm

National Park Service, National Register Photo Policy Factsheet, May 15, 2013. Available at: https://www.nps.gov/subjects/nationalregister/upload/Photo_Policy_update_2013_05_15_508.pdf

Pacific Gas and Electric (PG&E), *Delivering low-emission energy,* 2018.

San José, City of, *Envision San José 2040 General Plan Final Program EIR.* September 2011.

San José, City of, *San José 2040 Envision San José General Plan*, adopted November 2012 updated through 2017.

San José, City of. "San José/Santa Clara Regional Wastewater Facility." Accessed April 29, 2020. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.

San José, City of, Transportation and Environmental Committee, *Building Reach Code for New Construction Memorandum,* August 2019.

San José, City of, Private / Key Economic Development Projects Map, Web: https://gis.sanjoseca.gov/maps/devprojects/

Santa Clara, County of, Santa Clara County Geologic Hazard Zones, 2012.

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

Santa Clara Valley Water District, *2016 Groundwater Management Plan,* Figure 2-1.

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

TreanorHL, Memorandum: 19 N. 2nd Street Interior Assessment, August 27, 2021.

TreanorHL, *Draft Historic Resource Assessment & Design Guidelines and Standards Compliance Review, 19 N. 2nd Street, San Jose, California,* March 2022.

United States Bureau of Transportation Statistics (BTS), *Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles,* May 21, 2017.

United States Department of Energy (DoE), *Energy Independence and Security Act of 2007,* March 14, 2018.

United States Energy Information Administration (EIA), *California Energy Consumption by End-Use Sector, 2016,* June 29, 2018.

United States Environmental Protection Agency. "Highlights of the Automotive Trends Report, Accessed January 2021, Available at: https://www.epa.gov/automotive-trends/highlights-automotive-trends-eport#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg

This Page Intentionally Left Blank

SECTION 10 LEAD AGENCY AND CONSULTANTS

10.1 Lead Agency

City of San José
Department of Planning, Building, and Code Enforcement
Christopher Burton, Director
David Keyon, Principal Planner
Cassandra van der Zweep, Supervising Planner
Maira Blanco, Environmental Project Manager

10.2 Consultants

Denise Duffy & Associates, Inc.
Planning and Environmental Consultants
Leianne Humble, Senior Planner/Project Manager
Robyn Simpson, Associate Planner

Anderson Architects, Inc.
Kurt Anderson, Principal Architect and Owner

Illingworth & Rodkin, Inc.
Casey Divine, Staff Consultant
James Reyff, Senior Project Scientist/Principal
Michael Thill, Senior Consultant/Principal

Charles Mikulik Archaeological Consulting, LLC
Charles Mikulik, Principal Archaeologist and Owner

TreanorHL
Kimberly Butt, Architectural Historian & Designer

V&H Engineering
Dave Voorhies, Principal Engineer

This Page Intentionally Left Blank

SECTION 11 ACRONYMS AND ABBREVIATIONS

Acronym or Abbreviation	Definition
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACMs	Asbestos Containing Materials
ADA	Americans with Disabilities Act
ADPs	Area Development Policies
ADT	Average Daily Traffic
AFY	Acre-feet Per Year
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
BAU	Business as Usual
bgs	Below Ground Surface
BMP	Best Management Practice
Btu	British Thermal Unit
CAAQS	California Ambient Air Quality Standards
CARB	California Air Resources Board
CBC	California Building Standards Code
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CalGreen	California Green Building Standards Code
CalRecycle	California Integrated Waste Management Board
Caltrans	California Department of Transportation
Cal EPA	California Environmental Protection Agency
Cal Fire	California Department of Forestry and Fire Protection
CAL/OSHA	California Occupational Safety Health Program
CARE	Community Air Risk Evaluation
CAA	Federal Clean Air Act
CBC	California Building Code
CCAA	California Clean Air Act
CCL	Candidate City Landmark
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFCs	Chlorofluorocarbons
CGP	Construction General Permit
CH_4	Methane
CHRIS	California Historical Resources Information System
CIWMB	California Integrated Waste Management Board
CMA	Congestion Management Agency
CMP	Congestion Management Plan
CO	Carbon Monoxide
CO_2	Carbon Dioxide
CO_2e	Carbon Dioxide Equivalent
CPUC	California Public Utilities Commission

Acronym or Abbreviation	Definition
CS	Contributing Structure
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
CY	Cubic Yards
dB	Decibels
DEIR	Draft EIR
DNL	Day-Night Level
DPM	Diesel Particulate Matter
DTSC	California Department of Toxic Substances Control
du	Dwelling Units
DWR	California Department of Water Resources
EIR	Environmental Impact Report
EPA	US Environmental Protection Agency
ESLs	Environmental Screening Levels
FAR	Floor Area Ratio
FCAA	Federal Clean Air Act
FCAAA	Federal Clean Air Act Amendments
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIP	Federal Implementation Plan
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
General Plan	Envision 2040 San José General Plan
GHG	Greenhouse Gas
GWh	Gigawatt Hours
HAPs	Hazardous Air Pollutants
HCP	Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan
HHRLs	Human Health Risk Levels
HI	Hazard Index
HRA	Health Risk Assessment
IWMP	Integrated Waste Management Plan
LEED	Leadership in Energy and Environmental Design
LESA	California Agricultural Land Evaluation and Site Assessment
LID	Low Impact Development
LOS	Levels of Service
LRA	Local Responsibility Areas
LRT	Light Rail Transit
LTA	Local Transportation Analysis
MBTA	Migratory Bird Treaty Act
MEI	Maximally Exposed Individual
MLD	Most Likely Descendant
mgd	Million Gallons per Day
mpg	Miles per Gallon
mg/kg	Milligrams per Kilogram
MMT	Million Metric Tons

Acronym or Abbreviation	Definition
MND	Mitigated Negative Declaration
MRP	Municipal Regional Stormwater NPDES Permit
MSAT	Mobile Source Air Toxics
MTC	Metropolitan Transportation Commission
N_2O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCS	Non-Contributing Structure
NFIP	National Flood Insurance Program
NO_2	Nitrogen Dioxide
NO_x	Oxides of Nitrogen
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NS	Non-Significant
NWIC	Northwest Informative Center
O_3	Ozone
OCPs	Organochlorine Pesticides
OPR	Office of Planning and Research
Pb	Lead
PBCE	Planning, Building and Code Enforcement
PDAs	Priority Development Areas
PDO	Parkland Dedication Ordinance
PEIR	Program Environmental Impact Report
PG&E	Pacific Gas & Electric
PIO	Park Impact Ordinance
PM	Suspended Particulate Matter
$PM_{2.5}$	Fine Particulate Matter
PM_{10}	Respirable Particulate Matter
PPV	Peak Particle Velocity
PRC	Public Resources Code
RCP	Reinforced Concrete Pipe
RCRA	Resource Conservation and Recovery Act
RMP	Risk Management Plan
RNCM	Roadway Construction Noise Model
ROG	Reactive Organic Gases
RPS	Renewables Portfolio Standard
RTPs	Regional Transportation Plans
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SBWR	South Bay Water Recycling
SCS	Sustainable Community Strategies
SFBAAB	San Francisco Bay Area Air Basin
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act

Acronym or Abbreviation	Definition
SIP	State Implementation Plan
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJPL	San José Public Library
SJUSD	San José Union School District
SJWC	San Jose Water Company
SM	Structure of Merit
SMARA	Surface Mining and Reclamation Act of 1975
SMP	Soil Management Plan
SO_2	Sulfur Dioxide
SR 87	State Route 87
SRA	State Responsibility Area*
SVOCs	Semi-Volatile Organic Compounds
SWCV	Solid Waste Collection Vehicle
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TCMs	Treatment Control Measures
TCRs	Tribal Cultural Resources
TDM	Transportation Demand Management
TDPs	Transportation Development Policies
USACE	US Army Corps of Engineers
USFWS	US Fish and Wildlife Service
V/C	Demand-to-Capacity Ratio
VCP	Vitrified Clay Pipe
VDECs	Verified Diesel Emission Control Devices
VMT	Vehicle Miles Traveled
VOCs	Volatile Organic Compounds
VTA	Santa Clara Valley Transportation Authority