Appendix A: Initial Study

South Fourth Street Project

File No.: H17-004

SCH No.: 2022020588



Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the South Fourth Street Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et seq.) and the regulations and policies of the City of San José, California.

The applicant proposes to construct a 25-story residential building. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.1.1 Downtown Strategy 2040

On December 18, 2018, the City Council certified the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) (Resolution No. 78942) and adopted the Downtown Strategy 2040 which provides a vision for future housing, office, commercial, and hotel development within the downtown area. The Downtown Strategy 2040 is an update and replacement of the Strategy 2000: San José Greater Downtown Strategy for Development (Strategy 2000) adopted by the City Council in 2005. The new Downtown Strategy 2040 was necessary to: (i) respond to changed circumstances and conditions; and (ii) increase the Downtown development capacity to year 2040 consistent with the General Plan. For purposes of this new Strategy, the primary action is to increase the development capacity within the Downtown boundary, as defined in the General Plan, by transferring 4,000 dwelling units and 10,000 jobs from later horizon General Plan growth areas to Downtown capacity available now. The Downtown Strategy 2040 has a development capacity of 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms. The Downtown Strategy 2040 FEIR provides project-level clearance for impacts related to vehicle miles traveled (VMT), traffic noise, and operational emissions of criteria pollutants associated with Downtown development. All other environmental impacts were evaluated at a program level.

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

This Initial Study and all documents referenced in it are available for public review on the City's website at https://sanjoseca.gov/activeeirs.

1.2 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

South Fourth Street Project

2.2 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Contact: Reema Mahamood
E-mail: Reema.Mahamood@sanjoseca.gov
Phone: (408) 535-6872
200 East Santa Clara Street
San José, CA 95113

2.3 PROJECT APPLICANT

439 S. Fourth Street, LLC, P.O. Box Z, San José, CA 95151

2.4 PROJECT LOCATION

The 0.52 gross-acre project site is comprised of two parcels located at 439 and 451 South Fourth Street in downtown San José. See Figures 2.4-1 through 2.4-3 below.

2.5 ASSESSOR'S PARCEL NUMBERS

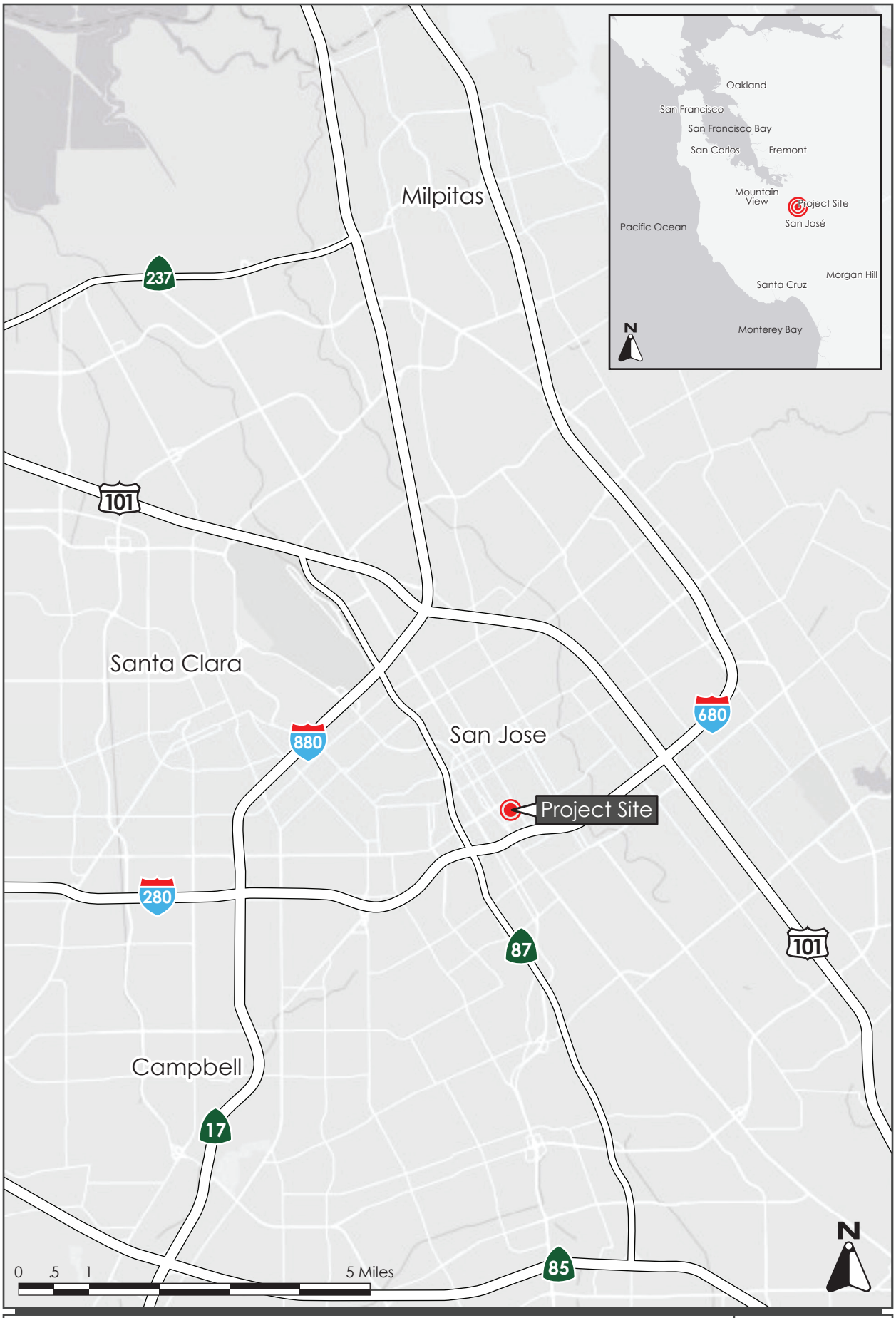
467-47-058
467-47-096

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

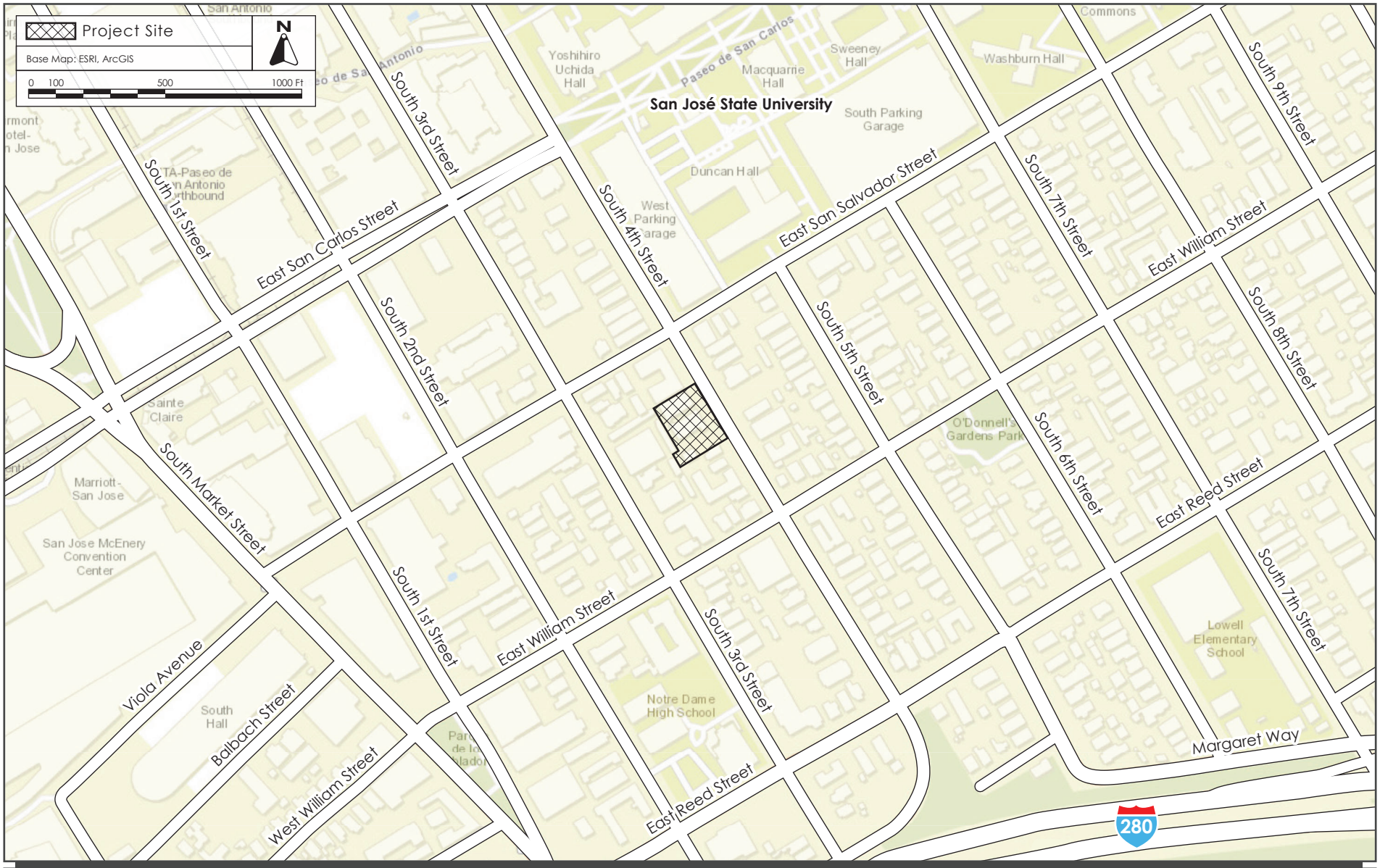
The proposed project is designated *Downtown* under the General Plan and is zoned *DC – Downtown Primary Commercial*.

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

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



REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP | FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

The 0.52 gross-acre project site is located on two parcels (APNs 467-47-058 and 467-47-096) at 439 and 451 South Fourth Street in the City of San José. The project site is currently developed with a three-story apartment complex on the northern parcel and a two-story single-family residence on the southern parcel. Vehicular access to both parcels is provided via four driveways along South Fourth Street. The project site is designated as *Downtown* under the City's General Plan and is zoned *DC – Downtown Primary Commercial.*

3.1 PROPOSED PROJECT

The applicant proposes to demolish the existing buildings and construct a 25-story residential building totaling 430,738[1] square feet. The project includes 210 residential units and rooftop amenities. The rooftop amenity would include: a community room, dog park, common open space and pool, and fitness space. Parking for the residents would be provided in the basement and on floors one to four of the proposed building via a mechanical-stack parking system and tandem parking. The proposed building would be up to 246 feet to the rooftop and 261 feet to the top of the parapet. Site plans and elevations of the proposed building are shown in Figures 3.1-1 through 3.1-5.

The applicant proposes to remove all existing driveways and construct two full access driveways along the South Fourth Street project frontage. The applicant proposes a total of 168 parking spaces and 70 bicycle parking spaces. Of the 168 parking spaces, 40 would be tandem spaces.

3.2 MECHANICAL EQUIPMENT

The applicant would install one 1,000-kilowatt (kW) emergency generator powered by a 1,340-horsepower (hp) diesel engine on the ground floor and a fire pump with a 150 hp diesel engine in the basement. Additionally, a cooling tower room, which would include heating pumps, is proposed on the roof.

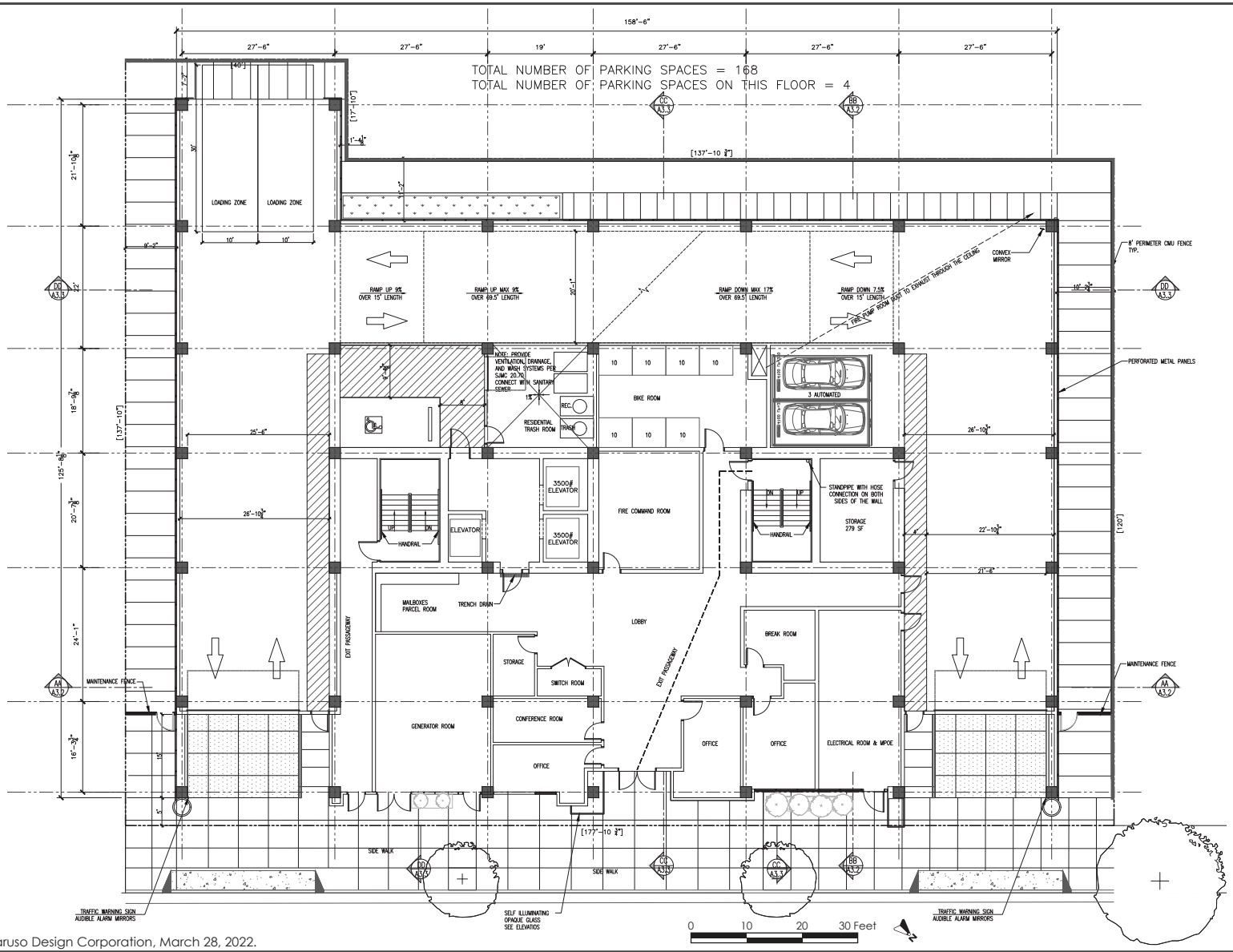
3.3 GREEN BUILDING MEASURES

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

3.4 GENERAL PLAN AND ZONING DESIGNATIONS

The *Downtown* designation includes office, retail, service, residential, and entertainment uses in the downtown area. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The residential component within the *Downtown* designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum floor area ratio (FAR) of 30.0 and up to 800 dwelling units per acre (du/ac). The applicant proposes a residential development of 210 units

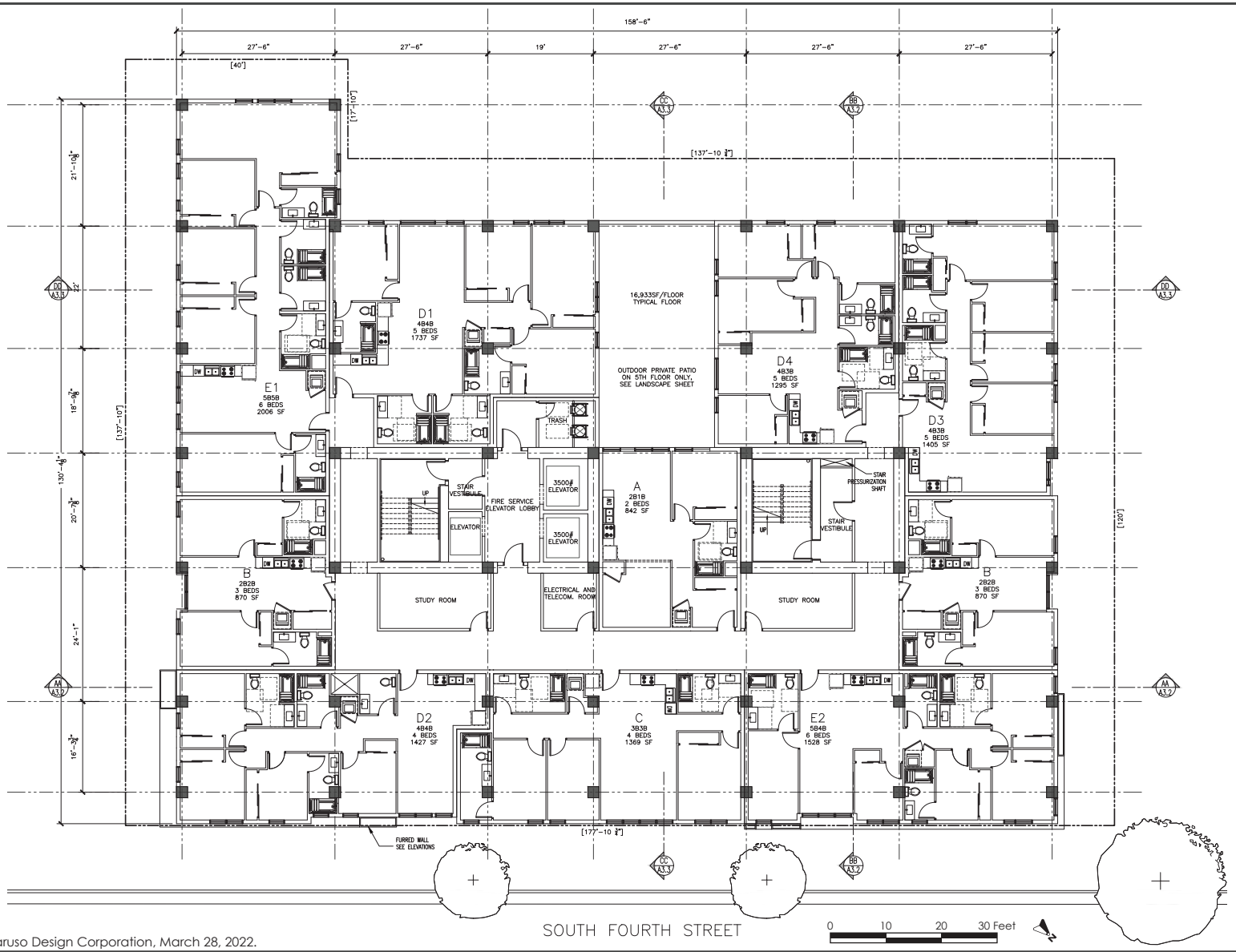
[1] With the basement, the total square footage would be 448,474 square feet.



Source: Salvatore Caruso Design Corporation, March 28, 2022.

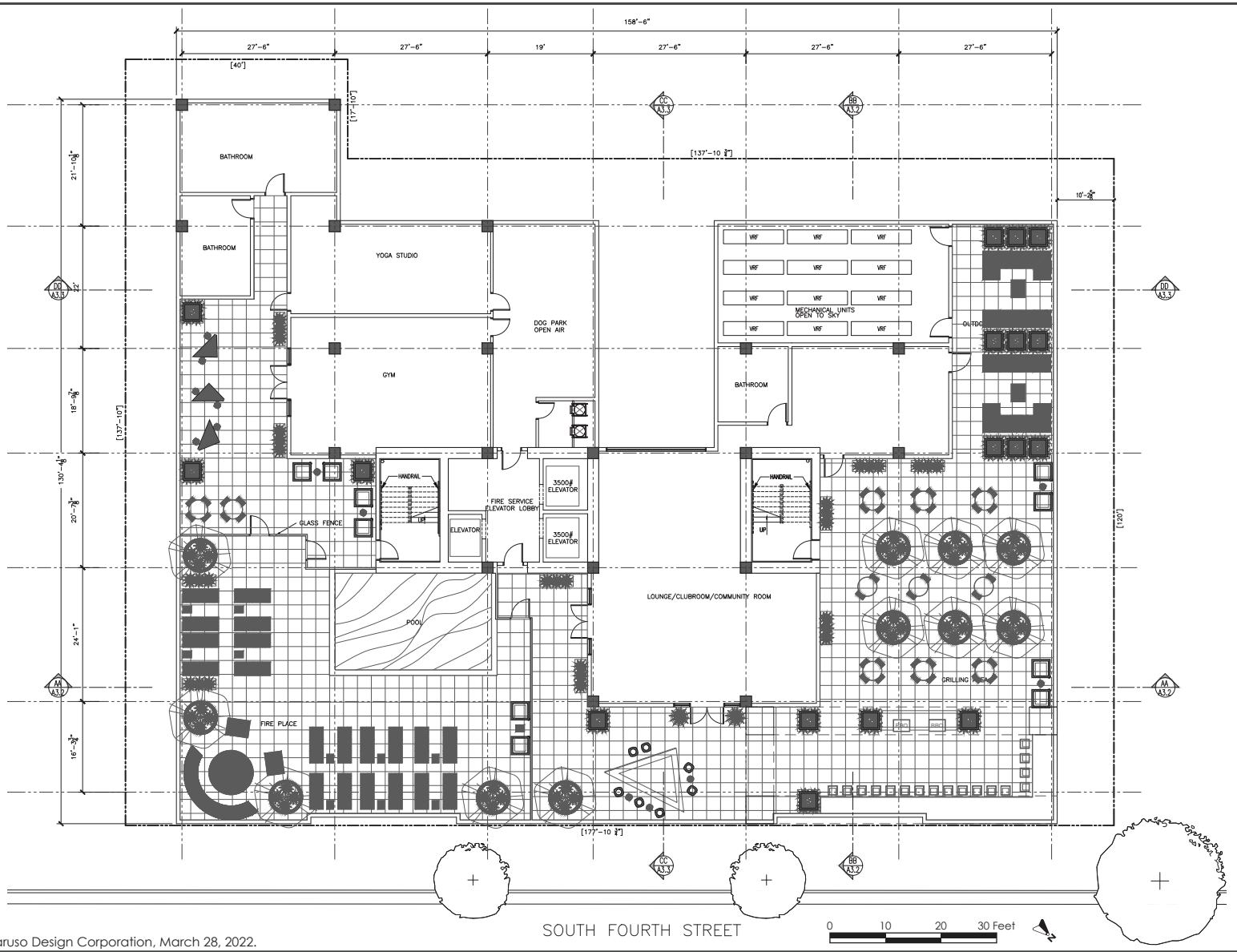
SITE PLAN – GROUND FLOOR

FIGURE 3.1-1



Source: Salvatore Caruso Design Corporation, March 28, 2022.

SITE PLAN – RESIDENTIAL FLOOR PLAN (FIFTH FLOOR) | FIGURE 3.1-2



Source: Salvatore Caruso Design Corporation, March 28, 2022.

SITE PLAN – ROOFTOP

FIGURE 3.1-3



Source: Salvatore Caruso Design Corporation, March 30, 2022.

ELEVATIONS – EAST & WEST

FIGURE 3.1-4



Source: Salvatore Caruso Design Corporation, March 30, 2022.

ELEVATIONS – SOUTH & NORTH

FIGURE 3.1-5

(approximately 404 du/ac) with an FAR of 19.0[2]; therefore, the project is consistent with the General Plan land use designation. Under the *DC – Downtown Primary Commercial* Zoning District, development shall only be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. Developments located in this Zoning District shall not be subject to any minimum setback requirements.

3.5 CONSTRUCTION

It is anticipated that the project would be constructed over an approximately 23-month period.

[2] 430,738 square feet of proposed development / 22,651 square feet of lot area = 19.0 FAR

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).
- **Impact Conclusions** – Because the analysis in this Initial Study tiers from the Downtown Strategy 2040 FEIR, the level of impact in the project-specific analysis is presented as it relates to the findings of the Downtown Strategy 2040 FEIR. For example, if the conclusion is "Same Impact as Approved Project/Less Than Significant Impact" the project level impact was found to be less than significant consistent with the finding in the Downtown Strategy 2040 FEIR.

For resource areas where significant impacts were identified, the detailed evaluation of those resource areas are included in the Draft SEIR to the Downtown Strategy 2040 FEIR prepared for this project. This Initial Study is included as Appendix A to that Draft SEIR.

4.1 AESTHETICS

The following discussion is based, in part, on photo simulations prepared by Salvatore Caruso Design Corporation in June 2022. Please see Figures 4.1-1 to 4.1-7.

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also includes several important 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.[3]

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

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no State-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[4]

In Santa Clara County, the one State-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9,

[3] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "CEQA Review of Housing Projects Technical Advisory." Accessed March 11, 2022. https://opr.ca.gov/docs/20190208-TechAdvisory-Review_of_Housing_Exemptions.pdf.

[4] California Department of Transportation. "Scenic Highways." Accessed March 11, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

City of San José

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include those for: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City Council Policy 4-2: Lighting

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

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

General Plan Policies - Aesthetics	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
CD-6.2	Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
CD-6.9	Recognize Downtown as the hub of the County's transportation system and design buildings and public spaces to connect and maximize use of all types of transit. Design Downtown pedestrian and transit facilities to the highest quality standards to enhance the aesthetic environment and to promote walking, bicycling, and transit use. Design buildings to enhance the pedestrian environment by creating visual interest, fostering active uses, and avoiding prominence of vehicular parking at the street level.
CD-6.10	Design buildings with site, façade, and rooftop locations and facilities to accommodate effective signage. Encourage Downtown businesses and organizations to invest in high quality signs, especially those that enliven the pedestrian experience or enhance the Downtown skyline.
CD-6.11	Maintain Downtown design guidelines and policies adopted by the City to guide development and ensure a high standard of architectural and site design in its center.

Downtown Design Guidelines

The Downtown Design Guidelines describe topics such as lighting, materials for construction, exterior design, massing and scale, orientation, and identity. The Downtown Design Guidelines were adopted to enhance the character of the City and encourage creativity while ensuring a reasonable degree of cohesion. Select guidelines that are relevant to the project are identified in the following.

Massing and Scale: Buildings should be compatible with the scale of development anticipated by the Downtown Strategy Plan and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones.

Materials: Use the materials consistent and exceed the design and quality existing in the Downtown on facades and exterior walls of buildings to give a perception of permanence and civic pride. Use the most durable (i.e., low maintenance) materials at the public level.

Lighting: Lighting should be coordinated with the Federal Aviation Administration (FAA) and the Lick Observatory. Illuminating building features should create a sense of safe and intimate space around the precinct of the building. Provide appropriate levels of building mounted lighting on façade, in private landscaped areas, in merchandising display windows, and on signage.

Downtown Streetscape Master Plan

The Downtown Streetscape Master Plan aims to enrich the pedestrian experience in the greater downtown area and support existing and planned future developments. The Downtown Streetscape Master Plan defines an overall physical and visual image of the greater downtown area that can be achieved through a combination of high-quality materials, amenities, furnishings, and infrastructure. Implementation of the Plan ultimately helps improve pedestrian safety, walkability, and continuity.

4.1.1.2 *Existing Conditions*

Project Site

The 0.52 gross-acre project site is currently developed with a two-story, single-family residence and a three-story apartment complex. The single-family residence is located on the southern portion of the site and consists of horizontal siding, a small covered porch, and a peaked roof. The house is relatively small and has no distinctive architectural features. The house is setback to the rear of a narrow lot with a paved parking area located between the house and the street (Photo 1). An iron mechanical gate and fence with gold embellishments is located along the street frontage. There are trees located along the southern property line.

The apartment complex, located on the northern portion of the site, is comprised of two stucco buildings with aluminum frame windows and no distinctive architectural features (Photo 2). There are two walkways located on the second and third floors that connect the two buildings together. The buildings are set back by street trees along the South Fourth Street frontage. The fence on the adjacent property extends across the southernmost driveway of the apartment complex.



Photo 1: View of project site (451 South Fourth Street), looking west on South Fourth Street.



Photo 2: View of project site (439 South Fourth Street), looking west on South Fourth Street.

PHOTOS 1 & 2



Photo 3: View of surrounding development, looking southeast on South Fourth Street.



Photo 4: View of surrounding development, looking west on South Fourth Street.

PHOTOS 3 & 4



Photo 5: View of surrounding development, looking northeast at the South Fourth Street and East San Salvador Street intersection.

PHOTO 5

Surrounding Land Uses

Development in the project area consists of residential (both single-family and multi-family residences) and commercial land uses. The project site is in proximity to San José State University (SJSU). Building heights vary by land use from one to 19 stories. There is no primary architectural style in the project area.

The apartment buildings in the immediate area are two to three-stories and, similar to the apartment complex on-site, are primarily stucco buildings with aluminum frame windows. There are no distinctive architectural features on these buildings. Most of the apartment buildings have parking along the street frontage and little to no landscaping (see Photo 3). The single-family residences are one and two stories with either stucco or siding facades and small front yards with mature trees (see Photo 4).

Northeast of the project site is the southern boundary of SJSU. The SJSU five-level parking structure is visible from the project site. The structure, made of white concrete, is partially screened by street trees and setback from the South Fourth Street frontage by landscaping (see Photo 5). The six-story Duncan Hall (located on San Fernando Street) is partially visible from the project site. The building façade is primarily glass panes separated by a distinctive grid of window frames made of concrete. The windows are recessed within the frames. A 19-story residential building with ground floor retail is located approximately 450 northeast of the project site at 300 South Second Street and is currently the tallest building in the project area. The 19-story building is primarily glass and stucco. There are commercial businesses located south and northwest of the project site that range from one- to two-stories.

Scenic Views

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

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[5] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

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 site development 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 because 1) the project would construct a residential project and 2) the project is located within a transit priority area[6]. 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.

[5] Public views are those that are experienced from publicly accessible vantage points.
[6] Metropolitan Transportation Commission. "Future Place Type for Priority Development Areas in Santa Clara County." Accessed March 11, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/23687/636689362396800000.

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

The City's General Plan defines scenic vistas or resources in the City as broad views of Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. Most of the City is relatively flat and prominent viewpoints, other than adjacent buildings, are limited. The project site is located within a highly urbanized area with no designated scenic resources. Photo simulations of the project from six key viewpoints as presented in Figure 4.1-1. A comparison of existing and project conditions are shown in Figures 4.1-2 to Figure 4.1-7 below. As shown in the photo simulations, the proposed project would be visible from all six viewpoints. Under existing conditions, there are minimal to no views of the hills and mountains from the key viewpoint areas. This would not change with construction of the proposed project.

While construction of a 25-story residential building would be visible in the immediate area, it would not diminish scenic views or damage any scenic resources in the project area; therefore, implementation of the project would not result in a significant impact on a scenic vista. **[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 located along a State-designated scenic highway. The nearest State-designated highway is SR 9, located approximately 8.8 miles southeast of the project site.[7] Construction of a 25-story residential building on-site would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a State scenic highway. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) Would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located in a developed, urban area of San José and is surrounded by residential and commercial land uses. The City's Zoning Ordinance does not include regulations governing scenic quality. The proposed project would, however, comply with Title 20 of the City's Municipal Code and would be subject to a design review process (prior to the issuance of development permits) to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. Additionally, the project would comply with City Council Policy 4-2 which controls the amount and color of light shining on streets and sidewalks. While the building would be 25 stories tall, it would be comparable in height to The Mark Residential development, a 23-story multi-family residential building, approved south of the site (File No. SP20-021) and development allowed within the downtown plan area. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[7] California Department of Transportation. "Scenic Highways." Accessed March 11, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

PHOTO SIMULATIONS VIEWPOINTS MAP | FIGURE 4.1-1



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 1 | FIGURE 4.1-2



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 2 | FIGURE 4.1-3



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 3 | FIGURE 4.1-4



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 4 | FIGURE 4.1-5



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 5 | FIGURE 4.1-6



EXISTING



PROPOSED

PHOTO SIMULATION – VIEWPOINT 6 | FIGURE 4.1-7

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

Any development on-site would be highly visible from the surrounding properties. The proposed project would comply with applicable General Plan policies, the City Council Lighting Policy 4-2, Municipal Code and Downtown Design Guidelines governing new sources of light and glare. The project would go through a design review process and would be reviewed for consistency with the City's Design Guidelines and other applicable codes, policies, and regulations. Additionally, the project would be required to comply with Section 20.75.360 of the City's Municipal Code which requires lighting to be directed away from any residential uses. The building would consist primarily of stucco, metal frame windows, opaque glass, and perforated metal panels, and would not generate new daytime glare. For these reasons, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[8]

4.2.1.2 *Existing Conditions*

The project site is located in a developed, urban area of San José and is surrounded by commercial and residential land uses. The *Santa Clara County Important Farmlands 2018 Map* designates the project site as "Urban and Built-Up Land." Urban and Built-up Land is defined as land with at least six structures per 10 acres. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses.[9] There are no forest lands on or adjacent to the project site. The site is not subject to a Williamson Act contract.[10]

[8] *Forest land* is land that can support 10 percent native tree cover and allows for management of one or more forest resources, including timber, fish, wildlife, and biodiversity (California Public Resources Code Section 12220(g)); *Timberland* is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing a crop of trees used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and *Timberland Production* is land devoted to and used for growing and harvesting timber and other compatible uses (Government Code Section 51104(g)).
[9] California Department of Conservation. "Santa Clara County Important Farmland Data Availability." Accessed March 11, 2022. https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx.
[10] County of Santa Clara. "Williamson Act and Open Space Easement." Accessed March 11, 2022. https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx.

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would have no impact on agriculture and forestry resources, as described below.

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

As proposed, the project would construct a 25-story residential building on a currently developed site and would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to non-agricultural uses as shown on the Santa Clara County Important Farmland 2018 Map.[11] **[Same Impact as Approved Project (No Impact)]**

[11] California Department of Conservation. "Santa Clara County Important Farmland Data Availability." Accessed March 11, 2022. https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx.

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

The project site is not zoned to allow for agricultural uses nor is it subject to a Williamson Act contract. Therefore, implementation of the proposed project would not conflict with existing zoning for agricultural operations or conflict with a Williamson Act contract. **[Same Impact as Approved Project (No Impact)]**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. Therefore, the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **[Same Impact as Approved Project (No Impact)]**

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

As mentioned previously, the project site is not zoned as forest land. The project site is located within an urbanized area and would not result in a loss of forest land or convert forest land to non-forest use. **[Same Impact as Approved Project (No Impact)]**

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

The project site is located within a developed area of downtown San José. The proposed project would not involve changes in the existing environment that could result in the conversion of farmland to non-agricultural use or non-forest use. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The proposed project would demolish the existing three-story apartment complex and a single-family residence on an approximately 0.52 gross-acre site and would construct a 25-story, residential building.

4.3.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☒	☐	☐	☐	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or State ambient air quality standard?	☒	☐	☐	☐	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☒	☐	☐	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

Implementation of the proposed project has the potential to result in significant air quality construction impacts. The project's impacts to air quality are evaluated in the Draft SEIR. No further analysis is provided in this Initial Study.

4.4 BIOLOGICAL RESOURCES

The approximately 0.52 gross-acre site is currently developed with a three-story apartment complex and a two-story single-family residence.

4.4.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	☐
c) Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☒	☐	☐	☐	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
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?	☐	☐	☐	☒	☐

Implementation of the project has the potential to conflict with local policies or ordinances protecting biological resources. The project's impact on biological resources is evaluated in the Draft SEIR. No further analysis is provided in this Initial Study.

4.5 CULTURAL RESOURCES

The approximately 0.52 gross-acre site is currently developed with a three-story apartment complex and a two-story single-family residence.

4.5.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☒	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

As proposed, the project would demolish the existing buildings and construct a 25-story residential building. Based on the potential to impact historic structures and subsurface resources, the proposed project could result in a significant and unavoidable impact to cultural resources. The analysis of cultural resources impacts is presented in the Draft SEIR. No further analysis is provided in this Initial Study.

4.6 ENERGY

The following discussion is based on an Air Quality Assessment prepared by *Illingworth & Rodkin, Inc.* in March 2023. A copy of this report is included as Appendix B of the Draft SEIR.

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewable Portfolio Standards Program

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 2008, Executive Order (EO) S-14-08 was signed into law requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to State environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025.

City of San José

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)[12]
    - GreenSource (default program) currently provides 60-percent renewable energy and will increase in the future.
    - TotalGreen (enhanced/opt-in program) provides 100-percent renewable energy.
- 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.

Energy and Water Building Performance Ordinance

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

Reach Building Code

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

[12] Providing 100-percent carbon-free base power is still the target, however, it has been delayed and is still not in effect as of June 2022.

Sustainable City Strategy

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

Municipal Code

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

Envision San José 2040 General Plan

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

General Plan Policies - Energy	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best

General Plan Policies - Energy	
	practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar environmentally sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
VN-1.1	Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.
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

General Plan Policies - Energy	
	to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1. • Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,923 trillion British thermal units (Btu) in the year 2020, the most recent year for which this data was available.[13] Out of the 50 states, California is ranked second in total energy consumption and 50th in energy consumption per capita. The breakdown by sector was approximately 22 percent (1,508 trillion Btu) for residential uses, 20 percent (1,358 trillion Btu) for commercial uses, 24 percent (1,701 trillion Btu) for industrial uses, and 34 percent (2,356 trillion Btu) for transportation.[14] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2020 was consumed primarily by the commercial sector (73 percent), followed by the residential sector consuming 27 percent. In 2020, a total of approximately 16,436 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[15]

[13] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed June 27, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[14] Ibid.
[15] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed June 27, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 60 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 from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada. [16] In 2020, residential and commercial customers in California used 34 percent of the State's natural gas, power plants used 30 percent, the industrial sector used 35 percent, and transportation accounted for one percent of natural gas use in California.[17] In 2020, Santa Clara County used approximately 3.4 percent of the State's total consumption of natural gas.[18]

Fuel for Motor Vehicles

In 2020, 14.0 billion gallons of gasoline were sold in California.[19] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2020.[20] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49.0 mpg by model year 2026.[21,22]

4.6.1.3 *Energy Use by Existing Development*

The estimated annual energy use of the existing development is shown below in Table 4.6-1.

[16] California Gas and Electric Utilities. *2020 California Gas Report.* Accessed June 27, 2022. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[17] U.S. Energy Information Administration. "Natural Gas Summary." Accessed June 27, 2022. https://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.
[18] California Energy Commission. "Natural Gas Consumption by County." Accessed July 1, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[19] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed March 4, 2020. http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.
[20] United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021.
[21] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed July 1, 2021. http://www.afdc.energy.gov/laws/eisa.
[22] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed July 1, 2022. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026.

Table 4.6-1: Estimated Annual Energy Use of Existing Development[1]			
Development	**Electricity Use (kWh)**	**Natural Gas Use (kBtu)**	**Gasoline (gallons per year)**
Mid-Rise Apartments - 30 units	123,851	259,184	8,265[23]
Single-Family Housing	8,091	29,065	859[24]
Total	**131,942**	**288,249**	**9,124**
Notes: [1] Illingworth & Rodkin, Inc. *South 4th Street Apartments CalEEMod Modeling*. August 14, 2020.			

As shown in the table above, the existing buildings on-site uses a combined total of approximately 131,942 kWh of electricity and 288,249 kBtu of natural gas. Using the U.S. EPA fuel economy estimates (24.9 mpg), the existing building would result in consumption of approximately 9,124 gallons of gasoline per year.

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant energy impact, as described below.

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

Energy Efficiency During Construction

The anticipated construction schedule assumes that the project would be built over a period of approximately 23 months. The project would require demolition, site preparation, grading, trenching, building construction, paving, and architectural coating. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on-site because of the added expense associated

[23] 209,943 Annual VMT / 25.4 mpg = 8,265 gallons of gasoline.
[24] 21,819 Annual VMT / 25.4 mpg = 859 gallons of gasoline.

with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project, however, does include several measures that would improve the efficiency of the construction process. Implementation of the City's Standard Permit Conditions detailed in *Section 3.1 Air Quality* of the Draft SEIR, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on-site reminding workers to shut off idle equipment.

The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations and programs would reduce energy loss from construction and demolition. Therefore, the proposed project would not consume energy in a manner that is wasteful, inefficient, or unnecessary during construction.

Energy Efficiency During Operation

Operation of the proposed project would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, and water heating. The following table summarizes the estimated energy use of the proposed project.

Table 4.6-2: Estimated Annual Energy Use of Proposed Development

Development	Electricity Use (kWh)	Natural Gas Use[1] (kBtu)	Gasoline[2] (gallons per year)
High-Rise Apartments - 210 units	812,461	0	1,450,895
Enclosed Parking with Elevator - 168 parking spaces	392,501	0	0
Total:	**1,204,962**	**0**	**1,450,895**

Source: Illingworth & Rodkin, Inc. *439 & 451 S. 4th Street Air Quality Assessment*. March 1, 2023.

Note: [1]The City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. Natural gas use was set to zero for the residential land use.
[2]1,450,895 daily VMT / 25.4 mpg = 57,122 gallons of gasoline.

The proposed project would result in a net increase in electricity usage of approximately 1,073,020 kWh and a net decrease in natural gas usage of approximately 288,249 kilo-British Thermal Unit (kBtu). Annual gasoline consumption as a result of the project would have a net increase of approximately 1,441,771 gallons of gasoline.

The proposed project would be required to be constructed in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Additionally, the proposed project would be constructed in compliance with City of San José Council Policy 6-32. The project site is located approximately 0.5 mile from the San Antonio light rail transit (LRT) Station. The nearest bus stops are located along First Street and San Salvador Street. The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Additionally, the proposed project would include 70 bicycle parking spaces which exceeds the City's bicycle parking requirement of 53 parking spaces. Additionally, the proposed project would also comply with existing State energy standards. Based on the above, the project would not result in a potentially significant environmental impact due to inefficient consumption of energy during project operation.

Therefore, implementation of the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during operation of the project. **[Same Impact as 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?

Electricity on-site would be provided by SJCE. The project would be built in accordance with the City's Green Building Ordinance, the most recent CALGreen requirements, City Council Policy 6-32, Energy and Water Building Performance Ordinance, and Reach Code. Thus, the project would not conflict with or obstruct implementation of a State or local plan for renewable energy or energy efficiency. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based, in part, on a Soils Report generated from the Natural Resources Conservation Service's website in January 2019. A copy of this report is included as Appendix F of the Draft SEIR.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and State agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

City of San José

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

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

General Plan Policies - Geology, Soils, and Seismic Hazards	
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
ES-4.10	Update, as necessary, the San José Building Code, Fire Prevention Code and Municipal Code to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes.
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

General Plan Policies - Geology, Soils, and Seismic Hazards	
EC-3.3	The City of San José Building Official shall require conformance with State law regarding seismically vulnerable unreinforced masonry structures within the City.
EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other State agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.7.1.2 *Existing Conditions*

Regional Geology

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin south of the San Francisco Bay, north and northeast of the Santa Cruz Mountains, and west of the Diablo Mountain Range.

On-Site Geologic Conditions

Topography and Soils

The project site is underlain by the Urbanland-Elpaloalto complex with zero to two percent slopes. The soil type is characterized by moderate expansion (shrink-swell) potential and good natural

drainage. Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavement, and structures on shallow foundations.

Groundwater

Based on nearby monitoring wells, groundwater is presumed to be present at an estimated depth of approximately 11.5 to 36 feet below the ground surface (bgs).[25] Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the U.S. The significant earthquakes that occur in the Bay Area are generally associated with the crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trend in a northwesterly direction. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking is expected to occur at the project site during a major earthquake.

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[26] and no active faults have been mapped on-site; therefore, the risk of fault rupture is low. Faults in the region are, however, capable of generating earthquakes of magnitude 6.7 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active faults near the project site are shown in Table 4.7-1.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	4.4 miles east
Calaveras	8.7 miles east
Monte Vista – Shannon	7.2 miles southwest
San Andreas	11.8 miles southwest

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project area is located within a potential liquefaction zone.[27]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream

[25] AEI Consultants. *Phase I Environmental Site Assessment (439 & 451 South Fourth Street).* January 24, 2022.
[26] California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed March 9, 2022. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.
[27] Ibid.

channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. Guadalupe River is located approximately 0.5 mile west of the project site and Coyote Creek is approximately one mile east of the project site. At these distances, the potential for lateral spreading on-site is low.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within a Santa Clara County Landslide Hazard Zone.[28] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐

[28] County of Santa Clara. Geologic Hazards Zones, Map 20, 2012. Accessed March 10, 2022. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant geology and soils impacts, as described below.

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045.[29] The project site would experience intense ground shaking in the event of a large earthquake. As mentioned previously, no active faults have been mapped on-site; therefore, the risk of fault rupture is low. Although the project site is not located within a landslide hazard zone, the project site is located within a liquefaction hazard zone. The project site is not located near creeks or channels; therefore, the potential for lateral spreading would be low during large seismic events. Additionally, the site is located within an area of moderate expansion potential.

Consistent with the General Plan and current standard practices in the City of San José, the applicant proposes to implement the following Standard Permit Conditions to reduce significant seismic and seismic-related impacts.

[29] U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System. Fact Sheet 2015-3009." Accessed March 10, 2022. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

Standard Permit Conditions:

The project shall implement the following Standard Permit Conditions to reduce significant seismic and seismic-related impacts:

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

With implementation of the above Standard Permit Conditions, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Ground disturbance activities associated with the project would include demolition of the existing buildings, grading, trenching, and excavation for the underground parking structure, and construction of the project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Downtown Strategy 2040 FEIR thereto concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions:

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

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

Because the proposed project would comply with the identified Standard Permit Conditions and applicable City regulatory programs related to erosion, the potential for soil erosion impacts would be reduced to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The project site is located within a liquefaction zone and the potential for lateral spreading to occur on-site is low due to the location of the project site. Although the site is located within an area of moderate expansion potential, the project shall be constructed using standard engineering and seismic safety design techniques and in conformance with a site-specific geotechnical investigation (see Standard Permit Condition under checklist question a, above). The proposed project would not be located on soil that is or would become unstable and result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Groundwater

As mentioned previously, groundwater is presumed to be present at an estimated depth of approximately 11.5 to 36 feet bgs. The project site would be excavated to a depth of approximately 21 feet for the below-grade parking garage. Because excavation activities on-site would likely encounter groundwater, the proposed project would require dewatering during construction. Refer to *Section 4.9 Hazards and Hazardous Materials* and *Section 4.10 Hydrology and Water Quality* for more information. Consistent with the measure identified in the Downtown Strategy 2040 FEIR and City policy, the project would implement the following Standard Permit Condition to reduce and/or avoid impacts related to groundwater.

Standard Permit Condition:

- 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.

Because the proposed project would comply with the above Standard Permit Condition, the soils on-site would not become unstable as a result of the project. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The soils on-site have moderate expansion potential. The proposed project would be required to prepare a design-level geotechnical investigation (refer to the Standard Permit Condition listed under checklist question a above) and would implement the recommendations in the investigation to minimize impacts from expansive soils. As a result, the proposed project would not create substantial direct or indirect risks to life or property. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is located within an urban area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths greater than 10 feet below ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The project site would be excavated to a depth of approximately 21 feet for the below-grade parking garage and could potentially disturb unknown paleontological resources during excavation, grading and construction activities. Consistent with the Downtown Strategy 2040 FEIR, the project would comply with the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

Standard Permit Condition:

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

implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of a project on the environment are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing geology and soils conditions affecting a proposed project.

Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on-site or on adjoining properties. Prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[30] shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the CBC and all City policies and ordinances.

In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires 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.

The project site and surrounding area contain soils with moderate expansion potential. Consistent with Action EC-4.11, the project applicant would be required to submit a design-specific geotechnical report. The proposed project would be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent CBC, which contains the regulations that govern the construction of structures in California. Adherence to the CBC would reduce seismic related impacts and ensure that the proposed new development is constructed to withstand the potentially hazardous conditions on the site.

Because the proposed project would comply with the design-specific geotechnical report, the CBC, and regulations identified in the Downtown Strategy 2040 FEIR, the project would comply with General Plan Policies EC-4.2 and EC-4.4.

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

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based upon a Greenhouse Gas Compliance Checklist provided by the applicant in October 2022. A copy of this report is included as Appendix G of the Draft SEIR.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of

GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and City of San José

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

BAAQMD CEQA Air Quality Guidelines

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

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of

neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

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

City of San José Municipal Code

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

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

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

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

Greenhouse Gas Reduction Strategy

Since adoption of the Downtown Strategy 2040 FEIR in 2018, the City of San José has prepared and adopted an updated Greenhouse Gas Reduction Strategy (GHGRS) in 2020. The 2030 GHGRS is intended to meet the mandates outlined in the CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies. The City's 2030 GHGRS is a comprehensive update to the City's original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's Envision San José 2040 General Plan and Climate Smart San José; these plans expanded the City's Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target.

The primary test for consistency with the City's GHGRS is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer *to Section 3.1 Air Quality* (of the Draft SEIR) and *Sections 4.6 Energy* and *4.16 Transportation* of this document for these policies.

General Plan Policies - GHG Emissions	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best

General Plan Policies - GHG Emissions	
	practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

4.8.1.3 *Existing Conditions*

The project site is currently developed with a single-family residence and an apartment complex. Most of the GHG emissions associated with the existing uses on the project site result from the production of electricity and burning of natural gas to power household appliances and lighting, and the emissions from vehicles traveling to and from the residence and apartment complex.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒	☐

Similar to the capacity build out evaluated in the Downtown Strategy 2040 FEIR, the proposed project, by itself, would not result in a significant GHG emissions impacts.

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

Construction Emissions

The proposed project would result in temporary GHG emissions associated with construction activities. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for

determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 23 months and would not result in a permanent increase in emissions. The proposed project would not interfere with the implementation of AB 32 in 2020 or SB 32 in 2030.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The project is consistent with the General Plan land use designation for the site and planned growth analyzed in the Downtown Strategy 2040 FEIR. In addition, the proposed project would comply with the 2030 GHGRS, as discussed below under checklist question b. Pursuant to the latest BAAQMD CEQA Air Quality Guidelines, a local government may prepare a qualified GHGRS that is consistent with AB 32 goals. The City of San José adopted the updated 2030 GHGRS in 2020. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. Therefore, the project would result in a less than significant GHG emissions impact.

The proposed project would result in a temporary increase in GHG emissions during construction. With implementation of the mandatory GHG measures required by the City, operation of the proposed project would have a less than significant GHG emissions impact.
[Same Impact as Approved Project (Less Than Significant Impact)]

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

2030 San José Greenhouse Gas Reduction Strategy Compliance Checklist

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The City of San José adopted the updated 2030 GHGRS in 2020 that is consistent with SB 32 goals. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. In addition, pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a project's incremental contribution to a cumulative GHG emissions effect may be determined not to be cumulatively considerable if it complies with the requirements of the GHGRS. The proposed project's consistency with these measures is summarized below (refer to Appendix G of the Draft SEIR for more detail).

The project is consistent with the General Plan designation and planned growth analyzed in the Downtown Strategy 2040 FEIR. The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and CBC requirements as well as General Plan Action MS-2.11, which requires development to incorporate green building practices through construction, architectural design, and site design techniques. The project would comply with the City's Reach Code and Title 24 and would be designed to achieve LEED Silver certification. In addition, the project applicant will enroll in SJCE's TotalGreen program (i.e., 100 percent renewable energy) which is consistent with GHGRS #1 and #3. Consistent with GHGRS #2, no gas infrastructure is proposed. The project is not proposing to retrofit an existing building; therefore, GHGRS #4 would

not be applicable to the project. The applicant proposes a trash room with organic waste containers (consistent with GHGRS #5). The proposed project would include bicycle lockers for future residents consistent with GHGRS #6. Additionally, the proposed project would include high-efficiency appliances/fixtures and landscape design that meets the Model Water Efficient Landscape Ordinance requirements (consistent with GHGRS #7). The project would be consistent with consistency options 1 and 2 under Zero Net Carbon Residential Construction (supports GHGRS #1-#3), consistency option 3 under Renewable Energy Development (supports GHGRS #1 and #3), consistency option 1 under Zero Waste Goal (supports GHGRS #5), consistency option 2 under Caltrain Modernization (supports GHGRS #6), and consistency option 1 under Water Conservation (supports GHGRS #7). Therefore, the project would result in a less than significant impact from GHG emissions. **[(Same Impact as Approved Project (Less Than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment prepared by *AEI Consultants* in January 2022. A copy of this report is included as Appendix H of the Draft SEIR.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

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

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

Federal and State

Federal Aviation Regulations Part 77

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

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB). The project site is not listed in the Cortese List.[31]

[31] CalEPA. "Cortese List Data Resources." Accessed March 8, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

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

CCR Title 8, Section 1532.1

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

Regional

Municipal Regional Permit Provision C.12.f

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

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[32] As of July 1, 2019, all applicants for a demolition permit or any other permit that involves the demolition of a building shall submit a Screen Assessment Form with their building permit application in San José.

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

City of San José

Envision San José 2040 General Plan

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

General Plan Policies - Hazards and Hazardous Materials	
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, State and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require~~s~~ proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, State and federal agencies prior to approval of a development or redevelopment project.

General Plan Policies - Hazards and Hazardous Materials	
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

4.9.1.2 *Existing Conditions*

The 0.52 gross-acre project site is developed with a three-story apartment complex and a two-story, single-family residence. Groundwater is presumed to be present on-site at an estimated depth of 11.5 to 36 feet below ground surface (bgs). Groundwater in the project area flows in a northeasterly direction.

4.9.1.3 *Site History*

A land use history of the project site has been compiled based on Sanborn fire insurance maps, San José City directories, aerial photographs, and agency reviews. Prior to 1891, the project site was mostly undeveloped with a residence located on the southern portion of the site. Based on an 1891 Sanborn map, five residential structures were present on-site, each with an associated private auto garage and outbuilding. By 1950, an additional small residential structure located at the northwestern portion of the site was constructed. Additionally, one of the structures located at the center of the site was converted into a business. By 1965, the existing residential complex at 439 South Fourth Street

was developed. The current single-family residence at 451 South Fourth Street was constructed circa 1870 and moved to the rear of the site in 1978-1979. Since 1984 to present day, occupants of the existing residence have included multiple residential tenants, as well as a commercial photography supply business.

4.9.1.4 *On-Site Sources of Contamination*

The project site is not listed in any regulatory database. Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs and LBP materials may be present in the buildings.

4.9.1.5 *Off-Site Sources of Contamination*

The Phase I Environmental Site Assessment (ESA) identified 31 off-site facilities within a one-quarter mile radius of the project site. None of the off-site facilities were determined to represent a significant environmental concern for the project site because 1) no release has occurred, 2) the distance of the facility from the project site and/or the location of the release relative to groundwater flow, or 3) the site has been granted a "No Further Action" or "Case Closed" by the appropriate regulatory agency.

4.9.2 **Impact Discussion**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
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?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant hazards and hazardous impacts, as described below.

4.9.2.1 *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?

Consistent with the Downtown Strategy 2040 FEIR, a Phase I ESA was prepared for the project site to identify potential impacts of the project on the existing environment. The proposed project would likely include the use and storage of cleaning supplies and maintenance chemicals in small quantities similar to operation of the existing buildings on-site. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. Based on the proposed use of the site, the project would not create a significant hazard to the public or environment from the use, transport, or storage of these chemicals. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

On-Site Contamination

As mentioned previously, the project site is not listed in any regulatory database. The residences at 439 South Fourth Street and 451 South Fourth Street were constructed in 1965 and 1870, respectively. Due to the age of both residences, it is reasonable to assume that ACMs and LBP may

be present on-site. The project would be required to implement the following Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or LBP:

Standard Permit Conditions:

The project applicant shall implement the following conditions:

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

With implementation of the above Standard Permit Conditions, the project would have a less than significant impact from ACMs and LBP.

Polychlorinated Biphenyls

The buildings on-site 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 comply with the following Condition of Approval to reduce impacts due to the presence PCBs.

Condition of Approval:

- In conformance with City of San José permitting requirements, consistent with Regional Water Quality Control Board (RWQCB) regulations, the project applicant shall be required to submit a polychlorinated biphenyls (PCB) Screening Assessment Form when applying for a demolition permit to demolish the existing building(s) 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 above, demolition of the buildings containing PCBs would reduce potential hazardous materials impacts to construction workers, adjacent uses, and nearby residences to a less than significant level.

Off-Site Contamination

As mentioned previously, the project site is not listed in any regulatory database and none of the 31 off-site facilities located within one-quarter mile radius of the site were determined to represent a significant environmental concern. Therefore, implementation of the project including grading for the underground parking would not exacerbate an existing soil or groundwater contamination source and would not impact persons or properties off-site.

Dewatering During Construction

The project site would be excavated to a depth of approximately 21 feet bgs for the below-grade parking garage and would encounter groundwater during excavation activities on-site. Any groundwater encountered during excavation activities would need to be removed from the excavated areas and disposed of. Water discharge produced from construction dewatering to the sanitary sewer is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the San Francisco Bay RWQCB. As mentioned in *Section 4.7 Geology and Soils*, the project shall comply with the recommendations of an approved geotechnical investigation. Therefore, dewatering during construction would not create a significant hazard to the public or the environment.

With implementation of the identified Standard Permit Conditions and Condition of Approval, the proposed project would result in a less than significant hazard to the public and/or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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 nearest school to the project site is SJSU, located approximately 300 feet northeast of the project site. Based on the proposed use of the site, the proposed project would not result in hazardous emissions or hazardous materials being transported to and from the site, nor would hazardous waste be produced or disposed of upon implementation of the project. Therefore, the proposed project would not present a risk to the sensitive receptors located at the nearby school due to hazardous emissions, materials transport, or waste generation. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.[33] Therefore, the proposed project would not create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The Norman Y. Mineta San José International Airport is located approximately 2.3 miles northwest of the project site. The project site is not located within the Norman Y. Mineta San José International Airport CLUP-defined safety zone or the Airport Influence Area (AIA). For the project site, any structure exceeding 90 feet in height above grade would require submittal to the FAA for airspace safety review. As the proposed project would be up to 261 feet to the top of the parapet, notification to the FAA is required to determine the potential for the project to create an aviation hazard. The proposed project would be required to implement the identified Standard Permit Condition below.

Standard Permit Condition:

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

In addition to receiving a "Determination of No Hazard" from the FAA, the project would be required to follow all applicable General Plan policies and regulations outlined in the CLUP for the Norman Y. Mineta San José International Airport and Downtown Strategy 2040 FEIR. Therefore, implementation of the identified Standard Permit Condition would ensure that the project does not result in a safety hazard or excessive noise exposure due to activities of the Norman Y. Mineta San José International Airport. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions. The proposed project would not impair or interfere with the implementation of the City's Emergency Operations Plan or any statewide

[33] CalEPA. "Cortese List Data Resources." Accessed March 8, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

emergency response or evacuation plans. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal and State

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) in order to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (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.

Statewide Construction General Permit

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

Regional and City of San José

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing

waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 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.[34] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for polychlorinated biphenyls (PCBs) that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs waste load allocation in the Basin Plan by March 2030.[35] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

The Santa Clara Valley Water District (Valley Water) operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and

[34] MRP Number CAS612008
[35] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Construction Dewatering Waste Discharge Requirements

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

City of San José Grading Ordinance

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

Demolition Permit Application – Managing Polychlorinated Biphenyls

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

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

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

General Plan Policies - Hydrology and Water Quality	
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.3	Preserve designated floodway areas for non-urban uses.
EC-5.5	Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans.
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.
EC-5.13	As a part of the City's policies for addressing the effects of climate change and projected water level rise in San Francisco Bay, require evaluation of projected inundation for development projects near San Francisco Bay or at flooding risk from local waterways which discharge to San Francisco Bay. For projects affected by increased water levels in San Francisco Bay, the City requires incorporation of mitigation measures prior to approval of development projects. Mitigation measures incorporated into project design

General Plan Policies - Hydrology and Water Quality	
	or project location shall prevent exposure to substantial flooding hazards from increased water levels in San Francisco Bay during the anticipated useful lifetime of structures.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
ER-9.2	In consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-1.2	Consistent with fiscal sustainability goals, provide and maintain adequate water, wastewater, and stormwater services to areas in the city that do not currently receive these City services upon funding and construction of the infrastructure necessary to provide them.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:

General Plan Policies - Hydrology and Water Quality	
	• Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

4.10.1.2 *Existing Conditions*

Storm Drainage and Water Quality

Stormwater from the project site drains into the Guadalupe River. Based on data from the U.S. EPA[36], the Guadalupe River is currently listed on the California 303(d)[37] as an impaired water body for mercury, diazinon, and trash.[38]

Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H)[39], the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D.

[36] U.S. EPA. California 303(d) Listed Waters. Accessed March 4, 2022. https://mywaterway.epa.gov/community/180500030304/overview.
[37] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.
[38] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.
[39] Federal Emergency Management Agency. "FEMA Flood Map Service Center." Accessed March 4, 2022. https://msc.fema.gov/portal/search?.

Dam Failure

Based on the SCVWD dam failure inundation hazard maps, the project site is located in the Andersen dam and Lexington dam failure inundation hazard zones.[40,41]

Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[42] The project area is flat and there are no mountains near the site that would affect the site in the event of a mudflow.

Groundwater

Groundwater would be encountered at an estimated depth of 11.5 to 36 bgs.[43] Groundwater levels will typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors.

Hydromodification

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[44]

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐

[40] Valley Water. *Andersen Dam Flood Inundation Maps*. Accessed March 4, 2022. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.
[41] Valley Water. *Inundation Map for the Hypothetical Fair Weather Failure of Both Austrian Dam and Lenihan Dam.* Accessed March 4, 2022. https://fta.valleywater.org/dl/kjag9342I7.
[42] Association of Bay Area Governments. *MTC/ABAG Hazard Viewer Map.* Accessed March 4, 2022. https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=4a6f3f1259df42eab29b35dfcd086fc8.
[43] AEI Consultants. *Phase I Environmental Site Assessment (439 & 451 South Fourth Street).* January 24, 2022.
[44] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Applicability Maps." Accessed March 4, 2022. https://scvurppp.org/wp-content/uploads/2019/08/San_Jose_HMP_Map.pdf.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
c) Substantially alter the7 existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant hydrology and water quality impacts, as described below.

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

Construction Impacts

The project site is approximately 0.52 acre in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are required to comply with the City of San José's Grading Ordinance[45] whether or not the project is required to obtain an NDPES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season

[45] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

(October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts:

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 covered and all trucks shall 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 remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by 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.

The project shall be required to implement the following additional Standard Permit Conditions, consistent with the Downtown Strategy 2040 FEIR.

Standard Permit Conditions:

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

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

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

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

- **Dewatering.** The proposed project involves dewatering activities; therefore, the SWPPP shall include provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.[46]

With implementation of the identified Standard Permit Conditions and the City's Grading Ordinance, construction of the proposed project would have a less than significant impact on water quality.

[46] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed March 3, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.

Post-Construction Impacts

The project site is 97 percent (approximately 21,318 square feet) covered with impervious surface area. Upon completion of the proposed project, the site would be covered with approximately 21,122 square feet of impervious surfaces, a net decrease of 196 square feet. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the applicant proposes media filters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

Dewatering

The proposed project would include one level of below-grade parking to a depth of approximately 21 feet bgs. Groundwater is estimated to be approximately 11.5 to 36 feet bgs. Based on this data, the proposed development could interfere with the shallow groundwater aquifer but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers. It is anticipated that dewatering would be required during project construction (refer to *Section 4.7 Geology and Soils* and *Section 4.9 Hazards and Hazardous Materials*).

With implementation of the identified Standard Permit Conditions above, the proposed project would result in a less than significant impact on water quality during project construction and operation. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is currently 97 percent (approximately 21,318 square feet) covered with impervious surface area. Under project conditions, the amount of impervious surface area on-site would decrease by 196 square feet compared to existing conditions. The site does not currently decrease groundwater supplies or interfere with groundwater recharge. This condition would not change once development

is complete. Therefore, the proposed project would not interfere with groundwater flow or impact the groundwater aquifer. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

Drainage Pattern Impacts

According to the Downtown Strategy 2040 FEIR, existing surfaces are largely impervious, making future development unlikely to alter the existing drainage pattern such that substantial flooding or erosion would occur in the receiving water bodies. The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.10-1 below.

Table 4.10-1: Pervious and Impervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (sq ft)	%	Project/Post-Construction (sq ft)	%	Difference (sq ft)	%
Impervious Surfaces						
Total	21,318	97	21,122	96	-196	-1
Pervious Surfaces						
Total	742	3	938	4	+196	+1
Total:	22,060	100	22,060	100		

Currently, 97 percent (approximately 21,318 square feet) of the project site is comprised of impervious surfaces and the storm drainage lines have sufficient capacity to serve the site. The impervious surfaces on-site would decrease by approximately 196 square feet under project conditions which would reduce the rate of stormwater runoff. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP, to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants.

The Downtown Strategy 2040 FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce drainage impacts. In accordance with General plan policies, future development within the Downtown Strategy 2040 area would be required to be designed and constructed to meet the City's 10-year storm event design standard. The proposed

project would not substantially alter the existing drainage pattern of the site or area. **[Same Impact as Approved Project (Less Than Significant Impact)]**

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

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. A tsunami or tidal wave is a series of water waves caused by displacing a large volume of body of water, such as an ocean or a large lake. Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami.

A mudflow is the rapid movement of a large mass of mud formed by loose soil and water. The project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties.

As mentioned in *Section 4.10.1.2*, the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. The project site is also located within the Anderson dam and Lexington dam failure inundation zones. The California Division of Safety of Dams (DSOD) inspects dams on an annual basis and Valley Water routinely monitors the 10 dams, including the Anderson and Lexington dams. Therefore, the likelihood of flooding from dam failure is low and the project would not release pollutants due to dam inundation. **[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 proposed project would implement the identified Standard Permit Conditions mentioned previously and the City's Grading Ordinance; therefore, the proposed project would not significantly impact water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.10.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing hydrology and water quality conditions affecting a proposed project.

General Plan Policy EC-5.1 requires evaluation of flood hazards prior to approval of development within a FEMA designated floodplain. New development shall be reviewed to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence or the 100-year flood. Based on the FIRM, the project site is outside the 100-year floodplain and, as a result, the project would not expose people or structures to significant flood hazards in compliance with City policies. The project site would not be subject to inundation by seiches, tsunamis, or mudflows. The proposed project would not expose people or structures to flood hazards, consistent with General Plan Policy EC-5.1

The project site is located within the Anderson and Lexington dam failure inundation areas. As mentioned previously, the California DSOD inspects the dams on an annual basis. The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death.

4.11 LAND USE AND PLANNING

The approximately 0.52 gross-acre site is currently developed with a three-story apartment complex and a two-story single-family residence.

4.11.1 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☒	☐	☐	☐	☐
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)?	☐	☐	☒	☐	☐

Implementation of the proposed project has the potential to result in significant land use impacts for non-compliance with land use policies adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, the project's land use impacts are evaluated in the Draft SEIR. No further analysis is provided in this Initial Study.

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources. The only area in the City of San José that is designated by SMARA as containing mineral deposits which are of regional significance is Communications Hill, which is located over two miles southeast of the downtown area.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project have no impact on mineral resources, as described below.

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the State?

The project site is in a developed, urbanized area of San José that does not contain any known or designated mineral resources. Implementation of the proposed project would not result in the loss of availability of any 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?

No mineral resource recovery sites are located within the downtown area of the City. Consistent with the findings of the Downtown Strategy 2040 FEIR, the proposed project would not result in the loss of availability of a locally important mineral resource recovery site. **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE AND VIBRATION

The approximately 0.52 gross-acre site is currently developed with a three-story apartment complex and a two-story single-family residence.

4.13.1 Impact Discussion

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

Implementation of the proposed project has the potential to result in significant construction noise and vibration impacts. The project's impacts to noise and vibration is evaluated in the Draft SEIR. No further analysis is provided in this Initial Study.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the State-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[47] The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and City of San José

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 976,482 in January 2022 with an average of 2.91 persons per household.[48] By 2040, the City's population is projected to reach 1,334,100.[49]

[47] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed March 3, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[48] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2021-2022." Accessed May 5, 2022. https://dof.ca.gov/forecasting/demographics/estimates/estimates-e5-2010-2021/.
[49] City of San José. "Population." Accessed March 3, 2022. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/data-and-maps/demographics/population.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. According to the Downtown Strategy 2040 FEIR, the current ratio of jobs to employed residents in San José is estimated to be 0.8 to 1, making the city "housing rich".

4.14.2 Impact Discussion

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

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in a less than significant impact on population and housing, as described below.

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

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Implementation of the project would result in the construction of up to 210 residential units. The increase in housing would result in a net increase of 611 residents.[50] The proposed 210 units would comprise a small portion of the 14,360 dwelling units already approved for the downtown area. While the project would increase housing within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same as Approved Project (Less Than Significant Impact)]**

[50] The average number of residents is calculated from 2.91 persons per household from the State of California Department of Finance.

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

Construction of the proposed project would result in the demolition of the three-story apartment complex and a single-family residence. Since the proposed project would be replacing the existing dwelling units with 210 new residential units (a net increase of 180 units), the project would not result in a reduction in the total number of housing units on-site or within the City, nor would it necessitate the construction of housing elsewhere.

The existing residents would be displaced as a result of the project. As the existing apartment building was constructed prior to 1979, the property owner would be required to comply with all applicable requirements of the City's Ellis Act Ordinance, including, but not limited to, minimum one year-tenant noticing requirements, relocation assistance, and recontrol or construction of affordable units built where prior rent-controlled unit existed. Additionally, the project would be subject to the requirements of SB 330. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and City of San José

California Government Code Section 65995-65998 (School Facilities)

The California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of) the planning, use, or development of real property" [§65996(a)]. The legislation goes on to say that the payment 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 for mitigating school impacts under the Government Code. In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project.

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. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects under 51 units, the City can only accept a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units is subject to the PDO and PIO at a rate of fifty percent of the applicable parkland fee.

Envision San José 2040 General Plan

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

General Plan Policies – Public Facilities and Services	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.3	Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.
ES-3.4	Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.
ES-3.6	Work with local, State, and Federal public safety agencies to promote regional cooperation in the delivery of services. Maintain mutual aid agreements with surrounding jurisdictions for emergency response.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for

General Plan Policies – Public Facilities and Services	
	people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 3 located at 98 Martha Street, approximately 0.54 mile south of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street; approximately 1.76 miles northwest of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division, which includes five patrol officers and two crime prevention specialists.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The project area is served by the schools listed in Table 4.15-1.

Table 4.15-1: Local Schools

School[51]	Location	Distance from Site
Gardner Elementary School	502 Illinois Avenue	0.9 miles southwest
Hoover Middle School	1635 Park Avenue	2.2 miles northwest
Lincoln High School	555 Dana Avenue	2.3 miles west

[51] San José Unified School District. "SchoolSite Locator." Accessed March 3, 2022. http://apps.schoolsitelocator.com/?districtcode=25499#.

Parks

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[52] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 48 community centers, 10 regional parks, and over 61 miles of urban trails.

The nearest public park is the 0.2-acre Parque de los Pobladores, located approximately 0.2 mile southwest of the project site.

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 24 branch libraries. The nearest library is Dr. Martin Luther King Jr., approximately 0.3 mile north of the project site.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant public services impacts, as described below.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

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

The proposed project would increase the City's population by approximately 611 new residents (521 net new residents) which have been accounted for in the planned growth for the City.[53] The project would not preclude the SJFD from meeting its service goals. As a result, the proposed project would be adequately served by existing resources.

Furthermore, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with the municipal code and applicable City policies identified in the Downtown Strategy 2040 FEIR to avoid unsafe building conditions and promote public safety. As a result, the proposed development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

As mentioned above, the proposed development on the project site has been accounted for in the planned growth for the City and would not have significant, adverse environmental impacts. The project, by itself, would not require additional police facilities to be constructed and would not preclude the SJPD from meeting its service goals. Therefore, future development proposed on-site would be adequately served by existing resources.

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. Thus, the proposed development would not require new police stations to be constructed or the existing police station to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

Planned growth under the General Plan FEIR would generate an additional 11,079 students in the SJUSD. Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students, and 0.074 high school students per unit.[54] The project would generate a total of approximately 29 new elementary students, 12 new middle school students, and 16 new high school students in the school district. The project is part of the planned growth in the City and would not increase students in the SJUSD

[53] The average number of residents is calculated from 2.91 persons per household from the State of California Department of Finance.
[54] Odell Planning and Research, Inc. *Development Fee Justification Study Prepared for the San José Unified School District*. April 2014.

beyond what was anticipated from full build out of the Downtown Strategy 2040 plan. State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment.

By complying with State law, the proposed project would not result in significant impacts to school facilities in San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

The City of San José has a PDO which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The proposed project is part of the planned growth anticipated from full build out of the downtown area and would result in a net increase of 521 new residents. The project would include a community room, fitness space, and a pool which could help reduce the use of existing park facilities in the area. Nevertheless, the applicant would be required to comply with the City's PDO/PIO and, as a result, implementation of the project would not result in significant impacts to park and recreational facilities in San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

As mentioned above, the project would include a community room, dog park, fitness space, and a pool for the residents on the rooftop which could help reduce the use of public facilities, such as libraries and community centers, in the area. The proposed project is consistent with the Downtown Strategy 2040 Plan and would not experience a substantial increase in demand as a result of the proposed project. The project would not require the construction or expansion of additional governmental facilities in order to maintain acceptable service ratios or performance objectives. Therefore, the proposed project would have a less than significant impact on other public facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

ActivateSJ Strategic Plan

Since adoption of the Downtown Strategy 2040 FEIR in 2018, the City of San José adopted ActivateSJ in 2019. The Activate SJ Strategic Plan is the City of San José's Department of Parks, Recreation, and Neighborhood Services' plan to maintain, improve, and expand facilities, programs, and services. The plan guides maintenance and development of the City's diverse park systems, recreational programs, and services.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the applicant will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

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

General Plan Policies - Recreation	
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

General Plan Policies - Recreation	
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,537 acres of parkland, including neighborhood parks, community parks, and regional parks.[55] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 48 community centers, 10 regional parks, and over 61 miles of urban trails.

The nearest public park is Parque de los Pobladores, located approximately 0.2 miles southwest of the project site.

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

4.16.2 Impact Discussion

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

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant recreation impacts, as described below.

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

Implementation of the project would result in 611 total new residents (521 net new residents) in the City. As mentioned previously, the City's PDO would be satisfied through a combination of several means including: dedication of land; payment of a fee (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities. While the increase in resident population would result in an increase in the use of existing and planned parks, trails, and community centers within the City, these facilities would be up kept and expanded through application of PDO/PIO fees in accordance with General Plan policies. Additionally, the applicant proposes a community room, dog park, fitness space, and a pool on the rooftop which could help reduce the use of existing park facilities in the area. The combination of the parkland dedication, in-lieu fees, and on-site facilities would allow for the construction of new facilities and/or upkeep of existing facilities to avoid deterioration of existing parks and other recreational facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As mentioned above, the applicant proposes a community room, dog park, fitness space, and a pool for the residents which would reduce the use of public recreational facilities in the area. With the proposed on-site amenities, the proposed project would not significantly increase demand for recreational facilities downtown. The Downtown Strategy 2040 FEIR concluded that build out under the Downtown Strategy 2040 would contribute to demand for parkland and recreational facilities in

the central/downtown planning area, however, full build out would not result in a new or more significant impact than previously identified in the Envision San José 2040 General Plan. For these reasons, the project would not have an adverse physical effect on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 TRANSPORTATION

Public comments received during the Notice of Preparation (NOP) scoping process pertained to traffic congestion in the area and parking. The evaluation of project CEQA impacts on the transportation system is focused on VMT. Non-CEQA transportation issues (e.g., local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues, parking, and recommend needed transportation improvements) are discussed further under *Section 4.17.3*. An increase in trip volumes on any roadway is not, in and of itself, a transportation impact. Additionally, refer to Appendix I of the Draft SEIR for the queuing analysis.

The following discussion is based in part on a Local Transportation Analysis prepared *by Hexagon Transportation Consultants, Inc.* in December 2021. A copy of this report is included as Appendix I of the Draft SEIR.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, State, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions are required by the Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and City of San José

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant State legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. 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 have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

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

General Plan Policies - Transportation	
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

<table>
<tr><th colspan="2">General Plan Policies - Transportation</th></tr>
<tr><td>TR-1.3</td><td>Increase substantially the proportion of travel using modes other than the single-occupant vehicle. The 2030 and 2040 mode split targets for all trips made by San José residents, workers, and visitors are presented in the following table:
<table>
<tr><th colspan="4">Mode Split Targets for 2030 and 2040</th></tr>
<tr><th rowspan="2">Mode</th><th colspan="3">Commute Trips to and From San José</th></tr>
<tr><th>2019</th><th>2030 Goal</th><th>2040 Goal</th></tr>
<tr><td>Drive alone</td><td>80%</td><td>No more than 45%</td><td>No more than 25%</td></tr>
<tr><td>Shared Mobility/Carpool</td><td>12%</td><td>At least 25%</td><td>At least 25%</td></tr>
<tr><td>Transit</td><td>5%</td><td>At least 10%</td><td>At least 20%</td></tr>
<tr><td>Bicycle</td><td>Less than 2%</td><td>At least 10%</td><td>At least 15%</td></tr>
<tr><td>Walk</td><td>Less than 2%</td><td>At least 10%</td><td>At least 15%</td></tr>
<tr><td colspan="4">Source: The 2008 mode split data were obtained from the American Community Survey (2008).</td></tr>
</table></td></tr>
<tr><td>TR-1.4</td><td>Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.
Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.
Area Development Policy. An “area development policy” may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.</td></tr>
</table>

General Plan Policies - Transportation	
TR-2.2	Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and barriers that impede pedestrian and bicycle movement~~,~~ on City streets. Include consideration of grade-separated crossings at railroad tracks and freeways. Provide safe bicycle and pedestrian connections to all facilities regularly accessed by the public, including the Mineta San José International Airport.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.

4.17.2 Existing Conditions

Regional Access

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

SR 87 is a north-south freeway that provides regional access to the project site via its connection to SR 85, Highway 101 (US 101), and I-280. SR 87 is oriented in a northwest/southwest direction with four mixed-flow lanes and two HOV (high-occupancy vehicle) lanes in the vicinity of the site.

I-280 extends from US 101 in San José to Interstate 80 (I-80) in San Francisco. It is generally an east-west oriented eight-lane freeway in the vicinity of Downtown San José.

Local Access

Local access to the project site is provided by Third Street, Fourth Street, San Salvador Street, and William Street.

Third Street is a one-way street with two northbound lanes and protected bike lanes between Humboldt Street and Julian Street.

Fourth Street is a one-way street with two southbound lanes and buffered bike lanes between Reed Street and St. James Street. Fourth Street is a two-way, two-lane street with buffered bicycle lanes between St. James Street and East Hedding Street to the north.

San Salvador Street is an east-west, two-lane street that extends from Market Street to 16th Street. San Salvador contains a mix of Class II bike lanes, protected bike lanes, and sharrows[56].

William Street is an east-west, two-lane street that extends from Market Street to Bonita Avenue.

Pedestrian and Bicycle Facilities

Pedestrian facilities include sidewalks and crosswalks with pedestrian signal heads at all signalized intersections within the vicinity of the project site. Crosswalks are also provided at some of the nearby unsignalized intersections. Overall, the existing network of sidewalks and crosswalks provide good connectivity and provides pedestrians with safe routes to transit services.

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes with signs and/or sharrows (Class III). Bicycle paths are paved trails that are separate from roadways. Bicycle facilities in the site vicinity include the Guadalupe River Trail approximately 0.5 miles west of the site. The Guadalupe River Trail is a Class I bikeway (paved path) that runs adjacent to SR-87 near the project vicinity with trail access located approximately 0.5 miles west of the site. There are bicycle facilities in the project vicinity present on the following roadways:

- First Street, between San Salvador Street/St. John Street
- Second Street, between Keyes Street/San Carlos Street
- Second Street, between San Carlos Street/St. John Street
- Second Street, between Julian Street/Taylor Street
- Third Street, between Humboldt Street/Julian Street
- Third Street, between Julian Street/Jackson Street
- Fourth Street, between Reed Street/St. James Street
- Fourth Street, between Julian Street/ San Salvador Street
- Fourth Street, between San Salvador Street and San Fernando Street

[56] Sharrows are bike route/shared lane markings.

- Seventh Street, between Tully Road/Empire Street
- Seventh Street, north of Empire Street
- San Salvador Street, between Market Street/ Fourth Street
- San Salvador Street, east of Fourth Street
- San Carlos Street, between Woz Way/SJSU
- William Street, between First Street and 24th Street

Existing bicycle facilities are shown in Figure 4.17-1 below.

Transit Service

Transit service in the area is provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain. These transit services are further discussed below and shown in Figure 4.17-2.

Santa Clara Valley Transportation Authority

VTA operates local bus routes and several LRT lines within the project vicinity. VTA operates the 42.2-mile VTA light rail line which extends from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The San Antonio LRT Station is located less than 0.5 mile walking distance from the project site on First Street/Second Street and are served by the Baypointe-Santa Teresa LRT Line (blue line) and the Old Ironsides-Winchester Line (green line).

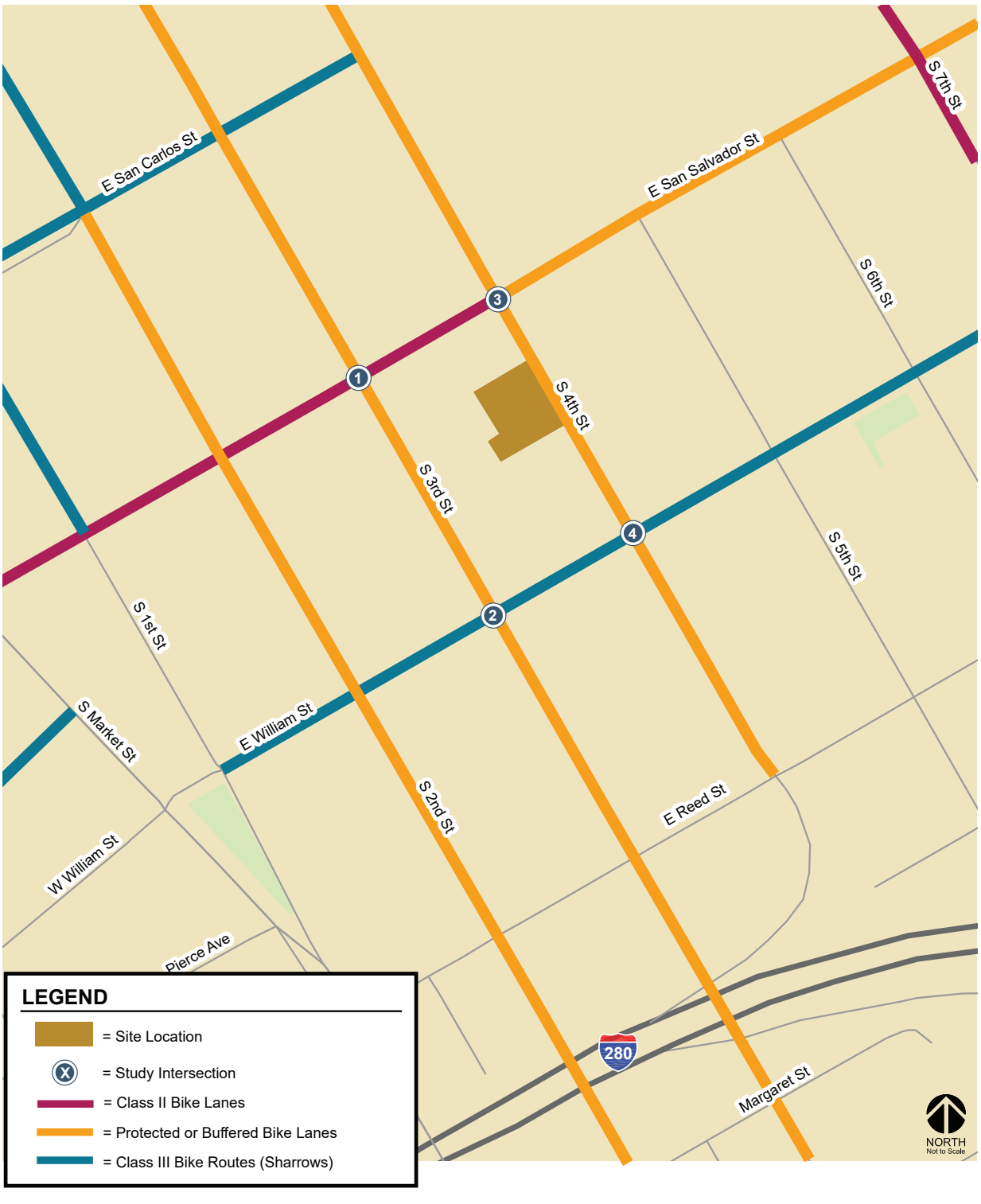
The closest bus stop to the project site is located on Second Street at East San Salvador Street, approximately 900 feet (walking distance) from the site. The bus stop is served by local bus routes 66 and 68 traveling southbound. The VTA bus lines that operate within the project area are summarized in the Table 4.17-1 below.

Table 4.17-1: Local Bus Routes

Bus Route	Route Description	Headway (Minutes)
Local Route 23	DeAnza College to Alum Rock Transit Center	12
Local Route 66	Kaiser San José Medical Center to Dixon Landing Road (Milpitas)	15-20
Local Route 68	Gilroy Transit Center to San José Diridon Station	15-20
Express Route 168	Gilroy Transit Center to San José Diridon Station	15-30
Rapid (523)	SJSU to Lockheed Martin	30

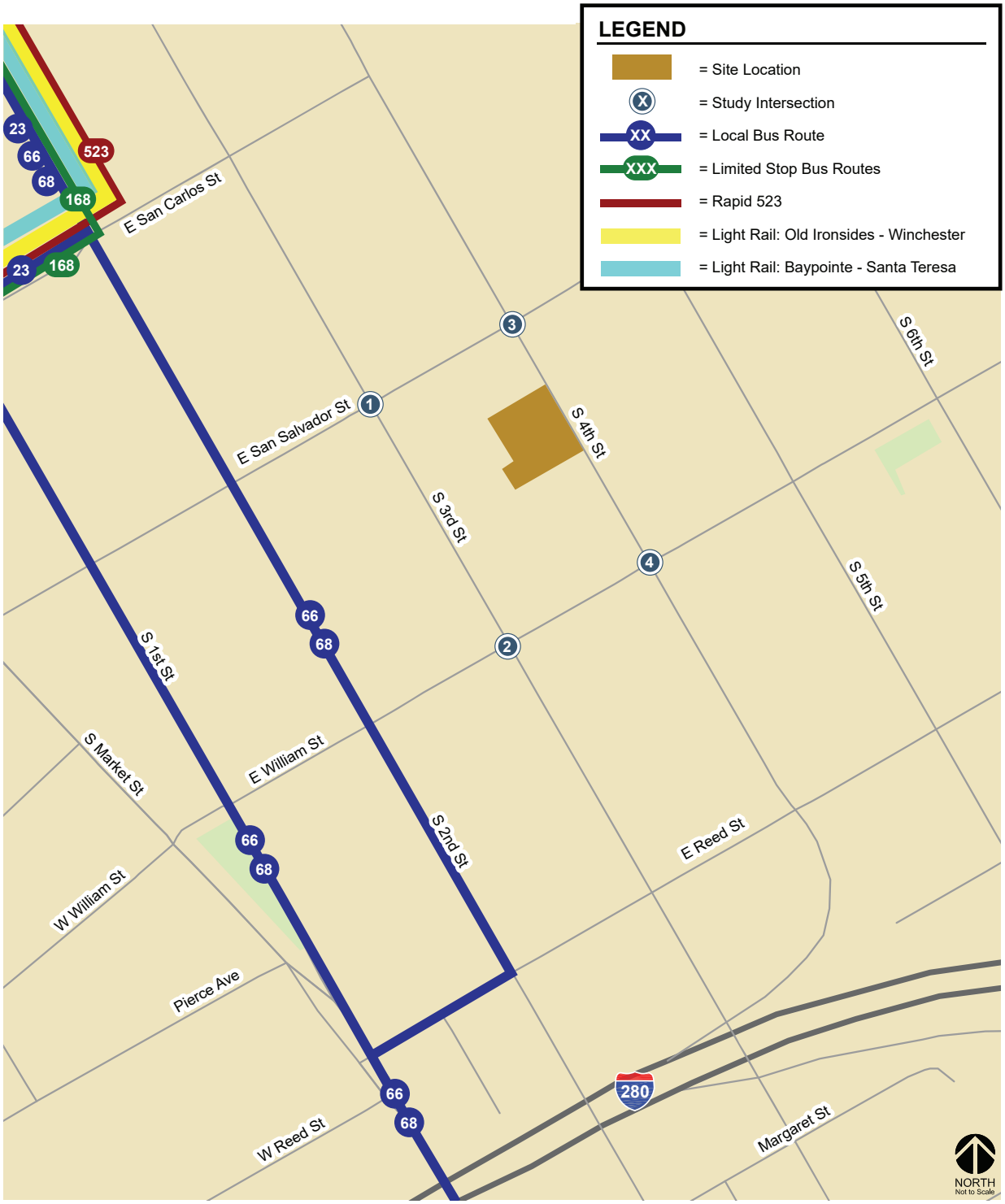
Caltrain

Caltrain is a regional, intercity commuter rail service between San Francisco and Gilroy. The Diridon LRT Station is located approximately 1.5 miles (walking distance) from the project site. The Diridon Station is served by the Baypointe-Santa Teresa LRT Line (blue line), as well as local bus route 68.



Source: Hexagon Transportation Consultants, Inc., December 3, 2021.

EXISTING BICYCLE FACILITIES | FIGURE 4.17-1



Source: Hexagon Transportation Consultants, Inc., December 3, 2021.

EXISTING TRANSIT SERVICES | FIGURE 4.17-2

4.17.3 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☐	☒	☐
b) 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)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant transportation impacts, as described below.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Pedestrian Facilities

As mentioned previously, the existing pedestrian facilities have good connectivity and would provide residents with a safe connection between the project site and surrounding land uses. The applicant proposes to reconstruct the sidewalk and curb along the Fourth Street project frontage. Implementation of the proposed project would not conflict with any policies or plans regarding pedestrian facilities or decrease the safety of these facilities.

Bicycle Facilities

The project site is well served by various existing bicycle facilities; therefore, implementation of the proposed project would not conflict with any policies or plans regarding bicycle facilities or decrease the safety of these facilities.

Transit Facilities

The project is in proximity to major transit services and would provide the opportunity for multi-modal travel to and from the project site. The San Antonio LRT Station is located less than 0.5 mile from the project site on First Street and Second Street. Additionally, the project site is located approximately 900 feet from the Second Street/San Salvador Street bus stop and within approximately 1,500 feet from the First Street/San Salvador Street bus stop. Implementation of the

proposed project would not conflict with any policies or plans regarding transit facilities or decrease the safety of these facilities.

The proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

City Council Policy 5-1 has established screening criteria to determine which projects require a detailed VMT analysis. Within the screening criteria, projects or components of projects would be exempt from VMT analysis under the following conditions: 1) the site is located within a Planned Growth Area as defined by the General Plan; 2) the site is located within 0.5 miles of an existing major transit stop or an existing stop along a high-quality transit corridor; 3) the site is located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; 4) the project has a minimum FAR of 0.75 for office projects or components or a minimum of 35 units per acre; 5) the project has no more than the minimum number of parking spaces required (if located in downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum); and 6) the project would not negatively impact transit, bike or pedestrian infrastructure.

Based on the Downtown Strategy 2040 FEIR, future development within the downtown would result in low VMT and would have the lowest VMT of any plan area in the City. The proposed project is located within the downtown area which does not exceed VMT per job or residential VMT per capita (refer to Figures 3.15-6 and 3.15-7 of the Downtown Strategy 2040 FEIR). Therefore, would have a less than significant VMT impact. The project site is located 1.5 miles from the Diridon LRT Station and would be in proximity to major transit services. Additionally, the project would have a density of 404 du/ac. For these reasons, the project would not result in a significant VMT impact and would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Site Access and Driveway Design

The applicant proposes to remove all existing driveways and construct two right-turn in/out driveways on Fourth Street. The northern driveway would provide access to a three-car mechanical parking stacker and to the basement parking. The southern driveway would provide access to two freight loading spaces and three above-grade parking levels. Each of the above-grade parking levels would consist of standard 90-degree parking spaces.

The City's standard minimum width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. The proposed two-way drive aisle at the garage entrance would be

approximately 20 feet wide and widens to approximately 22 feet and narrows to 20 feet wide at the 90-degree turns onto the garage ramps. The north-south oriented drive aisles would be approximately 22 feet wide and the east-west drive aisles would be approximately 25.5 feet wide. The drive aisles would provide access to the below-grade and above-grade parking levels.

Based on the City's Department of Transportation (DOT) Geometric Design Guidelines, the width for a two-way driveway for multi-family residential development is approximately 26 feet wide. The proposed 26-foot wide driveways on South Fourth Street would meet the City's design standard.

Site Distance

Adequate site distance would be required for the project driveways in accordance with Caltrans standards. Based on Caltrans standards, the stopping distance for driveways on Fourth Street, which has a posted speed limit of 30 miles per hour (mph), is 250 feet. A driver exiting the Fourth Street project driveway must be able to see 250 feet along Fourth Street in order to stop and avoid a collision. Based on the proposed site plan, vehicles exiting the driveways would be able to see approaching traffic on Fourth Street, consistent with the Caltrans stopping sight distance standards.

The proposed project would conform to all applicable City's policies. As a result, the project would not substantially increase hazards due to a geometric or other design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project result in inadequate emergency access?

The City requires consistency with applicable fire department standards for emergency access before building permits are approved. Therefore, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.4 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The proposed project is part of planned growth in the downtown; therefore, no CEQA transportation analysis is required. A Local Transportation Analysis (LTA) shall be prepared to identify any operational issues associated with the project. The following discussion is included for informational purposes only.

Trip Generation Estimates

Project traffic trips were estimated using the rates for "Multi-family Housing High-Rise" (Land Use Code 222) published in the Institute of Transportation Engineers' (ITE) *Trip Generation Manual*, 10th Edition (2017)[57].

[57] Institute of Transportation Engineers. *Trip Generation Manual 10th Edition*. September 2017.

Based on the City of San José *Transportation Analysis 2020 Handbook*[58], the project is located within a designated Central City Urban place type and would qualify for a location-based adjustment. Based on the City's VMT Evaluation Tool, also known as a sketch tool, the project site is located within a designated Central City Urban place type. The baseline project trips were adjusted to reflect the project's Central City Urban vehicle mode share.

Residential developments within Central City Urban areas have a vehicle mode share of 71 percent. Therefore, a 29 percent reduction was applied to the project.

According to the *Transportation Analysis Handbook*, the VMT reduction in the sketch tool should be included as part of the trip generation rates. A three percent trip reduction was applied to the apartments based on the project-specific VMT reductions obtained from the City's sketch tool. A summary of the project trip generation estimates is shown in Table 4.17-2.

Table 4.17-2: Project Trip Generation Estimates

Land Use	Daily Trips	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Apartments (210 dwelling units)	935	16	49	65	46	30	76
Location-Based Vehicle Mode Share (29 percent)	<271>	<5>	<14>	<19>	<13>	<9>	<22>
Project-Specific Trip Reduction (3 percent)	<20>	<0>	<1>	<1>	<1>	<1>	<2>
Project Trips:	**644**	**11**	**34**	**45**	**32**	**20**	**52**

Based on the trip generation table above, the project would generate approximately 644 new daily trips with a total of 45 new daily trips during the AM Peak Hour and 52 new daily trips during the PM Peak Hour.

4.17.4.1 *Parking*

Bicycle Parking

The City's downtown zoning regulations require one bicycle parking space per four residential units. The project would be required to provide a total of 53 bicycle parking spaces to meet the City's standards. The applicant proposes 70 bicycle spaces, exceeding the City's bicycle parking requirements.

Vehicle Parking

According to the City's Downtown Zoning Regulations (*Section 20.70* of the San José Municipal Code), residential projects are required to provide one off-street parking space per residential unit. Per the City's standard parking requirements, the project would be required to provide 210 off-street parking spaces. The applicant proposes 168 off-street parking spaces, a 20 percent reduction in the City's parking requirement. Based on Sections 20.90.220 A.1.a. and A.1.b. of the City's Zoning

[58] City of San José. "Transportation Analysis Handbook." Accessed February 25, 2022. https://www.sanjoseca.gov/home/showdocument?id=28461.

Code, a project may receive up to a 20 percent parking reduction so long as the project site is located within a Neighborhood Business District and adequate bicycle parking is provided. Therefore, the project would qualify for a 20 percent parking reduction. Of the 168 parking spaces proposed, 40 spaces would be tandem parking. The Planning Director may issue a development permit to allow tandem parking spaces to satisfy up to 50 percent of the off-street parking requirement for the project. With the proposed tandem parking spaces and an allowable 20 percent reduction in standard parking spaces, the project would be required to provide a total of 192 parking spaces, including 40 tandem spaces and 152 standard parking spaces. The project would exceed the City's parking requirement by 24 parking spaces. The project could implement a comprehensive Transportation Demand Management (TDM) plan to address the parking deficit. The project could receive up to a 50 percent parking reduction if a comprehensive TDM program is implemented. The project applicant shall coordinate with the City of San José Planning Department to determine the best approach to meeting the project's vehicle parking requirement.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the Lead Agency to be a TCR.

4.18.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☐	☐	☒	☐

b) A resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the Lead Agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant TCRs impacts, as described below.

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

The nearest waterway to the project site is Guadalupe River, located approximately 0.5 mile west, which is considered highly sensitive areas for prehistoric and archaeological deposits, including tribal cultural objects. No other tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the Lead Agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the downtown area of the City of San José. At the time of preparation of this Initial Study, two tribes have sent written requests for notification of projects to the City of San José and one verbal request has been made.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in downtown, and that such requests may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.

- On February 10, 2022, Chairwoman Geary met with the City of San José to discuss the proposed project. Chairwoman Geary noted that the site is sensitive and requested inclusion of mitigation for preliminary investigation after the buildings are removed and for a tribal monitor to be present.

Based on the AB 52 consultation meeting between the City of San José and Chairwoman Geary, the project would be required to comply with the Standard Permit Conditions listed under checklist question b of *Section 3.3* of the Draft SEIR. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

There are no known TCRs on-site. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the Downtown Strategy 2040 FEIR. As a result, the proposed project would not cause a substantial adverse change in the significance of a TCRs that is determined by the Lead Agency (i.e., the City of San José), 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. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to The State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in November 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), 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

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

City of San José

San José Zero Waste Strategic Plan/Green Vision

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

San José Construction & Demolition Diversion Program

More than 30 percent of landfill waste is construction and demolition (C&D) debris. The City's Construction & Demolition Diversion (CDD) Program ensures that at least 75 percent of this waste is recovered and diverted from landfills.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

Envision San José 2040 General Plan

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

General Plan Policies - Utilities & Service Systems	
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.
IN-1.6	Ensure that public facilities and infrastructure are designed and constructed to meet ultimate capacity needs to avoid the need for future upsizing. For facilities subject to incremental upsizing, initial design shall include adequate land area and any other elements not easily expanded in the future. Infrastructure and facility planning should discourage over-sizing of infrastructure which could contribute to growth beyond what was anticipated in the 2040 General Plan.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.3	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.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs

General Plan Policies - Utilities & Service Systems	
	may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.5	Require mitigation for development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D". Mitigation measures to improve the LOS to "D" or better can be provided by either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-5.1	Monitor the continued availability of long-term collection, transfer, recycling and disposal capacity to ensure adequate solid waste capacity. Periodically assess infrastructure needs to support the City's waste diversion goals. Work with private Material Recovery Facilities (MRF) and Landfill operators to provide facility capacity to implement new City programs to expand recycling, composting and other waste processing.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
IP-17.1	Use San José's adopted Climate Smart San José plan as a tool to advance the General Plan Vision for Environmental Leadership. The Climate Smart San José plan is a comprehensive 32-year plan to create jobs, preserve the environment, and improve quality of life for our community, demonstrating that the goals of economic growth, environmental stewardship and fiscal sustainability are inextricably linked.

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, San José Water (SJW), the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the SJW. The project site is currently developed with a 30-unit apartment complex and a single-family residence. The site currently uses approximately 9,022 gallons of water per day (gpd).[59] Currently, there are no recycled water lines in the project area. The

[59] Water usage rates were calculated using CalEEMod Appendix D (Apartments Low-Rise and Single-Family Housing). CalEEMod. "Table 9.1: Water Use Rates." Accessed March 3, 2022. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

nearest recycled water line is at SJSU near the corner of East San Carlos and South 10th Street, approximately 0.4 miles northeast of the project site.[60]

Wastewater

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City Department of Environmental Services. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[61] The City generates approximately 69.8 mgd of dry weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

There is an existing eight-inch sewer line along South Fourth Street which may serve the proposed project site. There is a proposed sewer lateral that would connect to the existing eight-inch sewer main on the South Fourth Street project frontage. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 80 percent of the total on-site water use. The existing buildings are estimated to generate approximately 7,218 gpd of wastewater.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 0.5 miles west of Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is 97 percent (approximately 23,819 square feet) covered with impervious surfaces. There is an existing 54-inch reinforced concrete storm drain main along the South Fourth Street project frontage, which may serve the proposed site. There are two proposed storm drain laterals that would connect to the existing 54-inch reinforced concrete storm drain main on the South Fourth Street project frontage.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is

[60] South Bay Water Recycling. "Recycled Water Pipeline System Map." September 1, 2021. Accessed March 3, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/522/637662536440600000.
[61] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed March 3, 2022. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.

approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[62]

Municipal solid waste generated in San José is processed at various approved facilities and residuals are disposed at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2035.[63] The City has an annual disposal allocation for 395,000 tons per year. As of June 2022, NISL had approximately 12.7 million cubic yards of capacity remaining.[64]

The existing development on-site currently generates approximately 169 pounds of solid waste per day.[65]

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐

[62] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[63] Huber, Rachelle. Environmental Manager, Republic Services. Personal Communication. June 2, 2022.
[64] Ibid.
[65] Water usage rates were calculated using CalEEMod Appendix D (Apartments High-Rise). CalEEMod. "Table 9:1 Water Use Rates." Accessed February 25, 2022. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
Would the project:					
d) Generate solid waste in excess of State or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, State, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

Similar to the site development evaluated in the Downtown Strategy 2040 FEIR, the proposed project would result in less than significant utilities and service systems impacts, as described below.

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

As proposed, the project would construct up to 210 residential units. The project would use approximately 37,486[66] gallons of water per day, a net increase of 28,464 gpd compared to existing site conditions. According to the Downtown Strategy 2040 FEIR, water demand could exceed water supply during dry and multiple dry years after 2025. The Downtown Strategy 2040 FEIR concluded that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply. Therefore, implementation of the proposed project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

Wastewater

The proposed project is estimated to generate 37,486[67] gpd of wastewater. The proposed project would connect to the City's existing sanitary sewer system and would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity for sewer services required by the proposed project. The proposed project would dispose of wastewater at the Facility which has adequate capacity to accommodate the increased demand created by the project. Since the proposed development is consistent with planned growth in the downtown area, the project would not exceed the City's allocated capacity at the Facility.

[66] Water usage rates were calculated using CalEEMod Appendix D (Apartments High-Rise). CalEEMod. "Table 9.1: Water Use Rates." Accessed February 25, 2022. http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf.
[67] Assumes wastewater is equal to total potable water use due little to no landscaping.

Storm Drainage System

The amount of impervious surface area on-site would decrease by approximately 196 square feet under project conditions. The existing storm drainage system has sufficient capacity to support the current site conditions and would have sufficient capacity to support the proposed project. All new and redevelopment projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Additionally, the project would be required to comply with the RWQCB MRP (refer to *Section 4.10 Hydrology and Water Quality*).

Electric Power, Natural Gas, and Telecommunications

The project site is currently served by existing electrical and telecommunications services. The City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. While the project would intensify the development on-site, the demand for these resources would be satisfied by existing services and construction of new or expanded facilities would not be required.

The project would comply with CALGreen and the City's Private Sector Green Building Policy and would be consistent with planned growth in the Downtown Strategy 2040 Plan. Additionally, the project would comply with the policies and regulations identified in the Downtown Strategy 2040 FEIR. The project would utilize existing utility connections to connect to the City's water, wastewater, storm drainage, electric, natural gas, and telecommunications facilities. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Full build out of the downtown in 2040 would be approximately 7,533 acre-feet per year (AFY) over the system wide 2013 water production of 146,776 acre-feet. Although the projected water demand would increase by 3.19 percent, SJW concluded that the increase was already accounted for in SJW's 2015 UWMP. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in downtown. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The proposed project would be consistent with planned growth from build out of the Downtown Strategy 2040 Plan. Development allowed under the Downtown Strategy 2040 would not exceed the City's allocated capacity at the Facility; therefore, implementation of the project would have

adequate capacity to serve the project's projected demand in addition to the Facility's existing commitments. **[Same Impact as Approved Project (Less Than Significant Impact)]**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The project would generate approximately 1,115[68] pounds of solid waste per day, a net increase of 946 pounds per day, compared to existing conditions. Based on the Downtown Strategy FEIR, build out of the Downtown Strategy 2040 could generate approximately 102,572 tons of solid waste per year. As mentioned previously, NISL had approximately 12.7 million cubic yards of capacity remaining in June 2022. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project.

Future development under the Downtown Strategy 2040 FEIR, including the proposed project, would be required to comply with existing federal, State, and local programs and regulations. Therefore, implementation of the project would not generate solid waste in excess of State or local standards. **[Same Impact as Approved Project (Less Than Significant Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Consistent with CALGreen requirements, future projects are required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 65 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480). Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of State or local standards or in excess of NISL capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[68] CalRecycle. "Estimated Solid Waste Generation Rates." Accessed March 3, 2022. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates. Solid waste generation was estimated at a rate of 5.31 pounds per dwelling unit per day for multi-family units.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

Based on the Fire Hazard Severity Zone (FHSZ) Map, the project site is not located within a FHSZ area.[69]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, Would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☒	☐	☐

The project site is not located in or near State responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(Less Than Significant Impact)**

[69] CALFIRE. "Fire Hazard Severity Zone Maps." Accessed March 3, 2022. https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☒	☐	☐	☐	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☒	☐	☐	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☒	☐	☐	☐	☐

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Implementation of the proposed project could result in a significant impact on air quality, biological resources, cultural resources, land use and planning, and noise and vibration. The project's impact on the identified resource sections are evaluated in the Draft SEIR.

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a Lead Agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has

potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The proposed development would result in temporary water quality impacts during construction. With implementation of the identified Standard Permit Conditions and consistency with adopted City policies, construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts are temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on water quality. As discussed in their respective sections, the proposed project would have no impact or less than significant impact on aesthetics, agriculture and forestry resources, energy, geology and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, mineral resources, population and housing, public services, recreation, transportation, TCR, utility and service facilities, and wildfire. The project would not have a cumulatively considerable impact on these resource areas.

The cumulative air quality, biological resources, cultural resources, land use and planning, and noise and vibration impacts are discussed in the Draft SEIR.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. The project's air quality and noise and vibration impacts would be potentially significant and are discussed in the Draft SEIR. No other direct or indirect adverse effects on human beings have been identified.

SECTION 5.0 REFERENCES

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

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