



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: April 1, 2021

COUNCIL DISTRICT: 3

SUBJECT: H19-033. SITE DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF AN 18-STORY COMMERCIAL BUILDING WITH APPROXIMATELY 12,771 SQUARE FEET OF COMMERCIAL RETAIL AND APPROXIMATELY 482,026 SQUARE FEET OF COMMERCIAL OFFICE, AN ALTERNATIVE PARKING ARRANGEMENT, AND A DOWNTOWN DESIGN GUIDELINE EXCEPTION ON AN APPROXIMATELY 1.49-GROSS ACRE SITE.

RECOMMENDATION

The Planning Commission voted 7-0 to recommend that the City Council take all the following actions:

1. Adopt a resolution certifying the Supplemental Environmental Impact Report (SCH2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942), and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
2. Adopt a resolution approving, subject to conditions, a Site Development Permit, to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site

OUTCOME

If the City Council approves the actions listed above as recommended by the Planning Commission, the applicant will be able to construct an 18-story mixed-use office building with approximately 482,026 square feet of commercial office and approximately 12,771 square feet of ground floor commercial retail with an alternative parking arrangement made up of regular parking spaces, tandem, and mechanical parking lifts.

If the City Council denies all the actions listed above, the proposed project as described herein may not proceed.

BACKGROUND

On March 24, 2021, the Planning Commission held a Public Hearing to consider the resolution certifying the Supplemental Environmental Impact Report (SEIR) and Site Development Permit. The Planning Commission recommended that the City Council adopt the resolution certifying the Block 8 Mixed Use Environmental Impact Report and related Mitigation Monitoring and Reporting Plan and approve the project.

Staff Presentation

Staff provided a brief presentation on the project including:

- An overview of the project's conformance with the Envision San José 2040 General Plan, San José Municipal Zoning Code, City Council Policy 6-30: Public Outreach, and the California Environmental Quality Act (CEQA)
- The project's conformance with the Downtown Design Guidelines, with the exception of Standard 4.4.6.A, for which staff recommended approval of an exception based on site constraints, as described in the attached staff report.

Public Hearing

The applicant, Robert Tersini on behalf of The Sobrato Organization, LLC, introduced the applicant team; Michael O'Boyle of Arquitectonica presented the project details. The presentation covered the existing site conditions, the subject site in the context of the surrounding downtown area, the building façade from multiple angles, the building in relation to nearby buildings, and overall building activation and circulation.

Six members of the public spoke on the project. One member was in support of the project and five speakers voiced concern about homelessness, vacant storefronts, and people needing to relocate due to the lack of affordability and new development. The applicant responded to the public comments by describing the steps they have taken and will continue to take to promote active spaces within the retail component of the project. Staff noted that the existing site consists of a surface parking lot and that no one would be displaced as a result of the project.

Commissioner Discussion

Vice Chair Bonilla made a motion to approve the project. Commissioner Oliverio seconded the motion to approve the project and expressed support of the design and the location for commercial retail. Commissioner Oliverio highlighted the jobs-to-housing imbalance and the City's longstanding goal of increasing the number of jobs, especially in Downtown. Commissioner Lardinois asked staff if the commercial linkage fee applies to this project. Staff confirmed that the commercial link fee does apply to the project and read the associated permit condition of approval that is included in the resolution. Senior Deputy City Attorney Vera

Todorov explained that the commercial linkage fee is required for non-residential projects meeting certain criteria and is used to supplement affordable housing programs. The fee is supported by a study that shows the need for affordable housing generated by non-residential development in the City.

The motion to recommend Council approval of the project passed unanimously (7-0).

ANALYSIS

Analysis of the proposed CEQA clearance and Site Development Permit, including conformance with the Envision San José 2040 General Plan, Zoning Ordinance, and City Council Policies, and conformance with the Downtown Design Guidelines with an exception for Standard 4.4.6A, are contained in the attached staff report.

CONCLUSION

In summary, the project was heard at the March 25, 2021 Planning Commission meeting. The motion to recommend Council approval of the project passed unanimously (7-0). As discussed in the attached staff report, the project is consistent with the Envision San José 2040 General Plan, the Zoning Code, applicable City Council Policies, and the requirements of CEQA and is consistent with the Downtown Design Guidelines, other than a requested exception. Should the City Council adopt the resolution certifying the Supplemental EIR and the Site Development Permit, the project would be approved to allow the construction of an approximately 482,026-square foot commercial mixed-use office building and an approximately 12,771-square foot ground floor commercial retail with an alternative parking arrangement. The applicant could proceed with application for building permits.

EVALUATION AND FOLLOW-UP

Should the City Council adopt the resolution certifying the Final EIR and approve the Site Development Permit, the project would be approved to allow the construction of an approximately 482,026-square foot commercial mixed-use office building and an approximately 12,771-square foot ground floor commercial retail with an alternative parking arrangement. The applicant could proceed with application for building permits.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The project would increase the intensity (jobs/acre) of the site and would implement design features for a high-performing, energy-efficient development. The

project facilitates job creation and due to its accessible location facilitates mobility choices other than single-occupancy, gas-powered vehicles.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy, whereby the project is considered a large development proposal. Following City Council Policy 6:30, the applicant posted the on-site sign to inform the neighborhood of the proposed project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City website. Staff has also been available to respond to questions from the public.

A joint community environmental scoping meeting was held on March 5, 2020 to introduce the proposed project to the community. Attendees were interested in learning the details of the proposed project and did not share specific comments.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office.

CEQA

The City of San José, as the lead agency for the project, prepared a Draft Supplemental EIR (SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Notice of Preparation (NOP) was circulated from February 19, 2020 to March 20, 2020. The Draft SEIR itself was circulated for public review and comment from November 23, 2020 through January 11, 2021. The Draft SEIR analyzed more than the current project description by including analysis for the demolition of the existing surface parking lot and the construction of a mixed-use office building up to 295 feet tall totaling approximately 1,049,845 square feet, including up to 16,375 square feet of ground floor commercial, 627,210 square feet of office space, and up to eight floors of below and above-grade parking all on an approximately 1.49-gross acre site.

The City received three written comment letters during the public comment period: 1) Santa Clara Valley Transportation Authority, 2) Valley Water, and 3) Pacific Gas & Electric Company. Most of the issues raised relate to improving existing pedestrian conditions, making bus stop improvements, and recommending dewatering system design parameters for construction. None of the comments received address an issue of sufficiency of the SEIR and no new mitigation measures are required. SEIR text revisions were included in the First Amendment to address dewatering suggestions and updated PG&E information.

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Additionally, the City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. The comments received do not identify substantive inadequacies in the Draft SEIR or new previously unidentified significant impacts that require recirculation of the EIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final SEIR. The Draft SEIR and First Amendment to the Draft SEIR are available for review on the project page on the City's Active EIR website at:

www.sanjoseca.gov/activeeirs

/s/

ROSALYNN HUGHEY, Secretary
Planning Commission

For questions, please contact Planning Official, Robert Manford, at (408) 535-7900.

Attachments: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION
SUBJECT: File No. H19-033

FROM: Rosalynn Hughey
DATE: March 24, 2021

COUNCIL DISTRICT: 3

Type of Permit	Site Development Permit to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site
Proposed Land Use	Commercial Office, Retail
New Square Footage	916,273 gross square feet
Additional Policy Review Items	None
Demolition	None
Tree Removals	Six non-ordinance size trees
Project Planner	Stefanie Farmer
CEQA Clearance	Block 8 Mixed Use Office Supplemental Environmental Impact Report (State Clearinghouse No. 2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942)
CEQA Planner	Kara Hawkins

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Adopt a Resolution certifying the Supplemental Environmental Impact Report (SCH2003042127) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942), and making certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a related Mitigation Monitoring and Reporting Plan, in accordance with the California Environmental Quality Act (CEQA).
2. Adopt a Resolution approving, subject to conditions, a Site Development Permit, subject to conditions, to allow the construction of an 18-story commercial building with approximately 12,771 square feet of commercial retail and approximately 482,026 square feet of commercial office, an alternative parking arrangement, and a Downtown Design Guideline exception on an approximately 1.49-gross acre site

PROPERTY INFORMATION

Location	Northeast corner of South Market Street and East San Carlos Street (282 South Market Street)
Assessor Parcel No.	259-42-080
General Plan	Downtown
Growth Area	Downtown
Zoning	Downtown Primary Commercial
Historic Resource	No
Annexation Date	March 27, 1850 (Original City)
Council District	3
Acreage	1.49 gross acres
Proposed Density	14.1 FAR

PROJECT SETTING AND BACKGROUND

As shown on the attached Aerial Map (Figure 1), the subject site is currently used as a surface parking lot and is located on the northeast corner of South Market Street and East San Carlos Street. The site shares a property line with the Four Points by Sheraton Hotel (The Montgomery) and an apartment building to the north. South Market Street and a park (Plaza de Cesar Chavez) are situated to the west. South First Street, Federal Court, and other governmental offices are located to the east. Lastly, West San Carlos Street, Westin San José/St. Claire Hotel, the St. Claire Apartments/St. Clair Building, the Dohrman Building/Trinkler-Dohrman Building, the Valley Title Building/Hale's Department Store, are located to the south and southeast of the site.

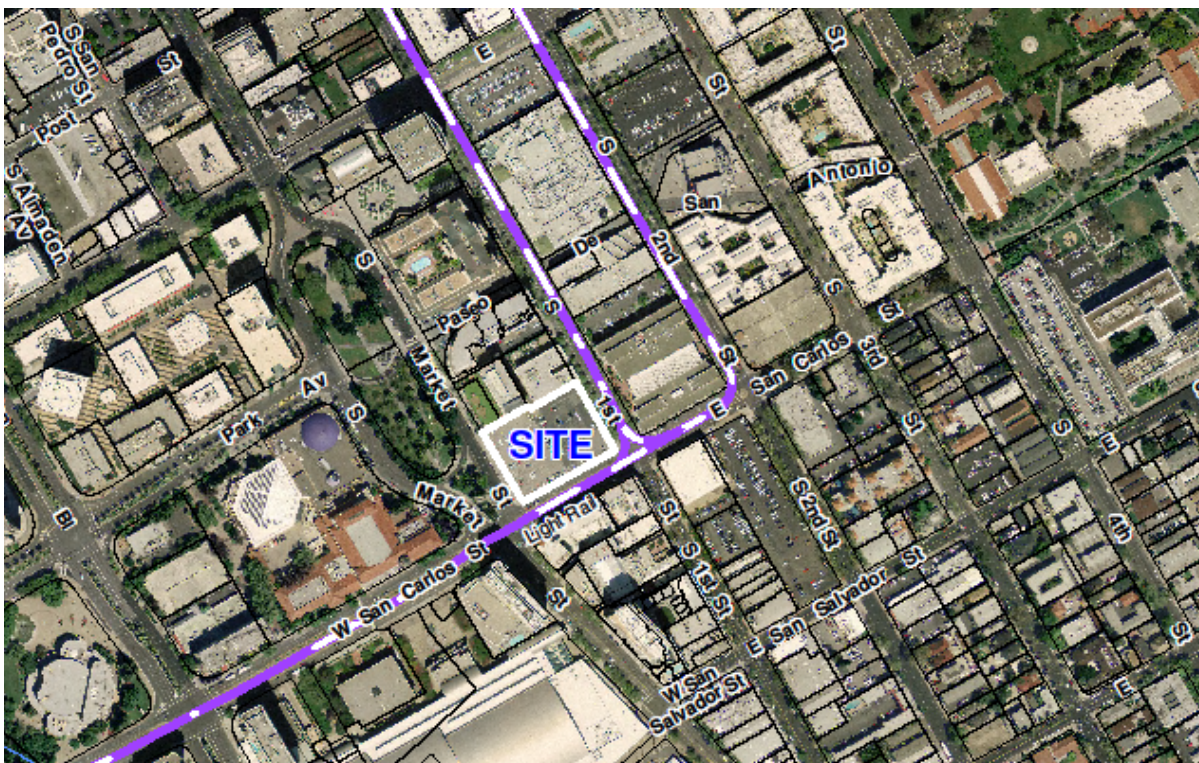


Figure 1 Aerial Map

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Downtown	DC Downtown Primary Commercial	Multifamily apartments, hotel (The Montgomery)
South	Downtown	DC Downtown Primary Commercial	Hotel, restaurant
East	Downtown	DC Downtown Primary Commercial	Government offices, Federal Court
West	Downtown	DC Downtown Primary Commercial	Park (Plaza de César Chávez)

On July 23, 2019, the applicant, Robert Tersini, on behalf of The Sobrato Organization, submitted an application for a Site Development Permit.

The project would remove the existing surface parking lot and construct an 18-story high rise tower with approximately 12,771 net ground floor commercial square feet, six levels of parking, approximately 482,026 net commercial office square feet from floors 8 through 18, and a rooftop outdoor amenity space. To access the parking, the vehicular ingress and egress would be from South Market Street located on the northwest corner of the project site. The total area of the building would be up to approximately 916,273 gross square feet. To accommodate the required number of parking spaces, the project incorporates an alternative parking arrangement by including tandem and stacker parking spaces. The applicant is requesting an exception to one [Downtown Design Guidelines and Standards](#) provision as described below. The 18-story building would have a maximum height of approximately 295 feet with a floor area ratio (FAR) of 14.1.

As stated above, the project requires a Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy Environmental Impact Report, certified by the City Council in 2018. The SEIR for the project identified significant and unavoidable project impacts on:

- Land Use and Planning: The project would have a significant unavoidable shade and shadow impact on Plaza de César Chávez.

This significant and unavoidable impact is due to the size of the development and the project location adjacent to the east of Plaza de Cesar Chavez. The Supplemental Environmental Impact Report has been prepared for the proposed project under Title 19 of the San José Municipal Code and the California Environmental Quality Act of 1970, as amended (CEQA) and a statement of overriding consideration will be required for certain environmental impact that cannot be reduced to a less than significant level. Pursuant to Section [21.07.020](#) of the San José Municipal Code, the City Council is the final decision-making body for a project that requires certification of an environmental impact report for environmental clearance where a statement of overriding consideration is required for impacts that cannot be reduced to a less than significant level under CEQA. Therefore, the Supplemental Environmental Impact Report and Site Development Permit are before the Planning Commission for recommendation to the City Council.

ANALYSIS

The proposed Site Development Permit is analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. San José Municipal Code
3. City Council Policies
4. Downtown Design Guidelines
5. California Environmental Quality Act (CEQA)

[Envision San José 2040 General Plan Conformance](#)



Figure 2 General Plan Land Use Map

Land Use Designation

As shown in the attached General Plan Map (Figure 2), the project site has an [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram designation of Downtown. The Downtown designation supports, office, retail, service, residential, and entertainment uses that enhance the “complete community” in Downtown and promotes bicycle circulation and increased transit ridership. The Downtown General Plan designation allows for a maximum of 800 dwelling units per acre with a maximum floor area ratio (FAR) of 30.0. This project would provide commercial offices along and a mix of ground floor commercial, which is designed to allow commercial retail or services. The development fosters a “complete community” in Downtown by increasing jobs in Downtown and activating the development’s ground floor with a storefront design and active ground floor uses. The project also includes a Transportation Demand Management plan that promotes transit ridership. Additionally, the project would have an FAR of approximately 14.1, making it consistent with the General Plan land use designation of Downtown.

The project is also consistent with the following General Plan Policies:

General Plan Goal and Policies

1. Land Use Policy LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City’s jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.
2. Land Use Goal LU-3: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San Jose.

Analysis: The development includes approximately 916,273 gross square feet of commercial office and retail development in the Downtown area, which would foster a “complete community” with respect to

locating jobs and amenities in an area surrounded by retail, residential, entertainment, and open space uses. As an identified Growth Area, Downtown is intended to be a place for people to live, work, and visit. To accomplish this goal, there needs to be opportunities for all types of uses including office and commercial/retail uses. The project's commercial/retail space would serve Downtown residents, employees, and visitors while the office space would support existing and future Downtown businesses and entertainment venues. The intense office space would increase the City's jobs-to-employed resident ratio and strengthen Downtown San José as a regional job center.

3. Land Use Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of the General Plan
4. Land Use Policy LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

Analysis: To mature into the great place envisioned by the General Plan, Downtown projects need to facilitate the growth of Downtown as a regional job center. As an identified Growth Area, Downtown is intended to be a place for people to live, work, and visit. To accomplish this goal, there need to be opportunities for all types of uses, including office and commercial/retail uses. The project's commercial/retail space would serve Downtown residents, employees, and visitors, while the office space would support existing and future Downtown businesses and entertainment venues. The intense office space would help increase the City's jobs-to-employed resident ratio and strengthen Downtown San José as a regional job center. The flexibility of tenant spaces sizes would make it easy for a variety of different tenants to move into the development and provide these additional amenities to the residents, visitors, and workers in the Downtown area.

5. Land Use Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown Area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision San Jose 2040 General Plan.

Analysis: The development's architecture and site plan layout are designed to complement and further enliven the surrounding Downtown area. The entire ground floor is creating approximately 12,771 square feet of tenant space with various sizes to accommodate for a variety of use, adding to the Downtown amenities for residents, workers, and visitors. The project's design, mass, on- and off-site improvements would reinforce the site and its surrounding area as a focal point in Downtown by improving pedestrian and bicycle circulation, supporting active ground floor uses, and supporting an intensive employment use in the neighborhood.

The ground floor of the development is designed to support and maximize social interactions. The project's frontages would be comprised predominantly of active uses including lobbies, retail spaces, and service spaces. The project frontage is designed with high transparency to reduce barriers between the public realm and private development.

6. Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

Analysis: The project site is in close proximity to several transit options. There are several bus lines within a quarter mile of the project site; Diridon Station is within a mile of the project site; the San Antonio Light Rail Station is approximately 250 feet from the project site. The project includes a Transportation Demand Management Plan that promotes transit ridership by incorporating a transit use incentive program that provides VTA SmartPasses to employees. The additional ground floor retail space would provide residents and workers in the Downtown area with more amenities which would get people out of their cars.

Having an intensive office development close to a variety of public transportation options encourages the use of transit and creates more access for workers to have a car-free commute. Furthermore, it is envisioned that employees in the development would be able to walk, bicycle, or use public transportation to access many dining and entertainment amenities close to or on the project site. Finally, the development's commercial/retail spaces would serve the surrounding Downtown neighborhood with more opportunities to dine and conduct business nearby.

7. Downtown Urban Design Policy CD-6.1: Recognize Downtown as the most vibrant urban area of San Jose and maximize development potential and overall density within the Downtown.
8. Downtown Urban Design Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
9. Downtown Urban Design Policy CD-6.6: Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown Skyline.

Analysis: The proposed project has an FAR of 14.1 with a maximum height of approximately 295 feet, making this a very dense commercial project and requiring Federal Aviation Administration Part 77 clearance for this height prior to approval for construction as discussed below. This amount of density would contribute to Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as an urban center, as discussed in the Design Guidelines conformance section. The building would be a recognizable part of the skyline as it has a strong design presence of a window panel system, helping to shape the overall massing of the tower and offers a unique tiered tower approach with lighting and sky gardens in a way that is unique in Downtown San José.

Zoning Ordinance Conformance

Land Use

As shown in the attached Zoning Map (Figure 4), this site is located in the DC Downtown Primary Commercial Zoning District. This zoning district permits commercial office, commercial retail projects, and alternative parking arrangements with the issuance of a Site Development Permit. The alternative parking arrangement includes the use of tandem parking spaces and stackers provided completely within the building on floors 2 through 6. The DC Downtown Primary Commercial Zoning District has no minimum setback requirements. Additionally, the project site is partially within the Ground Floor Active Use Area Overlay, which regulates ground floor uses and exterior building design within the overlay areas, as identified in [Section 20.70.100](#), Table 20-140 and [Section 20.70.520](#) of the San José Municipal Code. The overlay is on the project's West San Carlos and South First Street frontages. These portions of the project

site are required to include ground floor “active uses” as identified in Section 20.70.100 and Table 20-140 of the San José Municipal Code. The development is also required to have storefront style façade design and window transparency.

The ground floor façade of the development consists of transparent glass storefronts, with canopies and revealing horizontal panel elements that frame the glass and provide breaks and articulation along the frontage. The project ground floor uses within the Active Use Overlay consist of retail and active tenant space, consistent with the uses permitted in the Active Use Overlay. Further, the project is conditioned to permit only retail and active uses consistent with the Active Use Overlay Sections of the Municipal Code (See Exhibit A).

Height and Setbacks

[Section 20.70.210](#) of the Municipal Code does not establish minimum setback requirements for developments in the DC Downtown Primary Commercial Zoning District. The height of development in the Zoning District is limited only to the height limitations necessary for the safe operation of the San José International Airport and the requirements of FAA Part 77 as discussed in [Section 20.70.200](#) of the Municipal Code. The project would be 295 feet in height. Conditions of approval in the proposed resolution (See Exhibit A) require the project applicant to secure required FAA and aviation clearances for the building’s height prior to construction.

Parking

Commercial offices require 2.5 vehicle spaces per 1,000 square feet of net floor area and one bicycle space per 4,000 square feet of net floor area of office space. Commercial retail uses have no minimum parking requirement. Based on the net floor area of 482,026 square feet, the project requires 1,206 vehicle parking spaces and 136 bicycle parking spaces. The project provides 1,206 vehicle parking spaces and provides 139 bicycle parking spaces. The project’s conformance to these development regulations are further discussed below in the findings.

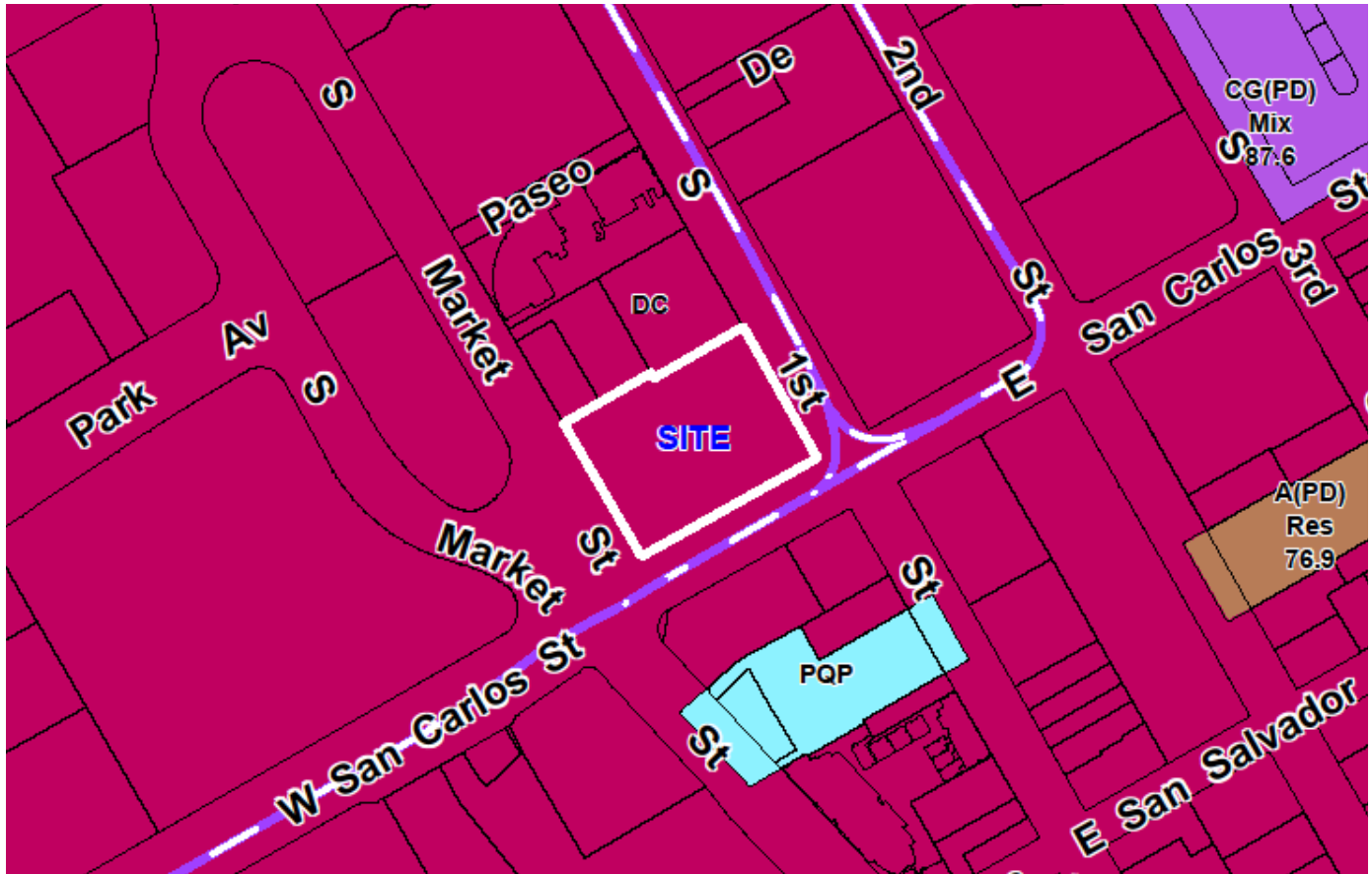


Figure 3 Zoning Map

Historic Landmarks Commission

Under [Section 20.70.110](#), new structures exceeding 150 feet and an FAR of 6:1 constructed within 100 feet of a City landmark shall be reviewed by the Historic Landmarks Commission (HLC). The project site is immediately south of the historic Montgomery Hotel (now known as Four Points by Sheraton San Jose Downtown), a designated San José City Landmark and a National-Register and California-Register listed property. The Federal Building, which is listed on the San Jose’s Historic Inventory, is located across South First Street from the project site. The Valley Title Building (known as Hale’s Department Store) is listed a Structure of Merit and is located on the southeastern side of the South First Street and West San Carlos intersection, diagonally opposite from the project site. The Westin San Jose Hotel (known as the St. Claire Hotel) and St. Claire Apartments are located across West San Carlos Street and are City Landmarks.

On December 4, 2019, the project was considered by the HLC for an “early referral” discussion and input. At the HLC hearing, Commissioners offered comments related to design options and suggestions on what should be considered. These comments included an overall favorability towards the project, with concerns including massing, the extensive use of glass material used in contrast to the historic buildings nearby, consideration of using additional materials found in the nearby historic structures, the height contrast with the St. Claire and Montgomery, requests to focus on first floor and the pedestrian experience, switching the placement of the higher part of the tower to a location with more compatible heights, and

incorporating different materials toward the reveal corners where the glass curtain wall is parted to expose the corner of the parking podium. One member of the public, Andre Luthard from Preservation Action Council – San Jose (PAC*SJ) supported the redevelopment of the site and requested more consideration towards emphasizing consistency with the nearby historic buildings and not just the Montgomery Hotel. Mr. Luthard also suggested reorienting the height maximums to the opposite side of site in order to help scale down the building next to the adjacent recourse.

In response to these comments, the applicant has revised the design to include swooping facade treatments that are referred to as “veils” or revealing corners, with the intent to relate in size, scale, and sense of materials with the lower elevations of the surrounding historic buildings, and to contribute to the pedestrian emphasis to the urban Downtown. The upper five levels of the two taller points have also been revised with a change of material color, intended to visually group the highest floors together. The revised storefront areas to note include textured precast panels represented horizontally, painted metal belt course and canopy, textured precast panel-clad interior columns, and glazed aluminum storefronts.

City Council Policy Conformance

[City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals](#)

Under City Council Policy 6-30, the project is a large development proposal. Following City Council Policy 6-30, the project applicant has posted on-site signs to inform the neighborhood of the project. A community meeting was held to discuss the project on March 5, 2020 at the Martin Luther King Library. The community meeting was coordinated with Council District 3, and Council District staff attended the community meeting. Comments from the public were received during the community meeting and addressed by staff.

Staff contact information has been available on the community meeting notices and project site. The staff report is also posted on the City’s website. Staff has been available to respond to questions from the public.

[Downtown Design Guidelines and Standards](#)

[Section 20.70.500](#) of the Zoning Ordinance requires that any project in the DC Downtown Primary Commercial Zoning District be subject to the design guidelines adopted by the City Council; therefore, this project has been reviewed for its consistency with the San José [Downtown Design Guidelines and Standards](#).

Chapter 2 of the Downtown Design Guidelines and Standards outlines the framework and design settings applicable to the project site. West San Fernando Street and Park Avenue are designated “Primary Addressing Streets”, South Market Street is an “Urban/Park Plaza Frontage”, and South Almaden Boulevard is a “Secondary Addressing Street” pursuant to the Downtown Design Guidelines. A Primary Addressing Street is a primary commercial street that includes retail and other active ground floor uses. A Secondary Addressing Street is a street with a commercial or residential focus and it may provide some active ground floor uses but retail is not the street’s primary focus. An Urban Park/Plaza Frontage is a frontage whose façade forms the urban framework for an existing civic space in Downtown; this façade should create a sense of enclosure for the civic spaces. Other applicable framework and design settings include:

- South Market Street is an “Image-Defining frontage” and an “Urban Park/Plaza Frontage”.
- West San Carlos and South First Street are Primary Addressing Streets.
- The project has Historic adjacency; the project is adjacent to or near the Westin San José/St. Claire Hotel, the St. Claire Apartments/St. Clair Building, the Dohrman Building/Trinkler-Dohrman Building, the Valley Title Building/Hale’s Department Store, the Twohy Building, and the Four Points by Sheraton/Montgomery Hotel.
- West San Carlos is a Natural View corridor. South First Street is an Urban View corridor.
- West San Carlos and South First Street are Enhanced Lighting Corridors. South Market Street is an Image-Defining Frontage.

The development’s conformance with Sections 3.4.2 (Locating Semi-Private Open Space), 3.4.3 (Locating Ground Floor Private Open Space), 4.4.10 (Signage-Skyline Level), and 5.3.3 (Ground Floor Residential Space), 5.3.5 (Signage-Podium Level and Pedestrian Level) are not analyzed below because the project does not include any residential components, residential open space, or signage. Project signage would be subject to the Downtown Design Guidelines and applicable Zoning requirements.

The Downtown Design Guidelines include an exception process for design standards which cannot be met and establishes findings in Section 1.4 of the San José Downtown Design Guidelines that are required to be made by decision makers in order to grant the requested design standard exceptions. These findings include:

- (1) There is a physical constraint or unique situation not caused by the applicant or financial reasons;
- (2) Approving the waiver will not impair the integrity and character of the neighborhood or create a safety hazard;
- (3) The project meets the design standard at issue to the extent physically feasible; and
- (4) The project meets all other guidelines and standards in the Design Guidelines.

Consistency with the Design Guidelines and the requested exceptions to Design Guidelines are analyzed below:

1. **Chapter 3.2 Site Context:** This chapter’s sections and standards promote human-scale blocks and the placement of buildings along the block’s edges to frame the public space.

Analysis: Consistent with the design standards, the development is less than 2 acres and less than 300 feet in all sides of the development. The building mass extends throughout the majority of the site except for vehicle circulation and would not be constructed within an existing public right of way along the view corridor. The project is consistent with the 70% streetwall requirement for a Primary Addressing Street on each street frontage and the building would be located within 10 feet or less of each street facing property line. All loading docks and service areas are interior and away from Public Space.

2. **Chapter 3.3 Site Organization:** This chapter’s sections and standards aim to enhance the vitality of Downtown, to support a vibrant public realm, emphasize transit, and create safe and inviting pedestrian walkways to enhance the Downtown circulation network.

Analysis: Consistent with the Design Guidelines, the development places ground floor active uses along

all the site's public frontages through a combination of retail, lobby, and active use tenant leasable space. All ground floor tenant and retail spaces would be outfitted with warm shell construction; making the space "move-in ready" for future users. The project limits the non-active uses along project frontages (such as utility rooms and vehicle driveways). Finally, the project includes pedestrian and bicycle entrances around and through the site including multiple entrances located on the ground level for easy and welcoming access. The pedestrian entrances are wide, accommodate bicycle storage, and provide pedestrian access through and around the building.

3. **Chapter 3.4 Site Element Locations.** This chapter's sections and standards include provisions for the location of privately-owned public open spaces (POPOS), vehicle parking and access, loading/services, pedestrian entrances, and bicycle entrances.

Analysis: POPOS are privately-owned outdoor spaces that function as a public space, but may have limited hours of availability. Consistent with the Design Guidelines, the project includes a POPOS on the ground floor at the intersection of South First Street and West San Carlos Street. This open space is publicly accessible and includes an informal gathering space for people-watching, dining, and enjoying the outdoors. The space has been designed to complement the future retail/commercial uses on the ground floor of the development and to support seating.

Consistent with the Vehicle and Bicycle Parking Location standards, short-term bicycle parking would be located along the project's frontages and long-term bicycle parking would be located in secured ground floor bicycle rooms separated from the parking garage and easily accessible and identifiable from the project's frontages. Bicycle rooms would include signed entrances indicating bicycle parking is available and the bicycle rooms would have access to building lobbies.

4. **Chapter 3.5 Site Access Locations.** This chapter's sections and standards regulate pedestrian, bicycle, and vehicle entries to the site. Easy-to-find entries that minimize conflicts between different modes of transportation and link the development to its immediate neighborhood are encouraged within this Chapter.

Analysis: Consistent with the Design Guidelines, the overall architecture of the development is designed to have pedestrian access along each street entrance. Vehicular access is located further into the site, accessed from a driveway located on South Market Street, and the service entrance is accessed from South First Street. The entrances to the parking levels and services such as loading and trash are grouped next to each other away from the street frontages to further minimize the impact of this inactive use from the street. Bicycle entrances are also accessible on multiple street frontages.

5. **Chapter 4.2 Building Context.** This chapter's sections and standards require clear and linked building architecture, transitions between high-rises and lower scale residential and historic development, and consideration of how development would contribute to civic icon buildings and respond to historic context buildings.

Analysis: Consistent with the Design Guidelines, the development incorporates strong harmonious architecture throughout the development and along all the project's frontages consistent with this chapter's sections and standards. The building massing and volumes are articulated to reduce the perception of one building and to read as several thinner volumes, which contribute to the compatibility of the variation of lower scale and high-rises in the immediate area. The top of the building is differentiated from the remainder of the building through the use of tiered height maximums and the

use of sky gardens. The ground floor includes a revealed corner design of horizontal panels to accentuate the storefronts by framing the transparent glass of each tenant space

In terms of historic agency, the building design of the project does not include a stepped podium mass but is articulated with exterior elements that relate visually in dimension to the height, width, and massing scale of the historic buildings nearby. The “veil” elements of the window panel system provide depth in the façade as well as emphasizing the lower floors of the building at datum lines that relate to the historic surrounding context. The curving elements are made up of planar and orthogonal elements which are compatible in size, materials, and scale with the historic context. While the building does not have applied cornices, there is a change of materials between the retail and lobby display level and a recessed revealing corner area that transitions in transparency. The materials correspond with the ground-level cornice lines of the adjacent historic buildings and the proposed ground floor design also includes detailing, such as awnings, that supports the continuity of streetscape scale and transom heights.

6. **Chapter 4.3 Building Massing** This chapter’s sections and standards promotes high quality architecture which creates a compelling skyline, supports a human-scale streetscape, and uses the streetwall (building façade along the public street) to define the public realm. This chapter encourages designs which reduce potential shadow and wind impacts.

Analysis: Consistent with the Design Guidelines, the façade incorporates a complex vision window wall system that allows for subtle curves in both the horizontal and vertical dimension to soften the look and feel of the building. The window wall system contributes to reducing the perception of one building and complements the surrounding buildings with a new typology that provides excellent visibility to and from the park. This design continues to the ground floor, where the curved windows open up to reveal textured precast horizontal panels, metal canopies, and glazed aluminum storefronts, which bring down the scale of the building to the street level.

7. **Chapter 4.4 Building Elements** This chapter’s sections and standards promote high quality architecture and materials, centralized heating and cooling systems to eliminate individual units along windows, bird-safe building design, and a reduction of blank walls. The sections and standards encourage prominent stairways to create a pleasant experience for users, promote the minimization of parking garages and visible mechanical equipment, and include guidelines for building lighting and signage.

Analysis: Consistent with Section 4.4.1, the façade incorporates a complex vision window wall system that allows for subtle curves in both the horizontal and vertical dimension to soften the look and feel of the building. The window wall system contributes to reducing the perception of one building and complements the surrounding buildings with a new typology provides a variation in heights along each corner of the site. Two roof top gardens are also featured on top of the building and overlook the Plaza de César Chávez.

The project does not include through-window and through-wall air conditioning or heater units nor mirrored glass, consistent with this chapter. The building would be required to comply with bird-safe design measures, and due to its distance away from the Guadalupe River (approximately 0.3 miles), possible collisions with new buildings would not result in substantial impacts on regional bird populations.

The development's ground floor materials include painted metal panels, painted metal canopies, glazed aluminum storefronts, and textured precast horizontal panels and were selected to reflect existing materials and color palettes in the project's neighborhood context. Parking garage driveways are designed to reduce off-site queueing and conflicts with pedestrians and bicyclists. The location and design of the vehicular driveways have been coordinated with the City's Departments of Public Works and Transportation. Garage exhaust would be vented out from the window wall system on each parking level floor and the venting design has been integrated into the building design. Roof top mechanical equipment would also be screened within a steel structure screening system, using low intensity non reflective colors and organized as a component of the overall building architecture.

The development complies with pedestrian and building lighting design standards. The development's pedestrian lighting includes illumination to accentuate architectural features such as lobby entryways, to provide a safe pedestrian experience. Additionally, the pedestrian walkways are lit with a variety of lighting features. The development includes simple exterior façade lighting along the top of the building to add to the city skyline but not detract from the Gateway sites designated in the Downtown Design Guidelines. This permit does not include commercial signage; however, future signage would be reviewed for compliance with the Municipal Code and Downtown Design Standards.

Exception: *The project includes exception requests to Standard 4.4.6a (Parking Garages) which is explained below, along with an explanation of how the findings to approve the exceptions in accordance with Section 1.4 of the San Jose Downtown Design Guidelines are met: a) There is a physical constraint or unique situation that 1) is not created by the project applicant or property owner; and 2) is not caused by financial or economic constraints and considerations. B) Approving the waiver will not impair the integrity and character of the neighborhood in which the subject property is located or create a safety hazard. C) The proposed project meets the design standard at issue to the extent physically feasible. D) the proposed project meets all other guidelines and standards in the Design Guidelines. Details are summarized as follows:*

Primary Addressing Streets and Urban Park/Plaza Frontage require occupied space of at least 20 feet in depth on the same level as a parking garage. The site is bordered by West San Carlos and South First Streets, which are Primary Addressing Streets, and by South Market Street, which is an Urban Park/Plaza Frontage. Therefore, all three sides of the project would require 20 feet in depth of Occupied Space on every parking level. The project has street frontages of less than 200 feet on both South Market Street and South First Streets, while the West San Carlos Street frontage is less than 300 feet, making it difficult to provide parking with enough circulation on each level in addition to Occupied Space along each frontage. The physical constraints of the project site make it infeasible to comply with the standard because with Occupied Space along three out of the four building facades, the space available for parking itself would be significantly reduced, and the programming on each floor for Occupied Space would not be desirable due to the fact that it would be difficult to access, as Elevators are situated in the middle of the building in order to accommodate for the maximized use of active ground floor space.

These physical constraints are unique circumstances for which the project seeks an exception to the Occupied Space required along South Market Street, West San Carlos, and South First Street consistent with the first exception finding that there is a physical constraint or unique situation not caused by the applicant or financial reason.; In accordance with the second and third exception finding, the street

walls along all three frontages are intended to respond to its urban environment to enhance the neighborhood's public space character, so approving the waiver will not impair the integrity and character of the neighborhood or create a safety hazard and the project meets the design standard at issue to the extent physically feasible. Additionally, the overall exterior design aesthetic is a window panel system that is not altered, diminished, or reduced on the parking levels, making the office parking levels nearly indistinguishable from the occupied office levels. Consistent with the third exception finding that the project meets the design standards to the extent feasible, the project maximizes active use on the ground level by internalizing all utility services and loading areas, with vehicular ingress and egress accommodated by a driveway off South Market Street and thereby shielded from view from the street. Finally, this is the only exception requested, so the final exception finding for this project can be made because the project meets all other standards and guidelines to the maximum extent possible.

8. **Chapter 5.3 Ground Floor Treatments and Uses** This chapter's sections and standards requirements include the maximization of active frontages, treatment of blank walls, screening for services and utilities, ground floor design standards to promote flexibility for future use needs, and pedestrian lighting and signage standards. This chapter emphasizes active frontages, which are defined as a pedestrian level building frontage which allows visual and physical access to the active use within the building via windows, doors, or both. The standards require a minimum of 80% active frontages length in feet along Primary Addressing Streets, Urban Park/Plaza frontages, and Secondary Addressing Streets (every project frontage for this site). Section 5.3.1 categorizes active frontages into three active frontage types:

- Type 1 counts triple the frontage width and includes retail/restaurants/offices under 5,000 square feet, hotel lobbies, fitness centers open to the public, and other public lobbies such as museums, libraries, etc.
- Type 2 counts double the frontage width and includes commercial office windows, office lobbies, daycares, etc.
- Type 3 only counts the frontage width and includes building entrances and exits with transparent glass and windows within 5 square feet of transparent glass
- Structured parking, driveways, service entries, fire exits and utilities do not count towards active frontages

Analysis: Consistent with the Active frontage requirements, every street frontage for the project site would exceed the minimum 80% active frontage requirements. South First Street has approximately 88 percent active street frontage. West San Carlos has approximately 100 percent active street frontage. Lastly, South Market Street has approximately 85 percent active street frontage. In terms of design, utility and mechanical or other service spaces have been located within the interior part of the building where only an access doorway is provided to each such type of use. Each retail space is flexible to accommodate a variety of entry door locations, and all entries have direct access to public space.

9. **Chapter 5.5 Entrances.** This chapter's sections and standards establish design requirements to create clearly identifiable entries for pedestrians and bicyclists and ensure a separation between vehicles and pedestrians and bicyclists. Common entries for pedestrians and bicyclists should be emphasized through the project design, including the use of horizontal projections such as a canopy.

Analysis: Consistent with the Design Guidelines, individual lobbies are identifiable with extra framing, and distinctive entry portals with recessed doorway areas. These pedestrian entries are scattered throughout the site for the ground floor retail and tenant spaces. Bicycle lobbies are identifiable with distinctive architectural entrances with extra framing and are internally connected to the building lobby consistent with the design standards. Lobby entrances are located along South Market Street and West San Carlos Street. South Market Street includes a loading area where pedestrians can use this location as a drop-off/pick-up area to avoid blocking traffic or the sidewalk.

Site Development Permit Findings

To make the Site Development Permit findings pursuant to San José Municipal Code [Section 20.100.630](#), and recommend approval to the City Council, the Planning Commission must determine that:

1. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans and area development policies; and

Analysis: As discussed above, the proposed project is consistent with the General Plan Land Use/Transportation Diagram designation of Downtown, as the Downtown land use designation supports a mix of commercial office and retail at high densities. The project is also consistent with the various General Plan policies listed above.

2. The Site Development Permit, as approved, conforms with the Zoning Code and all other Provisions of the San José Municipal Code applicable to the project; and

Analysis: As discussed in detail herein, the proposed project is consistent with the height, setbacks, and parking requirements of the DC Downtown Primary Commercial Zoning District. The DC Zoning District requires no minimum setbacks, and the project proposes zero setbacks on all three project frontages facing South Market Street, South First Street, and West San Carlos Street. The building would be set back approximately 26 feet from the northern property line, which is shared with the hotel and the apartment building. The project applicant has applied for a Determination of No Hazard with the FAA, indicating that the highest part of tower is 295 feet. The proposed resolution approving the Site Development Permit contains conditions stating that this No Hazard Determination must be issued by the FAA prior to the issuance of Building Permits. Further, the resolution requires that any permit conditions that come out of the No Hazard Determination be incorporated into the project through a permit adjustment.

The project provides vehicle and bicycle parking at the appropriate ratios defined in Chapter 20.90 of the Municipal Code. Table 20-140 of the Municipal Code, which requires 2.5 parking space per 1,000 square feet of net floor area of office space and does not require parking for general retail uses. The project thus requires 1,206 parking spaces. Therefore, the proposed project requires 1,206 spaces and provides 1,206 vehicle parking spaces. The project provides these spaces by utilizing an alternative parking arrangement that includes tandem and stacker vehicle parking spaces. An alternative parking arrangement is a permitted use in Downtown. Approximately 22 parking spaces are tandem and approximately half or 660 vehicle spaces are utilized by the stacking system. Parking attendants would manage the parking of the garage and parking management would be a condition of approval for the site.

Additionally, the resolution contains a condition that requires that these alternative parking spaces be maintained throughout the life of the project. Therefore, it is reasonably certain that the parking facility would continue to be provided and maintained for the life and use of the building.

Table 20-140 requires that bicycle parking be provided at 1 space per 4,000 square feet for a total of 136 bicycle parking spaces. The project is providing 139 bicycle parking spaces.

3. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project was duly noticed per Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals and on-site noticing/posting requirements. A joint Environmental Scoping and Community Meeting was held on March 5th, 2020. The Draft SEIR and hearing documents posted online and Staff has been available to answer questions from the public.

4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The high rise tower is the only structure proposed on the site. The different heights that arise out of the central base of the building and the base, middle, and top maintain complementary design in both materials and massing. The building is a mixed-use commercial development that is logically separated by locating lobbies and retail on the ground level, parking above, and office towards the top of the building, with a unifying and consistent façade treatment. Therefore, the interrelationship between uses is mutually compatible and aesthetically harmonious. Additional analysis is provided in the Downtown Design Guidelines conformance section above.

5. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project would be approximately 26 feet away from Four Seasons Hotel (historically known as the Montgomery Hotel, a City Landmark) and the Casa del Pueblo Apartment building. The project is near the Westin San José/St. Claire Hotel, the St. Claire Apartments/St. Clair Building, the Dohrman Building/Trinkler-Dohrman Building, the Valley Title Building/Hale's Department Store, the Twohy Building, or and the Four Points by Sheraton/Montgomery Hotel. The Four Seasons Hotel is four stories and the location was previously approved for a 24-story tower that would add 274 hotel rooms to the area. Casa del Pueblo Apartments features 10 stories. The project is also located adjacent to the San Jose Marriot that consists of a 26-story tower. The overall Downtown area has a mixture of low-, medium-, and high-rise buildings in the immediate vicinity of the site, and this 18-story tower compatibly adds to the mixture of height by exhibiting a mixture of height on site as well. The building was also evaluated as it relates to the Montgomery Hotel, a City Landmark. The base of the project reveals horizontal panels at each corner of the building to not only provide more of a grounded pedestrian experience but also to relate to the nearby historic buildings in terms of massing, materials, and height. The horizontal panels along with similar ground floor window planes are made of compatible materials that are aesthetically harmonious.

6. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: The project development occurs in an urbanized area on a parcel that is currently fully developed with a surface parking lot. A Supplemental Environmental Impact Report (SEIR) was prepared for the Block 8 Mixed Use Project in compliance with. The temporary construction of the proposed project will not have an unacceptable negative effect on an adjacent property or properties because of City limitations on construction hours and the required mitigation measures and permit conditions. The operation of the project is primarily commercial office and therefore would not be a generating source for excessive noise or odor. The project has been evaluated to be in compliance with the City's stormwater requirements.

7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: As shown on the plan sets attached to this staff report, the landscaping, irrigation systems, all walls and fences, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain and upgrade the appearance of the neighborhood. All mechanical equipment is screened on the roof and not visible from the street or surrounding buildings.

8. Traffic access, pedestrian access and parking are adequate.

Analysis: AS described above, the project contains parking consistent with the Zoning Ordinance and alternative parking arrangement, and has adequate pedestrian, bicycle, and vehicular access into the site. Pedestrians can easily access the building from the lobby or retail spaces off street frontages. The building would have controlled access for residents and employees. The project was reviewed in combination by the Department of Public Works, the Department of Transportation and Fire Department and was found to be consistent with the City policies.

Downtown Design Guideline Exceptions

Chapter 1.4 of the Downtown Design Guidelines establish the findings the decision-maker would need to make in order to grant an exception to Standards in the San José Downtown Design Guidelines:

1. There is physical constraint or unique situation that:
 - a. is not created by the project applicant or property owner; and
 - b. is not caused by financial or economic constraints considerations.
2. Approving the waiver will not impair the integrity and character of the neighborhood in which the subject property is located or create a safety hazard.
3. The proposed project meets the design standard at issue to the extent physically feasible.
4. The proposed project meets all other guidelines and standards in the Design Guidelines.

Analysis: Except for the following exception, the project meets all other standards within the Downtown Design Guidelines, as discussed above and consistent with the fourth finding for the design standard exception requests. The project includes exception requests to Standard 4.4.6a (Parking Garages) which is explained above along with the findings and is summarized below:

The site is bordered by West San Carlos and South First Streets, which are Primary Addressing Streets, and by South Market Street, which is an Urban Park/Plaza Frontage. Therefore, all three sides of the project would require 20 feet in depth of Occupied Space on every parking level. The project has street frontages of less than 200 feet on both South Market Street and South First Streets, while the West San Carlos Street frontage is less than 300 feet, making it difficult to provide parking with enough circulation on each level in addition to Occupied Space along each frontage. The physical constraints of the project site make it infeasible to comply with the standard because with Occupied Space along three out of the four building facades, the space available for parking itself would be significantly reduced, and the programming on each floor for Occupied Space would not be desirable due to the fact that it would be difficult to access, as Elevators are situated in the middle of the building in order to accommodate for the maximized use of active ground floor space. These physical constraints are unique circumstances for which the project seeks an exception to the Occupied Space required along South Market Street, West San Carlos, and South First Street consistent with the first exception finding. In accordance with the second and third exception finding, the street walls along all three frontages are intended to respond to its urban environment to enhance the neighborhood's public space character. Additionally, the overall exterior design aesthetic is a window panel system that is not altered, diminished, or reduced on the parking levels, making the office parking levels nearly indistinguishable from the occupied office levels. Consistent with the third exception finding, the project maximizes active use on the ground level by internalizing all utility services and loading areas, with vehicular ingress and egress accommodated by a driveway off South First Street and thereby shielded from view from the street. Finally, this is the only exception requested, as the project meets all other standards and guidelines to the maximum extent possible.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San José, as the lead agency for the project, prepared a Draft Supplemental Environmental Impact Report (Draft SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution No. 78942). The Notice of Preparation (NOP) was circulated from February 19, 2020 to March 20, 2020. The Draft SEIR itself was circulated for public review and comment from November 23, 2020 through January 11, 2021. The Draft SEIR analyzed more than what the current project description is noted above by including analysis for the demolition of the existing surface parking lot and the construction of a mixed-use office building up to 295 feet tall totaling approximately 1,049,845 square feet, including up to 16,375 square feet of ground floor commercial, 627,210 square feet of office space, and up to eight floors of below and above-grade parking all on an approximately 1.49-gross acre site.

The City received three (3) written comment letters during the public comment period. Comments were submitted by three agencies and organizations which were Santa Clara Valley Transportation Authority (VTA), Valley Water, and Pacific Gas & Electric Company (PG&E). Most of the issues raised relate to improving existing pedestrian and bus stop improvements and recommending dewatering system design parameters for construction. None of the comments received address an issue of sufficiency of the SEIR and no new mitigation measures are required. SEIR text revisions were included in the First Amendment to address dewatering suggestions and updated PG&E information.

Additionally, the City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final SEIR. The Draft SEIR and First Amendment to the Draft SEIR are available for review on the project page on the City's Active EIR website at: www.sanjoseca.gov/activeeirs

The following discussion outlines additional environmental impacts and detailed as discussed in the Final SEIR.

Identified Significant Unavoidable Impacts

The Draft SEIR found that the project would result in a significant and unavoidable shade and shadow impact on Plaza de Cesar Chavez due to shading more than 10 percent. Due to the size and placement of the proposed project, there are no suggested feasible mitigation measures to reduce the shade and shadow impact. Therefore, a Statement of Overriding Considerations is required.

Project Alternatives

The Draft SEIR analyzed three project alternatives for the purpose of identifying an environmentally superior proposal. The three alternatives analyzed were an Alternative Location option, a Reduced Development option, and a No Project option.

Environmental Impacts and Mitigation Measures

The Draft SEIR identified potential environmental impacts to air quality, cultural resources, hazardous materials, and noise. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program (MMRP) prepared for the project, these impacts are reduced to less than significant levels. As part of the certification of the Final SEIR, the City Council will need to approve a related Mitigation Monitoring and Reporting Program (MMRP) for the project. The mitigation measures for the project include construction air quality reduction by using higher tiered equipment, subsurface exploration to identify potential archeological finds, soil testing and Site Management Plan prior to construction, and vibration and noise monitoring.

A copy of the signed MMRP is attached to the proposed CEQA resolution (Exhibit A).

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft SEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft SEIR for the project includes written responses to all comments received during the public review period for the Draft SEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft SEIR address significant environmental points and comments on the content and adequacy of the SEIR. The responses and comments provide clarification and refinement of information presented in the Draft SEIR

and, in some cases, correct or update information in the Draft SEIR. No significant new information has been added to the SEIR since publication of the Draft SEIR; therefore, the Draft SEIR does not need to be recirculated.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

A formally noticed Community Meeting with the Environmental Scoping was held on March 5th, 2020 to introduce the proposed project to the community. Approximately three members of the public attended the meeting with no comments other than attending to see project details.

Project Manager: Stefanie Farmer

Approved by: /s/ , Deputy Director for Rosalynn Hughey, Planning Director

ATTACHMENTS:	
Exhibit A:	Draft EIR Resolution
Exhibit B:	Draft Site Development Permit Resolution
Exhibit C:	Site Development Permit Plan Set
Exhibit D:	TDM Plan
Exhibit E:	Signed MMRP

Owner:	Applicant:
SI 58, LLC 10600 North De Anza Boulevard, Suite 200, Mountain View, California, 94041 USA	Robert Tersini The Sobrato Organization 599 Castro Street, Suite 400 Mountain View, CA 94041

H19-033 List of Attachments

- Exhibit A: [Draft EIR Resolution](#)
- Exhibit B: [Draft Site Development Permit Resolution](#)
- Exhibit C: [Site Development Permit Plan Set](#)
- Exhibit D: [TDM Plan](#)
- Exhibit E: [Signed MMRP](#)