



First Amendment to the Draft Supplemental Environmental Impact Report

Garden Gate Tower

SP18-001 and T18-001
SCH# 2018092072

October 2019



Garden Gate Tower

First Amendment to the Draft Supplemental Environmental Impact Report (SEIR)

File Nos. SP18-001 and T18-001

SCH# 2018042072

Prepared by



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SECTION 1.0 INTRODUCTION

This document, together with the Draft Supplemental Environmental Impact Report (Draft SEIR), constitutes the Final Supplemental Environmental Impact Report (Final SEIR) for the Garden Gate Tower project.

1.1 PURPOSE OF THE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, the Final SEIR provides objective information regarding the environmental consequences of the proposed project. The Final SEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final SEIR is intended to be used by the City of San José in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- 1) The Final SEIR has been completed in compliance with CEQA;
- 2) The Final SEIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final SEIR prior to approving the project; and
- 3) The Final SEIR reflects the lead agency's independent judgment and analysis.

1.2 CONTENTS OF THE FINAL SEIR

CEQA Guidelines Section 15132 specify that the Final SEIR shall consist of:

- a) The Draft SEIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft SEIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft SEIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the SEIR. The Final SEIR and all documents referenced in the Final SEIR are available for public review at the office of the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, Third Floor, San José, California on weekdays

during normal business hours. The Final SEIR is also available for review on the City's website: <https://www.sanjoseca.gov/index.aspx?NID=6073>.

SECTION 2.0 DRAFT SEIR PUBLIC REVIEW SUMMARY

The Draft SEIR for the Garden Gate Tower project, dated July 2019, was circulated to affected public agencies and interested parties for a 45-day review period from July 15, 2019 through August 29, 2019. The City undertook the following actions to inform the public of the availability of the Draft SEIR:

- A Notice of Availability (NOA) of Draft SEIR was published on the City's website (<https://www.sanjoseca.gov/index.aspx?NID=6073>) and in the San José Mercury News;
- Notification of the availability of the Draft SEIR was mailed to project-area residents and other members of the public who had indicated interest in the project and in general environmental notification (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft SEIR);
- The Draft SEIR was delivered to the State Clearinghouse on July 15, 2019, as well as sent to various governmental agencies, organizations, businesses, and individuals; and
- Copies of the Draft SEIR were made available on the City's website (<https://www.sanjoseca.gov/index.aspx?NID=6073>), City of San José Department of Planning, Building and Code Enforcement (200 East Santa Clara Street, 3rd Floor, San José, CA 95113), and the Dr. Martin Luther King Jr. Main Library (150 East San Fernando Street, San José, CA 95112).

SECTION 3.0 DRAFT SEIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft SEIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The NOA for the Draft SEIR was sent by either email or certified mail to owners and occupants of properties adjacent to the project site and to nearby jurisdictions.

The following agencies received a copy of the Draft SEIR from the City or via the State Clearinghouse:

- Air Resources Board, Transportation Projects
- Association of Bay Area Governments
- Bay Area Air Quality Management District
- California Air Resources Board
- California Department of Fish and Wildlife, Region 3
- California Department of Housing and Community Development
- California Department of Transportation, District 4
- California Native Plant Society-Santa Clara Valley Chapter
- City of Campbell, Planning Division
- City of Cupertino Community Development Department
- City of Fremont Community Development Department
- City of Milpitas
- City of Morgan Hill, Planning Division
- City of Mountain View
- City of Palo Alto
- City of Santa Clara Department of Planning and Inspection
- City of Saratoga Community Development Department
- City of Sunnyvale, Planning Division
- Department of Toxic Substances Control
- Guadalupe-Coyote Resource Conservation District
- Kevin Johnston
- Metropolitan Transportation Commission
- Native American Heritage Commission

- Office of Historic Preservation
- Regional Water Quality Control Board, Region 2
- PG&E Land Rights Services
- San José Unified School District
- San José Water Company
- Santa Clara Audubon Society
- Santa Clara County Planning Department
- Santa Clara County Roads & Airports Transportation Planning Department
- Santa Clara Valley Open Space Authority, Community Projects Review Unit
- Santa Clara Valley Transportation Authority
- Santa Clara Valley Water District
- Sierra Club-Loma Prieta Chapter
- State Department of Fish and Wildlife, Region 3
- Town of Los Gatos, Community Development Department;
- United States Fish and Wildlife Service.

Copies of the Draft SEIR or NOA for the Draft SEIR were sent by email to the following organizations, businesses, and individuals by the City of San José:

- Ada Marques
- Alan Leventhal, SJSU College of Social Sciences and Anthropology
- Amah Mutsun Tribal Band
- Amah Mutsun Tribal Band of Mission San Juan Bautista
- Andrew Galvan, The Ohlone Indian Tribe
- • The Ohlone Indian Tribe Angelina Andrade
- André Luthard, Preservation Action Council of San José
- Angelina Viramontes
- Aurelia Sanchez
- Brad Nunes
- Brooks and Hess
- Betty Yee
- Brian and Loureen Murphy
- California History Center

- Carol and Tom Valentine
- Carlos AG
- Carlos Duran
- Christine Derksen
- Coastanoan Rumsien Carmel Tribe
- Dave Martens
- David Weale
- Devin Creighton
- Drea Li
- Elizabeth Wilson, San José Quilt and Textiles Museum
- Erik Schoennauer
- Fil Mansu
- Francisco Gonzalez
- Fred Feizollahi
- Gayle Tolton, Native American Heritage Commission
- Gary Schaezlein
- Genaro Diaz
- Greenbelt Alliance
- Indian Canyon Mutsun Band of Costanoan
- Mitch Mankin
- Nancy and Robert Dorham
- Nyoni
- Janet Laurain, Adams Broadwell Joséph & Cardozo
- Joel Segura
- John Bracco
- Josephine Huesca
- Jon Lockhart, Pacific Gas and Electric
- Jose Munoz
- Josue GarciaKitty Moore
- Larry Johmann, Guadalupe-Coyote Resource Conservation District
- Paul Olson

- Muqekma Ohlone Tribe
- North Valley Yokuts Tribe
- Ray Moreno
- Hannah Hughes, Komalpreet Toor, Michael Lozeau, Richard Drury and Theresa Rettinghouse, Lozeau Drury LLC
- Rita Torres
- Robert Murtagh
- Rosalinda Aguilar
- Sandra Soellner
- Scott Knies, San José Downtown Association
- Shani Kleinhaus, Santa Clara Valley Audubon Society
- Sierra Club-Loma Prieta Chapter
- Sean McFeely
- Shree Dharasker, Santa Clara Valley Water District
- SPUR
- Sue Soto
- Sunny Patel
- Terry Ramos
- Tim Henderson
- Tony May;
- Vendome Neighborhood Association

SECTION 4.0 RESPONSES TO DRAFT SEIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft SEIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft SEIR are listed below.

Comment Letter and Commenter

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A. Bay Area Air Quality Management District (August 29, 2019)

Comment A.1: Bay Area Air Quality Management District staff has reviewed the draft Supplemental Environmental Impact Report (SEIR) for the proposed Garden Gate Tower (Project). This Project includes two development options for a 27-floor building on a 0.42-acre site in the City of San Jose. Option 1 would be a traditional multi-family development with up to 290 residential units and approximately 4,840 square feet of ground floor retail space. Option 2 would be a co-living community development with up to 850 bedrooms in a co-living configuration and approximately 6,000 square feet of ground floor retail space.

The Air District commends the City and the developer on this high-density mixed-use project located in a downtown priority development area near public transit, which will help reduce vehicle miles travelled and therefore reduce both air quality and greenhouse (GHG) impacts.

Response A.1:

The comment above provides a description of the proposed project. The comment does not raise any specific issues about the adequacy of the Draft SEIR; therefore, no further response is required.

Comment A.2: Staff recommends the Project demonstrate consistency with all measures identified in the 2017 Scoping Plan needed to meet the State's strategy to achieve the Statewide 2030 GHG reduction goal and be on track to meet the 2050 climate stabilization goal.

Response A.2:

GHG emissions were evaluated in Section 6.7 of the Initial Study (SEIR Appendix B). The analysis compared Project GHG emissions to BAAQMD's efficiency threshold of 4.6 MTCO_{2e} per year per service population, which is the threshold to achieve the State's 2020 target to reduce GHG emissions to 1990 levels. However, as demonstrated in Tables 6 and 7 of the Initial Study, Project emissions from both development options would also be below the "Substantial Progress" threshold intended to demonstrate conformance with GHG reduction goals in the 2017 Scoping Plan for 2030. Furthermore, the Downtown Strategy 2040 FEIR, which this EIR supplements, evaluated GHG emissions from development within the Downtown, including the project site. 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. Both of the project's development options fall within this development capacity. The Downtown Strategy 2040 FEIR found that full build-out under the Downtown Strategy would meet the Substantial Progress threshold for 2030 GHG reduction targets, but would result in significant unavoidable impact to GHG emission under the 2040 statewide reduction targets.

As shown in Table 6 on page 68 of the Initial Study (SEIR Appendix B), the total project-related emissions for Option 1 from indirect and direct sources combined would result in 1,917.53 MTCO_{2eq}/year, equivalent to 1.9 MTCO_{2eq}/year per service population (residents plus employees). This is below the "Substantial Progress" of 2.6MTCO_{2eq} per service population (employees and residents per year). The Substantial Progress threshold is based on 2030 GHG reduction targets needed to meet the statewide GHG

reduction goals of SB 32. The project's contribution of GHG emissions would be less than significant and no mitigation is required.

As shown in Table 7 of the Initial Study (SEIR Appendix B, page 69), the total project-related emissions for Option 2 would result in 3,163 MTCO₂eq/year. The project's service population is estimated to be approximately 1,275 (residential) under this Option, which would result in 2.48 MTCO₂eq per service population per year. This is also below the Substantial Progress threshold of 2.6 MTCO₂eq per service population per year and therefore Option 2's contribution of GHG emissions would be less than significant as the project would meet targets to achieve the 2030 GHG reduction goals of SB 32.

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

Appendix B, Local Action, of the 2017 CARB Scoping Plan lists potential actions that support the State's climate goals. However, the Scoping Plan notes that the applicability and performance of the actions may vary across the regions. The document is organized into two categories (A) examples of plan-level GHG reduction actions that could be implemented by local governments and (B) examples of on-site project design features, mitigation measures, that could be required of individual projects under CEQA, if feasible, when the local jurisdiction is the lead agency.

The project would include a number of project design features and conditions for construction and operation that advance measures in the 2017 CARB Scoping Plan. For example, the Scoping Plan's construction measures include enforcing idling time restrictions on construction vehicles, requiring construction vehicles to operate highest tier engines commercially available, diverting and recycling construction waste, minimizing tree removal, and increase use of electric and renewable fuel powered construction equipment and require renewable diesel fuel where commercially available. These measures are consistent with the requirements in the BAAQMD Basic Construction Measures, which are incorporated into the project as a Standard Permit Condition. This condition requires the minimization of idling times and the use of clean off-road engines.

Comment A.3: Air District staff recommends the project incorporate all feasible mitigation measures to be consistent with the 2017 State Scoping Plan, both on-site and offsite.

Response A.3:

Please see Response A.2 above. The project is within the Downtown Core area, and the proposed development capacity is within the overall development capacity assumed in the Downtown Strategy 2040 FEIR certified by City Council in December 2018. The GHG analysis for the Downtown Strategy 2040 FEIR found that development in Downtown

would help achieve Statewide targets for 2030 under SB 32, but significant and unavoidable for 2040 targets. As discussed in Section 3.8.1.2 of the Downtown Strategy 2040 FEIR, future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies. Therefore, no project-level mitigation measures were identified.

Although not required as a mitigation measure to reduce GHG emissions, the project will be implementing a Transportation Demand Management (TDM) program because both development Options propose a reduction in on-site parking as allowed under Municipal Code Sections 20.90.220 and 20.70.330.B. Implementation of the TDM program will further reduce project GHG emissions below those assumed in the project-level GHG analysis.

Comment A.4: Newly constructed non-residential buildings shall be designed to achieve a 10 percent or greater reduction in energy use versus a standard Title 24 code-compliant building through energy efficiency measures consistent with Tier 1 of the 2016 California Green Building Standards Code, Section A5.203.1.2.1. Alternatively, this measure can be met by installing on-site renewable energy systems that achieve equivalent reductions in building energy use.

Response A.4:

Both Options will be designed and constructed to meet or exceed the Title 24 requirements including green energy building codes. The building design will be reviewed and inspected by City staff to ensure compliance with all building code requirements prior to the issuance of building permits. With the exception of the of approximately 5,000 square feet of retail space, both Options 1 and 2 of the proposed project are residential buildings. The project provides onsite amenities on the roof of the proposed building which would significantly reduce the ability to provide onsite renewable energy systems such as solar systems. However, by providing onsite amenities, the project contributes to a reduction in Vehicle Miles Traveled which in turn contributes to a reduction of greenhouse gas emissions.

Comment A.5: Newly constructed buildings shall be designed to include Cool Roofs in accordance with the requirements set forth in Tier 2 of the 2016 California Green Building Energy Codes (CALGreen), Sections A4.106.5 and A5.106.11.2.

Response A.5:

The project will comply with building requirements as set forth set forth in Tier 2 of the 2016 California Green Building Energy Codes (CALGreen), Sections A4.106.5 and A5.106.11.2. The 2019 CALGreen Code goes into effect on January 1, 2020. Prior the issuance of any building permits the project design plans will be reviewed by City staff to ensure that the project is designed to meet the applicable building codes, including green energy building codes. The proposed rooftop of the building includes an amenity area that includes a pool and common area room in addition to a mechanical equipment area. Reflective surfaces will be used to the maximum extent practicable.

Comment A.6: Require the electrification of all loading docks to facilitate plug-in capability and require trucks to utilize grid power to deliver goods.

Response A.6:

The project proposes a small loading area to serve the ground floor retail and residents moving in and out of the building. The project would not include extensive shipping or receiving of goods that would require long delivery truck idling times. Therefore, electrification of loading docks is not required.

Comment A.7: Require the project to meet SB 743 derived vehicle miles traveled (VMT) reductions of 15% below the regional average VMT.

Response A.7:

The Downtown Strategy 2040 FEIR, which this EIR supplements, analyzed the potential transportation impacts that could occur from the addition of 4,000 residential units and 3,000,000 square feet of office space to the downtown area using the methodology outlined in the City's Transportation Analysis Handbook, per City Council Policy 5-1. The VMT data for the Downtown Strategy 2040 was calculated using the City's Travel Demand Forecasting (TDF) model. It was determined in the Downtown Strategy 2040 FEIR that future development in the downtown would result in lower VMT than the Citywide average. However, there are limited areas that were identified in the FEIR with potential to result in VMT above the levels set by Policy 5-1 (indicated on Figures 3.15-6 and 3.15-7 in the Downtown Strategy 2040 FEIR). The proposed project site is not located within an area that has the potential to exceed acceptable VMT levels and would not require additional VMT analysis to determine consistency with adopted VMT policies.

The project is located within the Downtown Core boundary and therefore the project was not required to perform a project-level CEQA Vehicle Miles Traveled (VMT) analysis since the project is within the development capacity evaluated in the Downtown Strategy 2040 FEIR. The Downtown Strategy 2040 concluded that VMT for development in the Downtown Core will be below the City's VMT threshold adopted in City Council Policy 5-1 for both employment and residential uses.

As discussed on pages 123-124 of the Initial Study (SEIR Appendix B) both Option 1 and Option 2 of the proposed project are below the City's VMT guidelines that established an impact threshold VMT per capita of 10.12 and VMT per employee of 12.22. The VMT per capita is anticipated to be about 8.99, and the VMT per employee is anticipated to be about 11.31 in the Downtown Growth Boundary. For the proposed project, the VMT per capita is anticipated to be about 8.67 for the Option 1 traditional multi-family apartments and 6.29 for the Option 2 co-living community. Therefore, the project is considered to be consistent with the City's VMT reduction thresholds.

Comment A.8: Require 10% of parking spaces to include electric vehicle charging equipment and designated for electric vehicle parking only.

Response A.8:

Section 4.106.4.2 of the California Green Building Standards Code (CalGreen) requires 3% of parking space to provide electric vehicle parking spaces. Option 1 of the proposed project would be required to provide 7 spaces and 8 spaces are proposed. Option 2 of the proposed project would be required to provide 4 spaces and 8 spaces are proposed. Therefore, the project is consistent with the Cal Green standards for electric vehicle charging stations.

Comment A.9: Require the use of zero emission off road equipment for construction and operation, as well as renewable fuels (such as renewable diesel and biogas), if available.

Response A.9:

As shown in Table 6 of the Initial Study (SEIR Appendix B, pages 35-36), both Option 1 and Option 2 of the proposed project are below the BAAQMD thresholds for construction emissions and no mitigation is required. The project would implement the requirements in the BAAQMD Basic Construction Measures, which require the minimization of idling times and the use of clean off-road engines. If available and feasible at the time of construction, zero emission construction equipment, as well as construction equipment powered by renewable fuels will be used if available.

Comment A.10: All construction activities shall implement waste reduction, disposal and recycling strategies in accordance with sections 4.408 and 5.408 of the 2016 California Green Building Standards (CALGreen). In addition, projects shall achieve or exceed the enhanced Tier 2 targets for reusing or recycling construction waste of 75 percent for residential and 80 percent for nonresidential buildings as described in Sections A4.408 and A5.408 of the CALGreen standards.

Response A.10:

The project will comply with the code requirements for waste reduction, disposal and recycling strategies in accordance with sections 4.408 and 5.408 of the CalGreen Building Standards. As discussed on pages 134-135 of the Initial Study (SEIR Appendix B), 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. Future development allowed under the Envision San José 2040 General Plan would implement the City's Zero Waste Strategic Plan. This Plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

B. Santa Clara Water District (August 8, 2019)

Comment B.1: The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Supplemental Environmental Impact Report (DEIR) and Water Supply Assessment (WSA) for the Garden Gate Tower Project and does not have any comments.

Response B.1: The comment notes the agency does not have any comments on the SEIR. Therefore, no further response is required.

C. Kitty Moore (July 15, 2019)

Comment C.1: Please see p. 79/PDF 90 of the SEIR, <http://www.sanjoseca.gov/DocumentCenter/View/85852>:

"d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? Same Impact as Approved Project – Less Than Significant Impact. The project site is listed on various databases [emphasis added] due to the site's use as an automotive repair shop in 1985."

However, the webpage linked in the email I received states the following:

The proposed project will have potentially significant environmental effects with regard to biological resources, hazards and hazardous materials, noise, cultural resources, and cumulative cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of toxic sites.

<http://www.sanjoseca.gov/civicalerts.aspx?AID=2544>

The site does appear to be listed pursuant to Ca. Gov. Code 65962.5, according to the SEIR. I think it is confusing to point out a subset of the lists, the Cortese List, when there are a host of environmental issues buried in the Phase II Environmental Site Assessment. In fact, the Draft Supplemental Environmental Impact Report fails to mention the Hazards and Hazardous Materials in the text, they simply have a mitigation summary and no chapter on them. This looks like a failing of the Draft Supplemental Environmental Impact Report to disclose.

Response C.1:

The comment states that the project appears to be listed as a hazardous materials site pursuant to Ca. Gov. Code 65962.5, and that the identification of hazardous materials on site is confusing.

The list of hazardous materials sites under Ca. Gov. Code 65962.5 is maintained by the California Environmental Protection Agency (Cal EPA), referred to as the "Cortese List." The list includes "[a]ll hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code." The project site is not listed on this list. The database search completed as part of the Phase I Environmental Site Assessment (Appendix H of the SEIR) identifies the adjacent property to the south, at 630 S. First Street, as a former Leaky Underground Storage Tank (LUST) cleanup site. The database identifies that the UST was removed in 1999.

State, regional, and local agencies maintain additional data bases of hazardous materials beyond those that would qualify a property to be listed on the Cortese List. Listing on a State, regional, or local database does not automatically qualify a property to be listed on the Cortese List. The database searches completed as part of the Phase I Environmental Site Assessment (Appendix H of the SEIR) confirm the project site is not listed in the Cortese, Envirostor, or Geotracker databases. Additionally, soil sampling performed as part of the Phase II Environmental Site Assessment did detect the presence of some

chemicals that could be considered hazardous to people if they were to be exposed to these chemicals over long periods of time.

As discussed on pages 76-77 of the Initial Study (SEIR Appendix B) both Option 1 and Option 2 of the proposed project would be required to implement the following mitigation measure, with oversight from the Santa Clara County Department of Environmental Health (SCCDEH) or equivalent regulatory agency, to reduce impacts associated with hazardous materials to a less than significant:

MM HAZ-1: The project applicant shall retain a qualified consultant to conduct focused sampling and analysis for contamination of soil, soil vapor, and/or groundwater on-site prior to issuance of any grading permit. Sampling on the site shall be under the regulatory oversight from SCCDEHs Voluntary Cleanup Program to address soil and groundwater contamination discovered on the property. Removal and off-site disposal of the soil at appropriate landfills during construction of the underground parking lot will likely constitute the mitigation required; however, the SCCDEH will approve the proposed mitigation, or if additional groundwater sampling and mitigation is necessary. Based on results of the contamination levels at the site, the project applicant shall prepare, under the guidance of SCCDEH, a Site and Groundwater Management Plan (SGMP) or equivalent report. The SGMP shall provide recommended measures to remediate the long-term environmental or health and safety risks caused by the presence of hazardous materials and contaminants at the site. The SGMP will also contain contingency plans to be implemented during soil excavation if unanticipated hazardous materials (e.g., former underground storage tanks) are encountered. A Health and Safety Plan (HSP) shall be prepared by the project applicant and each contractor as part of the SGMP that will outline proper soil and groundwater handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction. The project applicant shall submit the SGMP and HSP to the SCCDEH for approval.

The project applicant shall provide all documentation showing submittal of the SGMP and HSPs with the SCCDEH to the Director of Planning or Director's designee and the Municipal Compliance Officer in the Environmental Services Department prior to issuance of any grading permits.

Therefore, with the implementation of Mitigation Measure HAZ-1, potential impacts are considered less than significant, and no further mitigation is required.

Comment C.2: The mere presence of a Phase II ESA with soils testing alone is a red flag that there are contamination concerns, here is an excerpt from the Phase II ESA, <http://www.sanjoseca.gov/DocumentCenter/View/85845>. pp. 5-6/PDF 11-12

"TPHg was detected at or above the laboratory reporting limit (1.0 milligram per kilogram (mg/kg) in 10 of the 29 samples analyzed, at concentrations ranging from 1.4 mg/kg to 2,000 mg/kg; five of which (E-2-

15.0, E-3-15.0, E-3-26.0, E-3-36.0, and E-4-15.0) exceed the Tier 1 ESL for TPHg of 100 mg/kg. TPHd was detected at or above the laboratory reporting limit (1.0 mg/kg) in 15 of the 29 samples analyzed, at concentrations ranging from 1.2 mg/kg to 120 mg/kg. None of the detected concentrations of TPHd exceeded the Tier 1 ESL of 230 mg/kg.

TPHmo was detected at or above the reporting limit (5.0 mg/kg) in 14 of the 29 samples analyzed at concentrations ranging from 7.8 mg/kg to 530 mg/kg. None of the detected concentrations of TPHmo exceeded the Tier 1 ESL of 5,100 mg/kg.

Various VOC compounds were detected above laboratory reporting limits in three of the 11 samples analyzed. Most of the VOCs were detected at trace concentrations. However, two soil samples collected from boring E-3 at depths of 26 feet bgs (E-3-26.0) and 36 feet bgs (E-3-36.0), detected up to nine VOC compounds above laboratory detection limits, five of which exceeded established ESLs. Benzene, toluene, ethylbenzene, and xylenes (BTEX) and naphthalene were detected in sample E-3-26.0 at concentrations of 1.4 mg/kg, 9.7 mg/kg, 6.2 mg/kg, 17 mg/kg, and 1.9 mg/kg, respectively. These five detections exceed their respective Tier 1 ESLs of 0.044 mg/kg, 2.9 mg/kg, 1.4 mg/kg, 2.3 mg/kg, and 0.033 mg/kg, respectively.

Additionally, the detected concentration of benzene (1.4 mg/kg) exceeds the residential and commercial/industrial ESLs of 0.23 mg/kg, and 1.0 mg/kg, respectively. The detected concentration of ethylbenzene (6.2 mg/kg) exceeds the residential ESL of 5.1 mg/kg. The detected concentration of benzene (1.4 mg/kg) exceeds both residential and commercial/industrial ESLs of 0.23 mg/kg and 1.0 mg/kg, respectively. Naphthalene was detected in sample E-3-36.0 at a concentration of 0.11 mg/kg, which exceeds the Tier 1 ESL of 0.033 mg/kg.

Phenol, a SVOC, was detected above laboratory detection limits in one of the six samples analyzed. Sample E-3-36.0 detected phenol at a concentration of 5.9 mg/kg, which exceeds the Tier 1 ESL, 0.10 mg/kg. No other SVOCs were detected at or above laboratory reporting limits in the soil samples analyzed.

Trace concentrations of three OCPs were detected in one of six soil samples analyzed (E-3-1.5), but do not exceed established ESLs. Additionally, no PCBs were detected above reporting limits in any of the samples analyzed.

Soil analytical results for metal parameters are summarized in Table 2 and were compared to the California total threshold limit concentration (TTLC), the State of California hazardous waste criterion (STLC), and the Federal hazardous waste criterion (TCLP).

Total lead was detected in each of the 30 of the samples analyzed at concentrations ranging from 5.1 mg/kg to 140 mg/kg. Total lead was detected at concentrations at or above 50 mg/kg but below 1,000 mg/kg (TTLC) in six soil samples, which were subsequently submitted for STLC analysis and TCLP analysis (if necessary) to determine soluble lead levels. STLC lead was detected at or above the laboratory reporting limit (0.10 milligrams per liter (mg/L)) in five of the six soil samples analyzed at concentrations ranging from 0.67 mg/L to 12 mg/L. STLC lead was detected above the California hazardous waste concentration of 5.0 mg/L in a single soil sample (E-3-1.5) at a concentration of 12 mg/L."

Response C.2:

The comments states that the presence of a Phase II ESA is a concern. The comment also provides excerpts from the Phase II ESA listing the results of the Phase II ESA soil sampling.

Please see Response C.1 above regarding mitigation measures based on the results of the Phase II ESA Analysis. The City concurs with the results of the Phase II ESA provided.

Comment C.3: I would like to see the website updated with some clarifying information as to Ca. Gov. Code 65962.5 and the EIR to clearly state whether the site is on any list pursuant to that statute.

Response C.3:

Please see Response C.1 above confirming the site is not on any list pursuant to Ca. Gov. Code 65962.5.

D. Aurelia Sanchez (July 18, 2019)

Comment D.1: I attended the community meeting held at the Latino Library some months ago and I wish to express my concerns again and make them part of the written record.

My preference is option one-Traditional Multi-Family Development with no retail on ground floor. Parking is a problem downtown and in order for retail to be successful you need heavy pedestrian traffic which is not the case downtown. In addition we have empty storefronts downtown and in other parts of the city. A garden or green space would serve the residents better since there are no parks nearby.

Response D.1:

The comment provides preferences regarding the project description. This comment will be forwarded to the City Council for their consideration. The comment does not raise any environmental issue within the context of the California Environmental Quality Act (CEQA). No further response is required because the comment does not raise any environmental issues.

Comment D.2: We need adequate parking for residents or provide a car sharing program. There are too many scooters and bikes dumped all over our neighborhoods which is creating blight. People are stealing parts off of some of the scooters and bikes and our dumping them in our creeks. There was a piece done on the news on this where an individual was cleaning our creeks on his own. No one is taking responsibility regarding discarded bikes etc. and to depend on this type of transportation for residents of this project is foolish.

Response D.2:

This comment will be forwarded to the City Council for their consideration. The comment does not raise any environmental issue within the context of the California Environmental Quality Act (CEQA). No further response is required because the comment does not raise any environmental issues.

Comment D.3: The developer needs to decide what he will be building and council needs to know details before anything is approved. It is irresponsible to allow both options to be approved without knowing details.

Response D.3:

This comment will be forwarded to the City Council for their consideration. The SEIR evaluated environmental impacts associated with both Options 1 and 2 of the proposed project. Mitigation measures for both options are provided in the SEIR. Additionally, the applicant has provided site plans for both options for City staff to review and consider.

E. Devlin Creighton (July 18, 2019)

Comment E.1: At no times should the access to my carport located off the alleyway from Reed Street be restricted or blocked to allow my tenants to come and go as normal.

Response E.1:

This comment does not address the analysis in the Draft EIR. However, the project applicant will be required to obtain approval of a Site Utilization Plan and Revocable Encroachment Permit from the Department of Public Works for any sidewalk or lane closures to support construction activities.

Comment E.2: Building should be required to have standard amount of parking since there is no extra street parking in the area not already being used.

Response E.2:

Parking is not considered an environmental issue under the California Environmental Quality Act. However, the following information is provided to clarify the project's compliance with parking requirements in the Municipal Code.

Pursuant to Section 20.90.220 of the San José Municipal Code, a parking reduction of up to 50% may be authorized for a development which provides all the required bicycle parking and is located in a designated growth area. Additionally, Section 20.70.330.B of the Municipal Code authorizes further parking reductions, up to 50%, for mixed-use projects in the Downtown Zoning Districts where the reduction would not adversely affect surrounding projects, the reduction would not be dependent upon public parking, and the project can demonstrate it can maintain a Transportation Demand Management (TDM) program for the life of the project and maintain the provided parking.

Development Option 1 proposes to utilize a 20% parking reduction to allow 232 parking spaces in lieu of 290 parking spaces. The project would provide the required bicycle parking. The closest Light Rail station is at the San Jose Convention Center within 1/3 mile (1,790 feet) of the site and existing buses have routes within ¼ mile of the project site. The project proposes to utilize the 20% parking reduction and would provide 232 vehicle parking spaces and 76 bicycle parking spaces in compliance with the Municipal Code.

Development Option 2 proposes to utilize a 50% parking reduction as well as the additional 50% parking reduction permitted in Section 20.70.330.B. The Co-Living development (Option 2) proposes to provide 124 vehicle parking spaces and 183 bicycle parking spaces comprised of 18 short term spaces and 180 long term spaces. The project proposes a TDM program and would provide a transit pass program for all the retail employees and Co-Living facility tenants. Additionally, the project would designate an on-site TDM manager and develop a campaign to improve tenant awareness and participate in alternative transportation options. Finally, the project proposes to unbundle the parking for the Co-Living Facility which would require future tenants to rent a parking space. The project would not rely on public parking and would be conditioned to maintain the minimum code required parking (with reductions) for the life of the project. The project's TDM includes analysis on the cost of the VTA Eco passes and this cost has been

factored into the project's annual budget. Therefore, the proposed parking reduction would comply with the Municipal Code.

Comment E.3: Construction hours and construction noise to remain within the standards allowed.

Response E.3:

As discussed on page 99 of the Initial Study (SEIR Appendix B), the project is required to comply with Municipal Code Section 20.100.450 limits construction to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, for projects within 500 feet of residential unless permission is granted with a development permit or other planning approval. Furthermore, General Plan Policy EC-1.7 considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve noise generating activities (e.g., excavation, grading, demolition, and building) for more than 12 months.

The project is proposing construction on Saturdays between 7:00 a.m. and 7:00 p.m. as well as one 24-hour construction day during the foundation concrete pour under both options. Furthermore, the project anticipates a 26-month construction period under both options. Therefore, per the requirements of General Plan Policy EC-1.7 and consistent with the Downtown Strategy 2040 FEIR, Mitigation Measure NOI-1 would be implemented to require a construction noise logistics plan that would incorporate best management practices during construction.

Mitigation Measure

MM NOI-1: The project applicant shall retain a qualified professional to prepare a construction noise logistics plan during all phases of construction on the project site. The plan shall specify hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who shall respond to neighborhood complaints. All measures from this plan shall be included on all approved grading and building permit plans. Measures to be included in the plan shall include, but are not limited to, the following:

- Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists;
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;

- If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing;
- Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule

The project applicant shall ensure that all construction crews shall adhere to the Construction Noise Logistics Plan to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity. The construction noise logistics plan shall be reviewed and approved by the Director of Planning or Director's designee prior to issuance of any grading permit and/or building permits.

Comment E.4: At no times should equipment, supplies, or workers be on my private property.

Response E.4:

This comment does not address the analysis in the Draft EIR. No equipment staging, supplies, or construction workers are permitted on adjacent properties without the permission of the property owner.

SECTION 5.0 DRAFT SEIR TEXT REVISIONS

This section contains revisions to the text of the Garden Gate Tower SEIR dated July 2019. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 65 of the Initial Study, Appendix B

BAAQMD CEQA Guidelines and 2017 Bay Area Clean Air Plan

BAAQMD recently adopted new CEQA Guidelines (June 2010, Updated May 2017). The new guidelines supersede the previously adopted 2010 CEQA Guidelines and include new and updated thresholds for analyzing air quality impacts, including a threshold for GHG emissions. Under these thresholds, if a project would result in an operational-related GHG emission of 1,100 metric tons (MT) (or 4.6 MT per service population⁸) of carbon dioxide equivalents (CO₂e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, the analysis for this project uses a “Substantial Progress” efficiency metric of 2.6 MT CO₂e/year/service population. This service population threshold is calculated for 2030 based on the GHG reduction goals of EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs⁹.

Page 67 of the Initial Study, Appendix B

Total Project-Related Sources of Greenhouse Gases As shown in Table 6, the total project-related emissions for Option 1 from indirect and direct sources combined would result in 1,917.53 MTCO₂eq/year. The project’s service population would be made up of residents and employees associated with the residential condominiums and retail space. The project’s service population would result in approximately 1.9 MTCO₂eq per service population per year. While the Downtown Strategy 2040 FEIR identified the full build-out of the Downtown Strategy 2040 would result in significant unavoidable impact to GHG emission under the 2040 statewide reduction target, the project would not exceed the significance threshold for a project level analysis. As shown in Table 6, the proposed project would not exceed the service population threshold of 2.6 MT CO₂e/year/service population, which is below the BAAQMD significance thresholds (4.6 MTCO₂eq per service population per year). The project’s contribution of GHG emissions would be less than significant.

As shown in Table 7, the total project-related emissions for Option 2 would result in 3,163 MTCO₂eq/year. The project’s service population is estimated to be approximately 1,275 (residential) which would result in 2.48 MTCO₂eq per service population per year. While the Downtown Strategy 2040 FEIR identified the full build-out of the Downtown Strategy 2040 would result in significant unavoidable impact to GHG emission under the 2040 statewide reduction target, the project would not exceed the significance

⁸

⁹

threshold for a project level analysis. As shown in Table 7, the proposed project would not exceed the service population threshold of 2.6 MT CO₂e/year/service population. This is below BAAQMD significance threshold and therefore, Option 2's contribution of GHG emissions would be less than significant.

Garden Gate Towers SEIR

Appendix A

Draft SEIR Comment Letters



August 29, 2019

**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

Krinjal Mathur
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

RE: Garden Gate Tower – Draft Supplemental Environmental Impact Report

Dear Ms. Mathur,

Bay Area Air Quality Management District (Air District) staff has reviewed the draft Supplemental Environmental Impact Report (SEIR) for the proposed Garden Gate Tower (Project). This Project includes two development options for a 27-floor building on a 0.42-acre site in the City of San Jose. Option 1 would be a traditional multi-family development with up to 290 residential units and approximately 4,840 square feet of ground floor retail space. Option 2 would be a co-living community development with up to 850 bedrooms in a co-living configuration and approximately 6,000 square feet of ground floor retail space.

The Air District commends the City and the developer on this high-density mixed-use project located in a downtown priority development area near public transit, which will help reduce vehicle miles travelled and therefore reduce both air quality and greenhouse (GHG) impacts.

Staff recommends the Project demonstrate consistency with all measures identified in the 2017 Scoping Plan needed to meet the State’s strategy to achieve the Statewide 2030 GHG reduction goal and be on track to meet the 2050 climate stabilization goal.

Air District staff recommends the project incorporate all feasible mitigation measures to be consistent with the 2017 State Scoping Plan, both on-site and off-site including the following:

- Newly constructed non-residential buildings shall be designed to achieve a 10 percent or greater reduction in energy use versus a standard Title 24 code-compliant building through energy efficiency measures consistent with Tier 1 of the 2016 California Green Building Standards Code, Section A5.203.1.2.1. Alternatively, this measure can be met by installing on-site renewable energy systems that achieve equivalent reductions in building energy use.

ALAMEDA COUNTY
John J. Bauters
Pauline Russo Cutter
Scott Haggerty
Nate Miley

CONTRA COSTA COUNTY
John Gioia
David Hudson
Karen Mitchoff
Mark Ross

MARIN COUNTY
Katie Rice
(Chair)

NAPA COUNTY
Brad Wagenknecht

SAN FRANCISCO COUNTY
Gordon Mar
Tyrone Jue
(SF Mayor’s Appointee)

SAN MATEO COUNTY
David J. Canepa
Carole Groom
Doug Kim

SANTA CLARA COUNTY
Margaret Abe-Koga
Cindy Chavez
(Secretary)
Lis Kniss
Rod G. Sinks
(Vice Chair)

SOLANO COUNTY
James Spering
Lori Wilson

SONOMA COUNTY
Teresa Barrett
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Connect with the
Bay Area Air District:



-
- Newly constructed buildings shall be designed to include Cool Roofs in accordance with the requirements set forth in Tier 2 of the 2016 California Green Building Energy Codes (CALGreen), Sections A4.106.5 and A5.106.11.2.
 - Require the electrification of all loading docks to facilitate plug-in capability and require trucks to utilize grid power to deliver goods.
 - Require the project to meet SB 743 derived vehicle miles traveled (VMT) reductions of 15% below the regional average VMT.
 - Require 10% of parking spaces to include electric vehicle charging equipment and designated for electric vehicle parking only.
 - Require the use of zero emission off road equipment for construction and operation, as well as renewable fuels (such as renewable diesel and biogas), if available.
 - All construction activities shall implement waste reduction, disposal and recycling strategies in accordance with sections 4.408 and 5.408 of the 2016 California Green Building Standards (CALGreen). In addition, projects shall achieve or exceed the enhanced Tier 2 targets for reusing or recycling construction waste of 75 percent for residential and 80 percent for nonresidential buildings as described in Sections A4.408 and A5.408 of the CALGreen standards.

Air District staff is available to assist the City in addressing these comments. If you have any questions or would like to discuss Air District recommendations further, please contact Josephine Fong, Environmental Planner, at (415) 749-8637 or jfong@baaqmd.gov.

Sincerely,



Greg Nudd
Deputy Air Pollution Control Officer

cc: BAAQMD Director Margaret Abe-Koga
BAAQMD Secretary Cindy Chavez
BAAQMD Director Liz Kniss
BAAQMD Vice Chair Rod G. Sinks
Thai-Chau Le, City of San Jose

Mathur, Krinjal

From: Shree Dharasker <sdharasker@valleywater.org>
Sent: Thursday, August 08, 2019 4:56 PM
To: Mathur, Krinjal
Cc: Colleen Haggerty; Michael Martin; Metra Richert
Subject: RE: New Newsflash Public Review Draft Supplemental EIR: Garden Gate Tower For www.sanjoseca.gov

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Supplemental Environmental Impact Report (DEIR) and Water Supply Assessment (WSA) for the Garden Gate Tower Project and does not have any comments.

Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit
(408)630-3037

From: Planning [mailto:noreply@sanjoseca.gov]
Sent: Monday, July 15, 2019 10:29 AM
To: CPRU-Dropbox <CPRU@valleywater.org>
Subject: New Newsflash Public Review Draft Supplemental EIR: Garden Gate Tower For www.sanjoseca.gov

[View this in your browser](#)

July 15, 2019

Public Review Draft Supplemental EIR: Garden Gate Tower

The Draft Supplemental Environmental Impact Report for Garden Gate Tower is available online. Public review period will start 7/15/19 and end on 8/29/19.... [Read on](#)

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Mathur, Krinjal

From: Kitty Moore [REDACTED]
Sent: Monday, July 15, 2019 12:43 PM
To: Mathur, Krinjal
Subject: Comment on 65962.5 Statement Fwd: New Newsflash Public Review Draft Supplemental EIR: Garden Gate Tower For www.sanjoseca.gov

Hi Krinjal,

Please see p. 79/PDF 90 of the SEIR, <http://www.sanjoseca.gov/DocumentCenter/View/85852> :

"d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? Same Impact as Approved Project – Less Than Significant Impact. *The project site is listed on various databases* [emphasis added] due to the site's use as an automotive repair shop in 1985."

However, the webpage linked in the email I received states the following:

The proposed project will have potentially significant environmental effects with regard to biological resources, hazards and hazardous materials, noise, cultural resources, and cumulative cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of toxic sites.

<http://www.sanjoseca.gov/civicalerts.aspx?AID=2544>

The site does appear to be listed pursuant to Ca. Gov. Code 65962.5, according to the SEIR. I think it is confusing to point out a subset of the lists, the Cortese List, when there are a host of environmental issues buried in the Phase II Environmental Site Assessment. In fact, the Draft Supplemental Environmental Impact Report **fails to mention** the Hazards and Hazardous Materials in the text, they simply have a mitigation summary and no chapter on them. This looks like a failing of the Draft Supplemental Environmental Impact Report to disclose.

The mere presence of a Phase II ESA with soils testing alone is a red flag that there are contamination concerns, here is an excerpt from the Phase II ESA, <http://www.sanjoseca.gov/DocumentCenter/View/85845>. pp. 5-6/PDF 11-12

"TPHg was detected at or above the laboratory reporting limit (1.0 milligram per kilogram (mg/kg)) in 10 of the 29 samples analyzed, at concentrations ranging from 1.4 mg/kg to 2,000 mg/kg; five of which (E-2-15.0, E-3-15.0, E-3-26.0, E-3-36.0, and E-4-15.0) exceed the Tier 1 ESL for TPHg of 100 mg/kg. TPHd was detected at or above the laboratory reporting limit (1.0 mg/kg) in 15 of the 29 samples analyzed, at concentrations ranging from 1.2 mg/kg to 120 mg/kg. None of the detected concentrations of TPHd exceeded the Tier 1 ESL of 230 mg/kg.

TPHmo was detected at or above the reporting limit (5.0 mg/kg) in 14 of the 29 samples analyzed at concentrations ranging from 7.8 mg/kg to 530 mg/kg. None of the detected concentrations of TPHmo exceeded the Tier 1 ESL of 5,100 mg/kg.

Various VOC compounds were detected above laboratory reporting limits in three of the 11 samples analyzed. Most of the VOCs were detected at trace concentrations. However, two soil samples collected from boring E-3 at depths of 26 feet bgs (E-3-26.0) and 36 feet bgs (E-3-36.0), detected up to nine VOC compounds above laboratory detection limits, five of which exceeded established ESLs. Benzene, toluene, ethylbenzene, and

xylenes (BTEX) and naphthalene were detected in sample E-3-26.0 at concentrations of 1.4 mg/kg, 9.7 mg/kg, 6.2 mg/kg, 17 mg/kg, and 1.9 mg/kg, respectively. These five detections exceed their respective Tier 1 ESLs of 0.044 mg/kg, 2.9 mg/kg, 1.4 mg/kg, 2.3 mg/kg, and 0.033 mg/kg, respectively.

Additionally, the detected concentration of benzene (1.4 mg/kg) exceeds the residential and commercial/industrial ESLs of 0.23 mg/kg, and 1.0 mg/kg, respectively. The detected concentration of ethylbenzene (6.2 mg/kg) exceeds the residential ESL of 5.1 mg/kg. The detected concentration of benzene (1.4 mg/kg) exceeds both residential and commercial/industrial ESLs of 0.23 mg/kg and 1.0 mg/kg, respectively. Naphthalene was detected in sample E-3-36.0 at a concentration of 0.11 mg/kg, which exceeds the Tier 1 ESL of 0.033 mg/kg.

Phenol, a SVOC, was detected above laboratory detection limits in one of the six samples analyzed. Sample E-3-36.0 detected phenol at a concentration of 5.9 mg/kg, which exceeds the Tier 1 ESL, 0.10 mg/kg. No other SVOCs were detected at or above laboratory reporting limits in the soil samples analyzed.

Trace concentrations of three OCPs were detected in one of six soil samples analyzed (E-3-1.5), but do not exceed established ESLs. Additionally, no PCBs were detected above reporting limits in any of the samples analyzed.

Soil analytical results for metal parameters are summarized in Table 2 and were compared to the California total threshold limit concentration (TTLC), the State of California hazardous waste criterion (STLC), and the Federal hazardous waste criterion (TCLP).

Total lead was detected in each of the 30 of the samples analyzed at concentrations ranging from 5.1 mg/kg to 140 mg/kg. Total lead was detected at concentrations at or above 50 mg/kg but below 1,000 mg/kg (TTLC) in six soil samples, which were subsequently submitted for STLC analysis and TCLP analysis (if necessary) to determine soluble lead levels. STLC lead was detected at or above the laboratory reporting limit (0.10 milligrams per liter (mg/L)) in five of the six soil samples analyzed at concentrations ranging from 0.67 mg/L to 12 mg/L. STLC lead was detected above the California hazardous waste concentration of 5.0 mg/L in a single soil sample (E-3-1.5) at a concentration of 12 mg/L."

I would like to see the website updated with some clarifying information as to Ca. Gov. Code 65962.5 and the EIR to clearly state whether the site is on any list pursuant to that statute.

Sincerely,

Kitty Moore
Representing myself only

----- Forwarded message -----

From: **Planning** <noreply@sanjoseca.gov>

Date: Mon, Jul 15, 2019 at 11:13 AM

Subject: New Newsflash Public Review Draft Supplemental EIR: Garden Gate Tower For www.sanjoseca.gov

To: [REDACTED]

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July 15, 2019

Public Review Draft Supplemental EIR: Garden Gate Tower

The Draft Supplemental Environmental Impact Report for Garden Gate Tower is available online. Public review period will start 7/15/19 and end on 8/29/19.... [Read on](#)

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Mathur, Krinjal

From: Aurelia Sanchez [REDACTED]
Sent: Thursday, July 18, 2019 7:20 AM
To: Mathur, Krinjal
Subject: Garden Gate Tower-Sp18-001 And T18-001

Hello,

I attended the community meeting held at the Latino Library some months ago and I wish to express my concerns again and make them part of the written record.

My preference is option one-Traditional Mult-Family Development with no retail on ground floor. Parking is a problem downtown and in order for retail to be successful you need heavy pedestrian traffic which is not the case downtown. In addition we have empty storefronts downtown and in other parts of the city. A garden or green space would serve the residents better since there are no parks nearby.

We need adequate parking for residents or provide a car sharing program. There are too many scooters and bikes dumped all over our neighborhoods which is creating blight. People are stealing parts off of some of the scooters and bikes and our dumping them in our creeks. There was a piece done on the news on this where an individual was cleaning our creeks on his own. No one is taking responsibility regarding discarded bikes etc and to depend on this type of transportation for residents of this project is foolish.

The developer needs to decide what he will be building and council needs to know details before anything is approved. It is irresponsible to allow both options to be approved without knowing details.

Proper park fees and construction fees need to be paid.

Reduction in units should be considered for this area.

Aurelia Sanchez

District 3 resident

Mathur, Krinjal

From: Devlin Creighton [REDACTED]
Sent: Thursday, July 18, 2019 2:15 PM
To: Mathur, Krinjal
Subject: Re: San Jose Planning Public Review Draft Supplemental EIR: Garden Gate Tower

Hi Krinjal,

As owner of neighboring property 629 S. 2nd Street in San Jose, I would like the following issues to be addressed and to remain within the standards allowed for such a building with no exceptions granted. Reference File Nos. SP18-001 & T18-001. Please reply to confirm receipt of this email.

- at no times should the access to my carport located off the alleyway from Reed Street be restricted or blocked to allow my tenants to come and go as normal.
- building should be required to have standard amount of parking since there is no extra street parking in the area not already being used.
- construction hours and construction noise to remain within the standards allowed.
- at no times should equipment, supplies, or workers be on my private property.

Thanks,
Devlin Creighton
[REDACTED]

On Mon, Jul 15, 2019 at 10:41 AM Mathur, Krinjal <krinjal.mathur@sanjoseca.gov> wrote:

**NOTICE OF AVAILABILITY OF
A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (EIR)
AND PUBLIC COMMENT PERIOD**

A Draft Environmental Impact Report (DEIR) for the **Garden Gate Tower**. The project includes development of a multifamily apartment building with ground floor neighborhood-oriented retail with two design options proposed: (1) Option 1: Traditional Multi-Family Development and (2) Option 2: Co-Living Community Option.

Option 1: Traditional Multi-Family Development – Development of a multi-family apartment building with up to 290 residential units and approximately 4,840 square feet of ground floor neighborhood oriented retail area. The total building area is approximately 513,333 square feet.

Option 2: Co-Living Community Option – Development of up to 850 bedrooms in a Co-Living Community configuration with a combined total of approximately 510,738 square feet (including open

space areas). The ground level will include approximately 6,000 square feet of retail, lobby and a loading area.

Both options propose a development of a 27-floor building with a maximum height of approximately 283 feet. The buildings would have a similar footprint and design with the exception of some minor differences in the ground floor layout. Both options would also include the demolition of an existing two-story residential building (on the City's Historic Resources Inventory), façade treatment to an existing single-story brick office building, and relocation of an on-site neon sign to the roof of the proposed development.

File Nos.: SP18-001 & T18-001. **Location:** The 0.42-acre project site is comprised of two parcels (APNs 472-26-090 and 472-26-089) located at the intersection of South First Street and East Reed Street, at 600 South First Street in downtown San José. **Council District:** 3.

The proposed project will have potentially significant environmental effects with regard to biological resources, hazards and hazardous materials, noise, cultural resources, and cumulative cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of toxic sites.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José's "Active EIRs" website at <http://www.sanjoseca.gov/index.aspx?NID=6073> and are also available at the following locations:

Department of Planning, Building and Code Enforcement

200 East Santa Clara St., Tower 3rd Floor

San José, CA 95113

(408) 535-3555

Dr. MLK Jr. Main Library

150 E. San Fernando St.,

San José, CA 95112

(408) 277-4822

The public review period for this Draft EIR begins on **July 15, 2019 and ends on August 29, 2019**. Written comments must be received at the Planning Department by **5:00 p.m. on August 29, 2019**, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Krinjal Mathur in the Department of Planning, Building and Code Enforcement at 408-535-3844, via e-mail: krinjal.mathur@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement). For the official record, please your written comment letter and reference File Nos. SP18-001 & T18-001.

Following the close of the public review period, the Director of Planning, Building, and Code Enforcement will prepare a Final Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the EIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the EIR during the public review period.

Krinjal Mathur, Planner

Planning Division, Department of Planning, Building & Code Enforcement

City of San José, 200 E. Santa Clara Street, San José, CA 95113

408.535.7874 | krinjal.mathur@sanjoseca.gov

www.sanjoseca.gov/planning



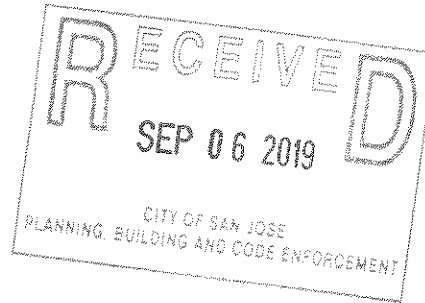
Gavin Newsom
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Kate Gordon
Director

August 30, 2019



Krinjal Mathur
San Jose, City of
200 E. Santa Clara St., Floor 3
2018042072
San Jose, CA 95113

Subject: Garden Gate Tower
SCH#: 2018042072

Dear Krinjal Mathur

The State Clearinghouse submitted the above named EIR to selected state agencies for review. The review period closed on 8/29/2019, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act, <https://ceqanet.opr.ca.gov/2018042072/3>.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse