

**Responses to Comments  
on the  
Initial Study/Mitigated Negative Declaration  
for the  
259 Meridian Avenue Project  
File No.: PDC18-016 and PD19-011**



**Prepared for the City of San José Department of  
Planning, Building & Code Enforcement**

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**259 Meridian Avenue (File No. PDC18-016)**

**RESPONSE TO COMMENTS**

The February 2020 259 Meridian Avenue Initial Study and Mitigated Negative Declaration (IS/MND) was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The IS/MND was circulated for public comment from February 21 to March 12, 2020. The City received the following two comment letters during the public comment period:

- A. Edward Saum March 12, 2020  
(Shasta/Hanchett Park Neighborhood Assn.)
  
- B. Ben Aghegnehu March 12, 2020  
(Associate Transportation Planner, County of Santa Clara  
Roads & Airports Department)

This memo responds to comments on the IS/MND as they relate to the environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of all comment letters are attached.

**COMMENT LETTER A: Edward Saum**

**Comment A-1:** Per page 7 of the MND, "Transportation / Traffic - The project would not have a significant impact on this resource; therefore no mitigation is required."

S/HPNA residents and those who commute by car via Meridian Avenue know that, during rush hour, the one block stretch of Meridian between Park Avenue and West San Carlos Street can take several minutes to traverse. The volume of cars along Meridian Avenue will all but prohibit left turns into and from the property. Therefore, the entirety of the 163 cars and 44 motorcycles entering the development will have to come down Park Avenue, which can be gridlocked for several blocks under the current traffic load. Similarly, the same vehicles leaving the development will have no choice but to turn right into the bottleneck that inevitably develops at Meridian Avenue and West San Carlos Street; an intersection that can already take multiple light changes just to clear properly at rush hour. To insist that this "would not have a significant impact" flies in the face of substantial qualitative and quantitative data to the contrary. Therefore, we consider this finding to be incorrect, and in need of revision.

**Response A-1:** Pursuant to Senate Bill 743, the City adopted City Council Policy 5-1 in 2018 to use Vehicle Miles Travelled (VMT) as the metric to assess traffic impacts under the California Environmental Quality Act (CEQA). VMT is the City's metric for determining a new development project's impact on the local transportation system for CEQA purposes, replacing Council Policy 5-3 Level of Service, which measures intersection capacity.

The Initial Study, upon which the MND is based, includes a discussion of Transportation impacts in Section 4.17. The analysis under Impact TRN-2 on Page 156 of the IS/MND compares the proposed project to the City's Transportation Analysis Policy (Council Policy 5-1), and concludes that the project is projected to generate Vehicle Miles Traveled (VMT) per capita of 6.99, which is below the residential significant impact threshold of 10.12 per capita. Therefore, the project would not result in an impact on the transportation system under CEQA and therefore, would result in a less than significant impact, as indicated in the MND.

Furthermore, consistent with the City Council Policy 5-1, the Transportation Analysis (Appendix E of the IS/MND) includes a Local Transportation Analysis (LTA) for with evaluations of site access and circulation. The analysis does indicate that the southbound

vehicle queue along Meridian Avenue at San Carlos Street is projected to extend beyond the project site driveway during the peak hours during both background and background plus project conditions. The analysis provided recommendations for the project driveway operations to address southbound vehicle queues along Meridian Avenue that could extend beyond the project driveway, causing access problems for project vehicles. The City has the discretion to require the implementation of the recommended measures, which include restricting turns to right in and right out of the driveway, and the installation of a median along Meridian Avenue. The existing two-way-left-turn lane is adequate to facilitate both inbound and outbound traffic at the project driveway. The City does not have planned improvements at this time to install a median which may restrict access to other developments adjacent to the project.

However, based on the LTA, the project does not result in adverse affects at the intersection of Meridian Avenue and San Carlos Street as a result of the project and therefore, no additional conditions were required.

This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-2:**

The project meets the stated parking requirements for the West San Carlos Urban Village (UV); however, the City's built environment is rife with instances of developments inevitably leading to parking spillover into the adjacent single-family neighborhood(s), directly impacting existing residents. This concern was raised loudly and repeatedly by community members at each of the proposed project's Community Meetings. No further mitigation was undertaken in response to this valid concern. Therefore, we consider this finding to be incorrect, and in need of revision.

The project proposed a total of 163 parking spaces for 226 units. Providing 65% of the bedrooms in the development with parking spots, and zero parking spots for the proposed 1,400 square foot commercial space, all but guarantees that there will be overflow onto Norton Avenue, Mariposa Avenue, and Yosemite Avenue. Given the economic realities of Silicon Valley, the majority of the 206 studio apartments will have at least one car, and the likelihood of the 20 two-bedroom units having 2-3 cars each is equally as high. To claim otherwise is willfully ignoring precedents throughout the City of San Jose. The additional burden placed on the

surrounding single-family residences will be, by definition, significant. Therefore, we consider this finding to be incorrect, and in need of revision.

Twenty-five years ago, S/HPNA fought to ensure that the Transportation, Parking and Management Plan (TPMP) for the San Jose Arena acknowledged the inevitable impact that a commercial development has on adjacent single-family residential areas. Any proposed Transportation Demand Management (TDM) program for the proposed project may help to assuage this persistent problem, but there are no means by which residents, visitors, employees, and patrons can be \*required\* to partake of these alternatives. Indeed, providing zero parking spots for the commercial space guarantees spillover onto adjacent streets. This omission, on its face, is an impact that renders the finding invalid.

The City's current scope of analysis and implementation for permit parking plans is too broad to address the impacts of anything but the largest mixed-use and commercial projects. Impacts of individual multi-family developments on their immediate adjacencies fit the spirit of the permit parking plan, but by setting too broad a physical distance as the plan / study minimum, the City ensures that no such further parking plans can be created. This is a quantifiable, tangible impact that requires mitigation; however, since current codes do not provide the City with the means by which to address the impact, City staff instead "rounds down" the potential impact, if you will, and declares it therefore to be non-existent. As part of the ongoing refinements and clarifications to the City's Urban Village Plans (which are inevitable, given the forceful direction from Sacramento directly undermining amenities and other aspects of the UV Plans), the City should create a framework by which more localized permit parking plans go hand-in-hand with UV developments in areas already identified as having parking and traffic flow deficiencies.

**Response A-2:**

As stated on Page 159 of the Initial Study, parking supply is not an issue that requires impact analysis under CEQA. The Initial Study therefore discusses the currently proposed number of vehicle, motorcycle and bicycle parking spaces provided by the project and the City's requirements. The project is currently proposing 162 vehicle parking spaces, 42 motorcycle spaces, and 71 bicycle parking space. This is a reduction of the required vehicle-parking ratios. However, as mentioned in the Initial Study and consistent with City's polices and requirements, the project proposes a TDM to comply with vehicle-parking reduction requirements. This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-3:**

Per page 18 of the Initial Study, Envision San Jose 2040 Policy CD-1.1 shall require “the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land use.”

Unlike most sites within the boundaries of the UV, the side elevation of the proposal is directly adjacent to single-family residence on Norton Avenue. While the project has been stepped down, from seven stories to five stories, we feel that this does not meet the standard made clear in the Policy. The proposed building is to the south of the single-family, single-story residences. The daylight plane diagram from the residences to the proposed development guarantees that the southern portion of each residence will receive little to no sun for a substantial portion of the year, directly impacting the economic viability, landscape options, and character of the single family homes. Each adjacent single family home will experience a direct, detrimental impact as a result. Until such time that a detailed, comprehensive shade and shadow study can be shown to prove otherwise, we consider the project to not be in compliance with Policy CD-1.1.

**Response A-3:**

In Section 4.1 of the IS/MND, the project is evaluated for substantial adverse effects to scenic vista, degradation of scenic resources, conflict with zoning or other regulations pertaining to governing scenic quality, and substantial light or glare to the environment. The General Plan policies and Urban Village guidelines are to supplement the analysis against these CEQA criteria. As disclosed in Section 4.1 of the IS/MND, the project is not located within or along scenic highways, rural scenic corridor, or City gateway. The IS/MND discussion under Impact AES-3 acknowledges that the proposed building would represent a substantial difference in height from the adjacent buildings, but also notes that it would conform to the City’s height limit for the West San Carlos Street Urban Village Plan. Furthermore, while there is a difference in height from the project to the surrounding properties, the proposed development is within an existing urbanized area. The project would also comply with existing City’s policies regarding lighting to limit nighttime light and glares. The ground-floor has a glass storefront while the glass in the upper floors is limited to windows for the units in order to reduce daytime glare. Therefore, the project would not degrade the existing environment in character or its surroundings, conflict with policies that govern scenic quality, or result in mitigatable light and glares.

In addition, the allowed height in the Urban Village land use

designation, per the West San Carlos Urban Village Plan is 85 feet, into which allows non-occupiable architectural features such as roof forms, chimneys, stairwells, and elevator housing to project up to ten feet above the maximum height limits. The project is utilizing setbacks and step-backs to reduce the bulk of the building towards the existing single-family homes, and is proposing a 4-story building adjacent to the existing single-family homes and stepping up to 7 stories towards West San Carlos. The three adjacent existing single-family homes directly north of the project site have a General Plan land use designation of Urban Village and are allowed the same density and height regulations as the project site. This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-4:** Per page 18 of the Initial Study, Envision San Jose 2040 Policy CD-1.8 shall require “an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including the use of smaller building footprints, to promote pedestrian activity throughout the City.”

The North façade of the proposed building, facing (4) single family homes, is a 340’ long 3-5 story mass. By no imaginable definition does this reflect the use of smaller building footprints. Instead, it shows a conscious indifference to the impact of the building’s mass upon existing adjacencies. Therefore, we consider the project to not be in compliance with Policy CD-1.8.

**Response A-4:** Refer to response A-3 above regarding Aesthetic analysis under CEQA. This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

Furthermore, while the proposed building is not proposed as several stand-alone buildings, the proposed project is employing a combination of setbacks and step-backs to reduce the mass of the proposed building facing the existing single-family homes. As shown in the project design plans, the proposed project is placing the common open space on the northern property line to create cut outs in the proposed building to reduce the mass.

**Comment A-5:** Per page 19 of the Initial Study, Envision San Jose 2040 Policy CD-1.12 shall require “building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by

designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.”

The proposed design shows no attempt to reflect the specific site. The same façade could just as easily be being proposed for a narrow site within any of the City’s countless Urban Villages, with little to no context. The same project would be no more or less at home in downtown San Jose, along North First Street, or adjacent to the 4th and King Caltrain station in San Francisco. Context is wholly lacking. Therefore, we consider the project to not be in compliance with Policy CD-1.12.

**Response A-5:**

The project is located within the Mixed-Use Residential Character Area as per the West San Carlos Urban Village Plan. Within this Character Area, development is proposed to range between three and seven stories with residential uses above a mix of active ground floor retail. Furthermore, the project is proposing a mid-century inspired architectural design, which is supported by the Urban Village plan and the Urban Design chapter within the village plan. Compliance with Policy CD-1.12 in terms of what appropriately reflects the unique character of the subject site and the context of the surrounding development is being reviewed as part of this Planned Development Rezoning and associated Development Permit. Refer to Response A-3 for aesthetic impact analysis under CEQA. Therefore, this comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-6:**

Per page 19 of the Initial Study, Envision San Jose 2040 Policy CD-1.13 shall require “design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.” Per our response above to Policy CD-1.12, the proposed project shows no attempt at innovative or distinctive architecture. One need only travel down West San Carlos Street toward downtown to pass several previous developments with the same architectural vocabulary and detailing. Therefore, we consider the project to not be in compliance with Policy CD-1.13.

The traffic and parking deficiencies that are inherent in the proposed project will negatively impact the desirability of the development, as access to and from the site are substantially compromised. Therefore, we consider the project to not be in compliance with Policy CD-1.13.



**Response A-6:** Refer to Response A-3 and A-5 for aesthetic impact analysis under CEQA.

As stated in Responses A-1 and A-2, the proposed project was analyzed for transportation impacts under CEQA pursuant to City Council Policy 5-1. The policy evaluated the VMT impact of the proposed project as compared to the existing VMT of the area. As part of the IS/MND and transportation analysis (Appendix 4.17 of the IS/MND), the project was not found to result in significant impacts to transportation that would require mitigation measures.

As stated in Response A-3, the project was evaluated for aesthetic impacts under CEQA in Section 4.1 of the IS/MND. The project is proposing mid-century inspired architectural design, which is supported by the Urban Village plan and the Urban Design chapter within the village plan. The project, while different in height and architecture, is within an urbanized area with appropriate step-backs and does not degrade the surrounding area, result in a loss of scenic resources, or result in unmitigable light and glare impacts. This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-7:** S/HPNA is severely underserved in parks. As additional residents move into the area, the sub-standard residents-to-parks ratio will continue to worsen. While this widening disconnect is not unique to our neighborhood parks, it has been exacerbated by previous Council policies, including, but not limited to, the inclusion of school lands in parkland calculations. While we applaud the creation of the privately-owned public open space (POPOS) in the proposed project, including only hardscape does nothing to address the area's parks deficiency; instead, the additional residents will find themselves lacking a viable park space within walking distance. Additional landscape POPOS should be a requirement of any proposal within an Urban Village; otherwise, density without access to parklands will have a deleterious effect upon the economic viability of any such development, directly undercutting several of the Envision San Jose 2040 Policy goals.

**Response A-7:** Section 4.15 of the IS/MND discussed requirements for the project as it relates to public services including public parks. The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential

development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. The proposed development would provide common open space in the form of an outdoor plaza at ground level (approximately 1,800 square feet) and two outdoor courtyard areas on the podium deck (approximately 10,683 square feet total), which are available to the residents. The project would be required to conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance, and would pay PDO/PIO fees to offset the increased demand for parks and recreational facilities. The Initial Study's finding that the proposed development would not significantly impact neighborhood and regional park facilities is based on the project's conformance to the City's Parkland Dedication Ordinance and Park Impact Ordinance. It does not address, nor is it required to address under CEQA, the adequacy of the City's goals and policies regarding residents-to parks ratio issues or required parkland area calculations. Therefore, this comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**Comment A-8:**

We take pride in our neighborhood; S/HPNA Board members and volunteers have been diligent advocates for decades. Density and additional development within our boundaries are inevitable; poorly conceived developments, which show a deliberate indifference towards the multiple, significant impacts on the adjacent residents should not be. We welcome development that supports the neighborhoods with community services and amenities, while maintaining and encouraging the walkability and vibrance of the area.

**Response A-8:**

The IS/MND, as required by CEQA, evaluated multiple resource areas for consistency with applicable thresholds such as the General Plan Policies, Municipal Codes, and City Council policies. Based on the findings of the IS/MND and associated technical reports, the project would be required to implement specific mitigation measures that will reduce potentially significant project impacts, including cumulative impacts, related to air quality, biological resources, cultural resources, and noise and vibration to less than significant levels. Therefore, this comment does not result in any new CEQA

analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

**COMMENT LETTER B: Ben Aghegnehu**

**Comment B-1:** The project description provided on page 30 of the Local Transportation Analysis in the Transportation Analysis is not consistent with the project description on the Initial Study, can you please explain which project description is correct?

**Response B-1:** The project description contained in the Initial Study is correct. The reason for the discrepancy is that the project applicant submitted revised plans to the City subsequent to the completion of the Transportation Analysis. As stated in the footnote at the bottom of Page 7, *“The current project proposes a total of 226 units, however, it originally proposed 241 units. Subsequent references in this Initial Study documenting 241 units are consistent with technical reports for air quality, greenhouse gas emissions, noise and traffic prepared for the original 241 unit project and reflect a conservative approach to evaluating impacts in these areas.”* This comment does not result in any new CEQA analysis, new significant impacts, or additional mitigation measures than those analyzed and disclosed in the IS/MND and associated appendices.

# Attachment A – Original Comment Letters