

Appendix A: Draft SEIR Comment Letters

NATIVE AMERICAN HERITAGE COMMISSION

March 19, 2020

Governor's Office of Planning & Research

Reema Mahamood, Planner III
City of San Jose

MAR 20 2020

STATE CLEARINGHOUSE

CHAIRPERSON
Laura Miranda
*Luiseno*Via Email to: reema.mahamood@sanjoseca.gov

Re: SCH#2018022032, CityPlaza Office (H19-016) Project, Santa Clara County, California

VICE CHAIRPERSON
Reginald Pagaling
Chumash

Dear Ms. Mahamood:

SECRETARY
Merri Lopez-Keifer
Luiseno

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

PARLIAMENTARIAN
Russell Attebery
Karuk

- There is no information in the documents of any contact or consultation with all traditionally, culturally affiliated California Native American Tribes from the NAHC's contact list.
- There does not appear to be evidence that possible mitigation measures were developed in consultation with the traditionally, culturally affiliated California Native American Tribes, for example when resources are found, avoidance or conservation easements.
- There does not appear evidence that a cultural assessment was completed.
- There does not appear to be any evidence of what to do for inadvertent finds of Native American remains in accordance with Health and Safety Code 7050.5.

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[Vacant]EXECUTIVE SECRETARY
Christina Snider
Pomo

The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52 (AB 52).⁴ **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"⁵, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷ Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or

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¹ Pub. Resources Code § 21000 et seq.² Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)

amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

If you have any questions or need additional information, please contact me at my email address: Sarah.Fonseca@nahc.ca.gov.

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

cc: State Clearinghouse

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice. A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.⁴ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).⁵

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.⁶

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.⁷

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.⁸

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.⁹

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.¹⁰

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program**, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹¹

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).¹²

An environmental impact report **may not be certified**, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

⁴ Pub. Resources Code § 21080.3.1, subds. (d) and (e)

⁵ Pub. Resources Code § 21080.3.1 (b)

⁶ Pub. Resources Code § 21080.3.2 (a)

⁷ Pub. Resources Code § 21080.3.2 (a)

⁸ Pub. Resources Code § 21082.3 (c)(1)

⁹ Pub. Resources Code § 21082.3 (b)

¹⁰ Pub. Resources Code § 21080.3.2 (b)

¹¹ Pub. Resources Code § 21082.3 (a)

¹² Pub. Resources Code § 21082.3 (e)

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹³

This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor’s Office of Planning and Research’s “Tribal Consultation Guidelines,” which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a “Tribal Consultation List.” If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**¹⁴
- There is no Statutory Time Limit on Tribal Consultation under the law.
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,¹⁵ the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.¹⁶
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.¹⁷

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project’s APE.
 - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.

¹³ Pub. Resources Code § 21082.3 (d)

¹⁴ (Gov. Code § 65352.3 (a)(2)).

¹⁵ pursuant to Gov. Code section 65040.2,

¹⁶ (Gov. Code § 65352.3 (b)).

¹⁷ (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.¹⁸
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.¹⁹

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁰ In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

¹⁸ (Civ. Code § 815.3 (c)).

¹⁹ (Pub. Resources Code § 5097.991).

²⁰ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

COMMENT LETTER B

From: [Chodoroff, Eric@DTSC](mailto:Chodoroff.Eric@DTSC)
To: [Mahamood, Reema](mailto:Mahamood.Reema)
Cc: [Prowell, Cheryl@DTSC](mailto:Prowell.Cheryl@DTSC)
Subject: H19-016 CITY VIEW PLAZA PROJECT - Draft SEIR - DTSC comments
Date: Thursday, April 23, 2020 3:46:14 PM

[External Email]

Hello,

I represent a responsible agency (Department of Toxic Substances Control) reviewing the Supplemental Environmental Impact Report (SEIR) for the CityView Plaza Office Project.

The SEIR includes mitigation measures for “Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials.”

DTSC has comments on the following mitigation measures for Impact HAZ-1:

MM HAZ-1, which requires preparation of a “Site Management Plan (SMP) to ensure construction worker safety and provide protocols for addressing the potential for unknown contamination that might be discovered during construction.”

- In addition to the SMP, DTSC recommends that the project proponent retain a qualified professional to conduct environmental sampling to assess potential soil, groundwater and soil gas impacts from former laundry businesses that operated at 166 W San Fernando Street (see Phase I ESA, Appendix H of SEIR). If unacceptable risks are identified from this property, or to future occupants of this property, DTSC recommends that prior to issuing any site grading or excavation permits, that a plan to cleanup or mitigate the risks be submitted to an environmental oversight agency for their review and approval. Prior to granting occupancy, the environmental oversight agency should approve that cleanup has been implemented and any proposed mitigation system was installed and tested to verify that it is functioning as designed. Appropriate environmental oversight agencies include DTSC, the Water Quality Control Board, or County Environmental Health.

MM HAZ-1.2, “Prior to the issuance of any site demolition, grading, or excavation permits, the project applicant shall obtain a NPDES permit obtained from the San Francisco Bay Regional Water Quality Control Board to modify the dewatering/treatment system to address groundwater seepage into the proposed underground parking areas, and to identify any improvements to the groundwater remediation system to address low levels of solvents in the groundwater that must be implemented to meet the NPDES discharge requirements.”

- DTSC recommends that the project proponent retain a qualified professional to evaluate the impact of dewatering activities during construction and future operation of the underground parking areas. The evaluation should assess whether dewatering activities may contribute to migration of groundwater impacted by chlorinated volatile organic compounds (CVOCs). The SEIR notes that tetrachloroethene (PCE) has been detected in groundwater at 150 Almaden Avenue during quarterly sampling for an NPDES permit. Although detected PCE

concentrations did not exceed the Maximum Contaminant Level for drinking water, concentrations may still present a risk for vapor intrusion at the site or nearby properties. If there is the potential to exacerbate the existing condition of pollution, DTSC recommends that a mitigation plan including be presented to an environmental oversight agency for their review and approval. The plan should include actions to be taken to limit contaminant migration, monitoring to evaluate if migration is occurring, and contingency plans. Prior to granting occupancy, the environmental oversight agency should approve a completion report documenting implementation of the plan.

Please feel free to reach out if you have any concerns.

Best regards,

Eric Chodoroff
Project Manager
DTSC - Site Mitigation and Restoration Program - Berkeley

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File: 34052
Guadalupe River

April 24, 2020

Ms. Reema Mahamood
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113

Subject: Notice of Availability of a Draft Supplemental Environmental Impact Report – CityView Plaza Office Development Project (H19-016)

Dear Ms. Mahamood:

Valley Water has reviewed the Draft Supplemental Environmental Impact Report (SEIR) for the CityView Plaza Office Development Project, located at the northeast corner of South Almaden Boulevard and Park Avenue, received on March 11, 2020.

Based on our review of the Draft SEIR documents we have the following comments:

Appendix A - Initial Study:

Page 79 Section 4.10.1.2 - Dam Failure and page 85 Section 4.10.2 - Impact Discussion, Lexington Dam should be referred to as James J. Lenihan Dam on Lexington Reservoir and Anderson Dam should be referred to as Leroy Anderson Dam. Additionally, the site is subject to inundation by the dam on the Guadalupe Reservoir.

Page 85 Section 4.10.2 - Impact Discussion, should be revised to note the easterly half of the site is also located in the FEMA Flood Hazard Zone D.

Valley Water records indicate there are three (3) active wells on APN 259-41-068. If current active wells will continue to be used following development of the site, they must be protected so that they do not become lost or damaged during construction. If the wells will not be used following development of the site, they must be properly destroyed by first obtaining a well permit from Valley Water. It should be noted that while Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water records. All wells found at the site must be either destroyed or registered with Valley Water as noted above. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Valley Water has no right of way or facilities at the project site; therefore, a Valley Water encroachment permit is not required for the proposed improvements.



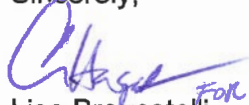
Ms. Reema Mahamood

Page 2

April 24, 2020

We appreciate the opportunity to comment on the draft SEIR and would also appreciate the opportunity to review any further documents when they become available. If you have any questions, or need further information, you can reach me at (408) 630-2479, or by e-mail at LBrancatelli@valleywater.org. Please reference District File No. 34052 on future correspondence regarding this project.

Sincerely,



Lisa Brancatelli

Assistant Engineer II

Community Projects Review Unit

cc: U. Chatwani, C. Haggerty, L. Brancatelli, M. Martin, File

COMMENT LETTER D

From: [Peter Duffy Bennett](#)
To: [Mahamood, Reema](#)
Subject: Draft EIR for CityView Plaza (H19-016)
Date: Wednesday, April 22, 2020 12:55:38 AM

[External Email]

Reema Mahamood,

These are my comments and questions on the Draft EIR for CityView Plaza (H19-016).

Supplemental EIR

- Page 18: The James and Aura are already occupied buildings. Why are they in this list?
- Page 132: The "Reduced Development Alternative 2 - Reduced Parking" is better than the proposed development. In fact, this doesn't "reduce" the development at all - it provides the same amount of usable space and less space for automobiles. The developer should strongly prefer this alternative, or one that reduces parking closer to zero spaces.
- Page 138: Why wasn't "Reduced Development Alternative 2 - Reduced Parking" included as an environmentally superior alternative? It is the same as the proposed project, with less cars. How is that not superior than the proposal?

Appendix A - Initial Study

- Page 11: Thirty short term bicycle parking spaces provided outside buildings is really low. That is 15 bike racks! There need to be more short-term spaces outside the buildings for patrons of these businesses.
- Page 100, Why is the City's Climate Smart policy not mentioned in this section? It has more ambitious mode split goals than the general plan.
- Page 103: The existing conditions for bicycle facilities is full of inaccuracies. Please see the comments on Appendix I and reconcile the two.
- Pages 105 and 107: These maps have inaccuracies, see the comments on Appendix I.
- Page 108: There is no VTA light rail line named or between Mountain View and Winchester.
- Page 111: What is "Site Distance?" Do you mean "sight distance?"
- Page 112: The office square footage of this project is increasing by about 5 times the existing. The trip generation is increasing by over ten times (e.g. from 270 AM trips to 2896 AM trips). This flawed methodology that Hexagon has used has resulted in an increase in driving over the rates today! This should raise a serious red flag to any city planner who is evaluating if this project is appropriate for the downtown core. This office project should be able to increase square footage and decrease driving. But this model indicates that it won't.
- Page 114: This project should have a reduction in off-street spaces that is much greater than the 20% that this report suggests. It is also offensive that this project is over-providing parking beyond the already high 6175. Please set a parking maximum and require this developer to reduce their parking number significantly.

Appendix I - Local Transportation Analysis

- Page 1, paragraph 1: why does this introduction paragraph focus entirely on site access for automobiles? This tone sets up the entire report as having a windshield perspective.
- Page 2, Figure 1: It appears that this map shows only automobile trips, but doesn't note that in the legend, or anywhere in the text where Figure 1 is referenced. Revise the map to show all trips, not just automobile trips.
- Page 3: San Fernando Street is described incorrectly. It doesn't have buffered bike lanes - it has parking protected bike lanes. It does not have a center median, or a two-way left-turn lane.
- Page 4: San Fernando Street should not be listed as having Class II bike lanes from Almaden Blvd and Cahill St. They are Class IV.
- Page 4: San Salvador Street has Class II bike lanes from Market and Fourth Street, not Seventh Street.
- Page 4: The Second Street Class II bike lanes are said to extend "south of William Taylor Street." There is no such street.
- Page 4: Fourth Street only has Class II bike lanes from Jackson St to Santa Clara Street and from San Salvador Street to Reed Street. The section from Santa Clara to San Salvador is Class IV.
- Page 4: The Guadalupe River Trail is not continuous to Curtner Avenue. It terminates on Palm (east) and Virginia (west).
- Page 5, Figure 2: Class III bike route should be shown on St. John, from the Guadalupe River Trail to Autumn St.
- Page 5, Figure 2: Class IV bike lane should be shown on Autumn St, from Santa Clara to St. John.
- Page 5, Figure 2: Class IV bike lanes should be shown on Cahill St, from San Fernando St to Santa Clara St.
- Page 5, Figure 2: Class IV bike lanes should be shown on San Fernando St, from Cahill to Almaden Blvd
- Page 5, Figure 2: Almaden Ave and Vine St should be shown with Class II bike lanes.
- Page 5, Figure 2: Bird Avenue has Class II bike lanes from San Carlos St to Coe Ave.
- Page 5, Figure 2: William St is a Class III bike route from First St to McLaughlin Ave
- Page 5, Figure 2: San Salvador St has Class IV bike lanes from 8th St to 10th St.
- Page 5, Figure 2: Fourth St has Class IV bike lanes from San Salvador St to Santa Clara St
- Page 5, Figure 2: There are bike share stations at Bird and Columbia, Park and Laurel Grove, Delmas and Virginia, San Salvador and 9th, William and 10th and Fountain Alley and 2nd.
- Page 6: There are also existing transit services provided by Santa Cruz METRO and Monterey Salinas Transit.
- Page 8, Figure 4: VTA buses 72 and 73 turn off of San Fernando St at 6th St, not 1st and 2nd Streets.
- Page 11: Why is it "conservative" to use a lower trip reduction than recommended? It sounds like you are rejecting the methodology to continue to assume that automobile access to the site is the norm.
- Page 11: The office square footage of this project is increasing by about 5 times the existing. The trip generation is increasing by over ten times (e.g. from 270 AM trips to 2896 AM trips). This flawed methodology that Hexagon has used has resulted in an increase in driving over the rates today! This should raise a serious red flag to any city planner who is evaluating if this project is appropriate for the downtown core. This

office project should be able to increase square footage and decrease driving. But this model in the LTA indicates that it won't.

- Page 15: The City's Better Bikeways program did not "[narrow] the travel way" The curb-to-curb remains the same.
- Page 18: Explain how the Better Bikeways improvements resulted in shorter crossing distances for bicycle users?
- Page 18: The Better Bikeways program did not shorten the crossing distances for pedestrians. It did make less of the crossing in an auto travel lane where an automobile driver might kill a pedestrian.
- Page 19: Why is this blank page here?
- Page 21, Loading Areas Access, 2nd paragraph: This paragraph refers to automobile congestion on San Fernando as something that would be anathema to multi-modal travel. It's the opposite. San Fernando Street should have as much automobile congestion as possible, so that other users can travel faster than driving, thus making driving less attractive.
- Page 26, second and fifth paragraphs: The tone of this paragraph makes it sound like the lack of a right turn pocket is a bad thing because a queue would extend upstream. The City should not add roadway capacity to accommodate this queue. Queuing and congestion for motor vehicles is appropriate for San Fernando Street. Without it, more people will drive to this development.
- Page 31: I support the crosswalk across the south approach of the new Almaden driveway. Adding this in would add delay to the traffic volumes for both driveways, which is a good thing for discouraging driving.
- Page 31: Why are bicyclists and "bicyclist" (singular) referred to in the pedestrian circulation section?
- Page 33: The Guadalupe River Trail is not continuous to Curtner Avenue. It terminates on Palm (east) and Virginia (west).
- Page 34: A 6' raised bikeway is too narrow for passing. This bikeway is also described as being between trees and a sidewalk. It should have the trees between the bikeway and the sidewalk.
- Page 34: There are no existing bus stop islands on the streets discussed in this section.
- Page 39: There are no VTA light rail lines that are named or run between "Mountain View - Winchester" or "Alum Rock - Santa Teresa."
- Page 40: A 19% parking reduction is too low. The current zoning regulations requiring 7718 car parking spaces is already absurdly high. Reducing this by only 19% is even lower than the low 31% that Hexagon reduced the trip generation.
- Page 40: Introducing 6230 parking spaces into downtown San José will result in the city failing to meet its general plan and Climate Smart goals. This project will continue to encourage happy motoring that we see today.
- Page 41: The 50% reduction mentioned in 20.90.220.A.1 should be required of this project. Additionally, they should be encouraged to reduce their parking further.
- Page 42: It is pathetic that this developer is meeting the city's bike parking requirements and exceeding them by 1. It is nakedly obvious that they wish they didn't have to provide this.
- Page 42: the three bike storage rooms described in this section are implied to hold all 776 parking spaces. Are these rooms publicly accessible? Are they available for customers at the businesses? They are certainly going to be inconvenient for the businesses, compared to placing some of the spaces on the street frontage like other cities do.
- Page 48, second paragraph: This is the most sensible conclusion in this whole report. It

admits that the demand for automobile travel to this development will not materialize.
Limit the developer's ability to build parking at this critical site.

Thank you,
Peter Bennett

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COMMENT LETTER E

From: [Omar Billawala](#)
To: [Mahamood, Reema](#)
Subject: Planning File No.: H19-016 -- comments on CityView Plaza Draft SEIR
Date: Friday, April 24, 2020 12:51:54 PM

[External Email]

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Email: Reema.Mahamood@sanjoseca.gov

Re: Comments on CityView Plaza Draft SEIR

Dear Ms Mahamood:

This letter constitutes our comments on the above referenced Draft SEIR. Our concerns about the DSEIR all arise from the fact that we are a tenant in the 150 S. Almaden Building (the “150 Building”). Except for a two year period during the financial crisis, we have been tenants of City View Plaza, and its predecessor Park Center Plaza, since 1998.

Under our lease, we have the right to remain, and we do expect to remain, in the 150 Building until the lease expiration on July 31, 2026. The DSEIR is deficient in two regards: First, the Project Description in the DSEIR is incorrect in that it fails to take into account our continued tenancy, or that of other tenants in the 150 Building. Second, the impacts on tenants of the 150 Building (primarily due to Air Quality and Noise/Vibration) from construction of the Project have not been analyzed.

The Project Description Fails to Take Into Account Continued Tenancy of the 150 Building.

-
This is a truly massive project: as proposed it includes the demolition of over a million square feet of existing buildings, and the construction of 3.8 million square feet of new ones plus a parking garage for over 6,000 vehicles in five below-grade levels (requiring 72 feet of excavation). It will house more than 20,000 employees.

There will be a vast amount of construction work. The DSEIR says the Project will take 69 months to construct, on a 24-hour per day, 7-day per week schedule, starting in 2020 (page 12). The DSEIR has a few mentions of existing tenants:

1. “Existing tenants would be consolidated into the existing 150 South Almaden Boulevard office tower” (page 12).
2. “Phase 3 Demolition: After complete vacancy, the office tower at 150 South Almaden Boulevard would be demolished along with associated underground garage” (page 12, Table 2.2-2, Phasing Plan).
3. “Initial demolition is anticipated to take six months. The buildings at 150 South Almaden Boulevard and 121 South Market Street would be demolished later in the project due to leasing obligations.”

As stated above, we have a leasehold right of occupancy (legally, a right, also, of “quiet enjoyment”) of our premises through July 31, 2026. It is obvious that under the Project Description in the DSEIR, the Project would have to start the demolition of the 150 Building several years prior to the expiration of our lease.

We ask that the Project Description be modified to state more accurately that construction will occur over a period, not of 69 months (just under six years), but more accurately eight to nine years. We also ask that a project condition be added to an approval of the Project to provide that the Developer must continue to provide quiet enjoyment to existing tenants in the 150 Building until the expiration of their leases.

The DSEIR Fails to Analyze the Health Risks from Construction upon Remaining Tenants of the 150 Building

This Project will involve enormous amounts of demolition and construction, with a great deal of construction equipment and tens of thousands of diesel truck trips involved in the construction (in fact, more than 3.5 million total vehicle trips, see page 14). This huge amount of demolition, excavation and construction is unprecedented in Downtown San Jose, and will naturally be expected to have CEQA impacts involving Air Quality and Noise/Vibration, among others.

The DSEIR appropriately does analyze such construction phase impacts, and concludes that there certain Air Quality impacts (and health risks to receptors in identified properties) that will be significant and unmitigatable. It concludes the same for Noise/Vibration impacts.

In performing these analyses, the DSEIR considers the impacts on nearby properties and buildings. However, there is no consideration at all of the potential impacts on the nearest of Air Quality and Noise/Vibration receptors – the tenants remaining in the 150 Building, who will be exposed to this construction impacts for years.

We understand the CEQA principle that CEQA doesn't require analysis of the influence of the

environment on the project; however, that principle is not applicable here. The fact is that for a number of years, the closest population that will be affected by Air Quality and Noise/Vibration impacts is comprise of the tenants of the 150 Building.

There is absolutely no analysis of these impacts on those receptors. Similarly, although standard mitigations are proposed to partially mitigate these impacts on other, less nearby properties and populations, there is no analysis whatever of whether these mitigations will be effective to protect the health and well-being of the tenants of the 150 Building.

This failure of analysis it apparent from a review of the Air Quality and Noise/Vibration technical reports, and is clearly evident in the DSEIR itself; see, for example, Figure 3.1-1 (page 31), which shows “off-site” receptor location for analysis of Air Quality impacts and the resulting health risks. In that picture, the 150 Building, which is directly adjacent to the construction site for Phases 1 and 2, is shown as part of the “Project Site” and thus not within the scope of analysis.

And as far as Noise and Vibration impacts, the DSEIR correctly notes that the City General Plan states that construction in excess of 12 months will be a significant impact if the project is “located within 500 feet of residential uses or 200 feet of commercial or office uses” (page 102). Although the 150 Building is less than 200 feet from this construction site, this impact and appropriate mitigations are ignored in the DSEIR.

As tenants in the 150 Building, we are justifiably concerned that the construction of this mammoth project will have direct impacts upon our health and well-being, and we urge the City to require appropriate study of those impacts and mitigations.

Thank you for your consideration of these comments.

Very Truly Yours,

/s/ Omar Billawala

Omar Billawala
Chief Operating Officer
Firsthand Capital Management, Inc.
150 S. Almaden Blvd., Ste. 1250
San Jose, CA 95113

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**National Trust for
Historic Preservation**
Save the past. Enrich the future.



April 24, 2020

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
3rd Floor Tower
San José, CA 95113

Via Email to: Reema.Mahamood@sanJoseca.gov

**Re: City View Plaza Project Draft Supplemental Environmental
Impact Report (“SEIR”) (H19-016)**

Thank you for the opportunity to comment on the City View Plaza Project (“Project”). The Applicant SJ Cityview LLC (“Applicant”) seeks demolition and grading permits from the City of San José (“City”) to redevelop an 8.1-acre downtown parcel, including the demolition of nine structures (four of which are Candidate City Landmarks), and construction of three new 19-story office towers.

As described in our comments below, we have significant concerns with the proposed demolition of the Bank of California/Sumitomo Building at 170 Park Center Plaza (“Bank of California”), an early work of master architect César Pelli as chief of design with Gruen Associates. (photos below). In short, we do not believe the City has adequately explored alternatives to save this icon of Modernism.



Bank of California, photo courtesy of André Luthard



photos courtesy of André Luthard

Interests of the National Trust for Historic Preservation

The National Trust for Historic Preservation (the “National Trust”) is a private nonprofit organization chartered by Congress in 1949 to “facilitate public participation” in the preservation of our nation’s heritage, and to further the historic preservation policy of the United States. *See* 54 U.S.C. § 312102(a). With the strong support of our members and supporters nationwide, the National Trust works to protect significant historic sites and to advocate for historic preservation as a fundamental value in programs and policies at all levels of government.

The National Trust has participated as amicus curiae in a number of mandamus actions enforcing the mandate of the California Environmental Quality Act (“CEQA”) to “take all action necessary” to protect California’s “historic environmental qualities.” (Pub. Resources Code § 21001 (b)), including *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587; *Preservation Action Council v. City of San José* (2006) 141 Cal.App.4th 1336; and *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165.

Interests of the California Preservation Foundation

The California Preservation Foundation (CPF) is a membership-based, non-profit organization representing over 20,000 individuals, organizations, and businesses in California who deeply care about the protection of California’s historic communities and our shared heritage. Our mission is to provide statewide leadership, advocacy and education to ensure the protection of California’s diverse cultural heritage and historic places. Since 1977, we have assisted thousands of individuals and organizations in their efforts to protect historic and cultural resources throughout California.

Technical Comments on the Draft SEIR

The City recognizes that the loss of historic structures as a result of the Project is “an area of public controversy” (SEIR, xvi) and that, as proposed, it would cause a

significant impact on multiple historic resources (SEIR, 73). Yet, the Draft SEIR lacks a sufficient discussion of alternatives that would protect cultural resources, and does not contain substantial evidence to justify demolition, as required by CEQA.¹

We are particularly concerned about the lack of detail with regard to Alternative 6, which would preserve the Bank of California, arguably the most architecturally significant building in the project area. The Bank of California represents a rare, early work of master architect César Pelli, and is described in the Draft SEIR as “an exceptional example” of Pelli’s work, as well as “an exceptional example of Modern architecture in San José” with “materials, detailing, form, [and] setting ... representative of the early oeuvre of a master designer.” (SEIR, 69-70). The Bank of California was determined to be individually eligible for the National Register of Historic Places under Criterion C as part of the review process, as well as a candidate for designation as a City of San José Landmark for its “significant architectural innovation in the local area.” (*Id.*).

The Proposed Mitigation for the Loss of Cultural Resources is Inadequate to Reduce Impacts to a Level of Insignificance.

The City proposes several mitigation measures in light of the proposed demolition of multiple historic structures on the Project site, including HABS survey, digital scans and a video production, advertising the eligibility of the structures for relocation for 60 days, salvage, and commemoration. (SEIR, viii-xi). CEQA case law makes clear that this “document-and-destroy” mitigation cannot reduce impacts to a level of insignificance.²

Because a significant impact to the environment cannot be reduced by the proposed mitigation, the City must rely on a Statement of Overriding Considerations to explain why preservation would supposedly be infeasible, and to justify approval of the Project. As described below, the record in the Draft SEIR does not support such a finding of infeasibility and is considerably lacking in any evidence to suggest why preservation would prevent the City from accomplishing a majority of the Project objectives.

¹ Cal. Pub. Res. Code § 21168.

² “As drawing a chalk mark around a dead body is not mitigation, so archival documentation cannot normally reduce destruction of an historic resource to an insignificant level.” *Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal.App. 1095, 1119.

The SEIR Does Not Contain Substantial Evidence to Justify Rejecting Preservation Alternative 6.

The discussion of alternatives in an EIR “must be specific enough to permit informed decision making and public participation.”³ Alternative 6 does not meet this standard. This flaw is particularly egregious considering that the City’s Notice of Preparation in August 2019 flagged that the proposed demolition of the Bank of California would be a significant issue, referring to the Building as “listed on the City’s Historic Resources Inventory as a Candidate City Landmark.” (Appendix K, 9). The Preservation Action Council of San José (PAC* SJ), in a letter dated August 7, 2019, featured the Bank of California as the center point of its concern with the Project, and indicated that the Building had been originally considered for City Landmark status nearly 20 years ago. (Appendix K, 13).⁴

Yet, the evaluation of Alternative 6 in the Draft SEIR is extremely cursory, consisting of less than one page. (SEIR, 130). It contains significant gaps of information, such as an unexplained assertion by the Applicant that preservation of the Bank of California would also require preservation of the adjacent unconnected structure at 150 Almaden Boulevard. (This assumption is also included in the rendering of the alternative at Figure 7.4-2). In short, the Applicant proposes a winner-take-all strategy; rather than redesigning its third tower to incorporate or retain the Pelli-designed building, it simply removes the entire tower from consideration.

The unexplained need to link preservation of 150 Almaden Boulevard to the Bank of California’s fate also results in a confused analysis. The Draft SEIR provides two vastly different calculations for how much office space would be “lost” as a result of preserving the Bank of California - either 605,958 or 1,211,916 square feet, depending on whether the Applicant’s representation regarding 150 Almaden Boulevard is accurate.

Another significant issue with respect to the analysis of Alternative 6 – as well as other preservation alternatives – is why the retention and utilization of existing infrastructure would supposedly result in a “loss” of square footage for project objectives. The notion of space “lost” is misleading without further detail on why the buildings cannot be rehabilitated in a way that could accomplish the City’s project objective 3: “attract the best tenants and support the City’s economic development goals” (SEIR, 15).

³*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 406.

⁴ The National Trust and CPF support the comments of PAC* SJ on the Draft SEIR dated April 24, 2020 and incorporate them by reference herein.

In short, the City's analysis of Alternative 6 is misleading and significantly lacking in detail. It has not provided the substantial evidence needed to justify rejecting an alternative that preserves the Bank of California.

The Draft SEIR Contains No Evidence of the Infeasibility of Alternative 6.

Based on the information in the Draft SEIR, the City does not have the requisite evidence to adopt a Statement of Overriding Considerations. There is very little discussion in the Draft SEIR as to how preserving historic buildings on the site would supposedly render the project infeasible. Further, if the only impact of preservation is purported to be economic (i.e., a reduction in the scale and profitability of the project), courts have been clear that such a claim must "be more than the Applicant's preference against an alternative." (See *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587).

Project Objective 1 Regarding General Plan Goals Fails to Recognize the Project's Inconsistency with City Policy to Preserve Candidate Landmark Buildings.

Project Objective 1 stresses the importance of a project that would meet the strategies and goals of the Envision San José 2040 General Plan and Downtown Strategy 2040. Yet, the Project as proposed would directly oppose several of those policies, particularly with respect to the Bank of California as a candidate for City Landmark status. Policy LU-13.2, for instance, urges the City to "[p]reserve *candidate* or designated landmark buildings ... with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitate and relocation [sic] on-site." (emphasis added) (SEIR, 59). The Draft SEIR fails to provide any further analysis of the fact that the Project would be directly contrary to this stated City policy, an omission that inhibits informed decision-making.

Project Objective 4 Regarding Sustainability Fails to Account for the Adverse Environmental Impacts of Demolition Debris.

Project Objective 4 states that the Applicant intends to support the City's Environmental Stewardship goals "by providing a modern LEED building with sustainable energy and water usage, natural ventilation, EV parking, strengthened urban forest and reduced heat island." (SEIR, 15). This objective is framed in a way that fails to acknowledge one of the significant environmental consequences of the Project--the production of over 500 tons of embodied energy in the form of demolition debris. (SEIR, 14). Further, the environmental benefit of rehabilitating existing infrastructure with modern technology may be

outweighed by the costs of fabricating new buildings, considering the attendant consequences of resource extraction to produce new materials. (*Id.*)⁵

Conclusion

The Bank of California is an iconic asset to the City of San José and its proposed demolition warrants careful review within the requirements of CEQA. The Draft SEIR fails to provide sufficient evidence to support a conclusion that an alternative to retain this building would be infeasible. We urge the City to revise the Draft SEIR consistent with CEQA's mandate and to preserve this nationally significant historic building.

Sincerely,

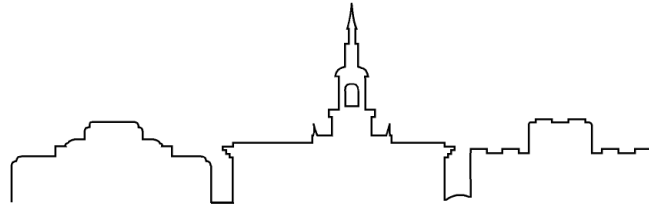


Brian R. Turner
Senior Field Officer and Attorney, San Francisco Office
National Trust for Historic Preservation



Cindy Heitzman
Executive Director
California Preservation Foundation

⁵ See [The Greenest Building: Quantifying the Environmental Value of Building Reuse](#), National Trust for Historic Preservation (2011), measuring the carbon emissions avoided through reuse, across multiple building types and climate zones; see also [The Time Value of Carbon](#), Carbon Leadership Forum, University of Washington (2017), quantifying the significantly higher carbon impacts of heavy construction, which typically require significant amounts of steel and concrete.



PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

April 24, 2020

VIA EMAIL (reema.mahamood@sanjoseca.gov)

Reema Mahamood, Planner III
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St, Third Floor Tower
San José, CA 95113

RE: DRAFT SEIR, CITYVIEW PLAZA PROJECT (HR19-016)

Dear Ms. Mahamood,

After reviewing the Draft Supplemental Environmental Impact Report for the Cityview Plaza Project (HR-016), the Preservation Action Council of San José [PAC*SJ] remains gravely concerned by the proposed demolition of numerous historic resources in the project area, including but not limited to the Bank of California at 170 Park Center Plaza, a Candidate City Landmark listed on the City's Historic Resources Inventory since 2000.

Interests of the Preservation Action Council of San José

For 30 years, the private not-for-profit PAC*SJ has been dedicated to the preservation of San Jose's architectural heritage. Through education, advocacy and events, we have supported the preservation and adaptive reuse of important buildings and sites including the First Church of Christ Scientist, Jose Theatre, Montgomery Hotel, the Century 21 Dome, and the River Street Historic District, among many others. We have previously commented on this project's Notice of Preparation in August 2019, as well as a previous EIR concerning this property in March 2018. We have also provided testimony to the San Jose Historic Landmarks Commission regarding the significance of the Bank of California on at least four occasions over the last five years.

Summary

CEQA regulations require that an EIR explore all reasonable, feasible project alternatives that would reduce or avoid negative impacts to historic resources, and that preservation

alternatives which meet most of the stated project objectives must be given full consideration. Unfortunately, this DSEIR clearly fails to consider numerous viable project alternatives that meet these criteria. Likewise, project alternatives that *are* included in the DSEIR lack sufficient detail to permit meaningful, informed analysis. For these and other reasons addressed in more detail below, PAC*SJ concludes that the DSEIR is fundamentally incomplete and we strongly oppose the approval of the Cityview Plaza Project as presented.

Incorporation by Reference

PAC*SJ formally incorporates by reference the comments of the National Trust for Historic Preservation and the California Preservation Foundation, partner organizations who have expressed similar concerns with the DSEIR.

Impact to Bank of California

As clearly documented in the City View Plaza Historic Resource Project Assessment (Archives & Architecture, May 2020, p. 34), the Bank of California building was designed in 1971 (completed 1973) by master architect César Pelli while chief of design at the internationally significant firm of Gruen Associates. It stands as an exceptional example of modern architecture and the Brutalist architectural style from the highly significant urban redevelopment era in downtown San José. Referred to variously (and inconsistently) in the DSEIR as *170 Park Center*, *Bank of California*, *Family Court*, *Sumitomo Bank*, and *Building 5*, the building is not only a Candidate City Landmark, but has been determined eligible for individual listing in the National Register of Historic Places under criterion A and C. It bears emphasis that, of all the potentially impacted buildings on the Cityview Plaza project site, the Bank of California was the lone established historic resource at the time of the project's inception, and therefore warranted a concerted, good-faith preservation effort from the very beginning of design development. As shown by the DSEIR's incomplete and flawed analysis of preservation alternatives, this good-faith effort has unfortunately not been demonstrated. For example:

- CEQA regulations require the exploration of alternative project locations that would avoid or substantially lessen adverse impacts to historic resources (Guideline §15126.6(f)(1)). While the project DSEIR does address the infeasibility of alternate locations for the entire 8.1-acre development site (DSEIR §7.4.1.1, p. 125), it fails to address the potential availability of an immediately adjacent development parcel (190 Park Center Plaza, APN #25941069) that could accommodate a relatively minor adjustment to the project site plan and allow for the preservation of the Bank of California *in situ* without any negative impacts to the Cityview Plaza project goals (see Fig. 1, "Preservation Alternative A"). Therefore, the DSEIR incorrectly concludes that "the lack of available land to support the proposed project within the downtown" (p.125) renders alternative project locations infeasible.

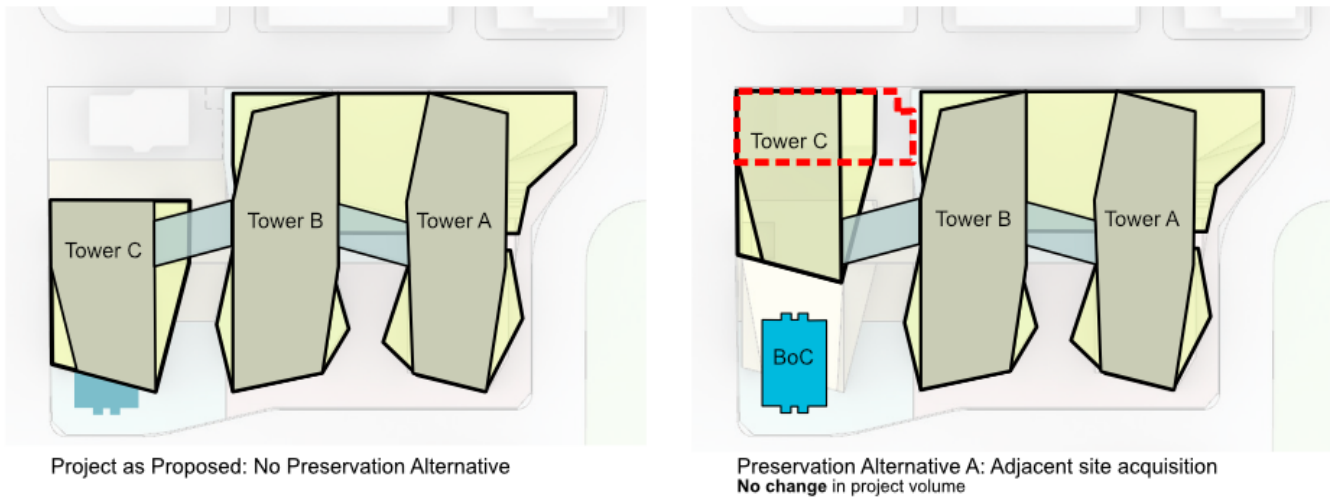


Figure 1: Preservation Alternative A: Adjacent site acquisition (rendering by PAC*SJ)

- As presented, the combined footprints of the three proposed towers occupy only 4.4 acres of the 8.1-acre site, representing a 10.7 FAR on a site zoned for 30. This relative lack of density suggests ample opportunity for alternative site layouts to accommodate the preservation of the Bank of California *in situ*. Yet the DSEIR completely fails to explore feasible alternatives to the proposed building footprints or massing. PAC*SJ's own initial analysis has identified at least one viable alternative site plan (Fig. 2, "Preservation Alternative B") that appears to accommodate virtually all of the proposed project goals with only minor modifications to the siting and massing of the new development.

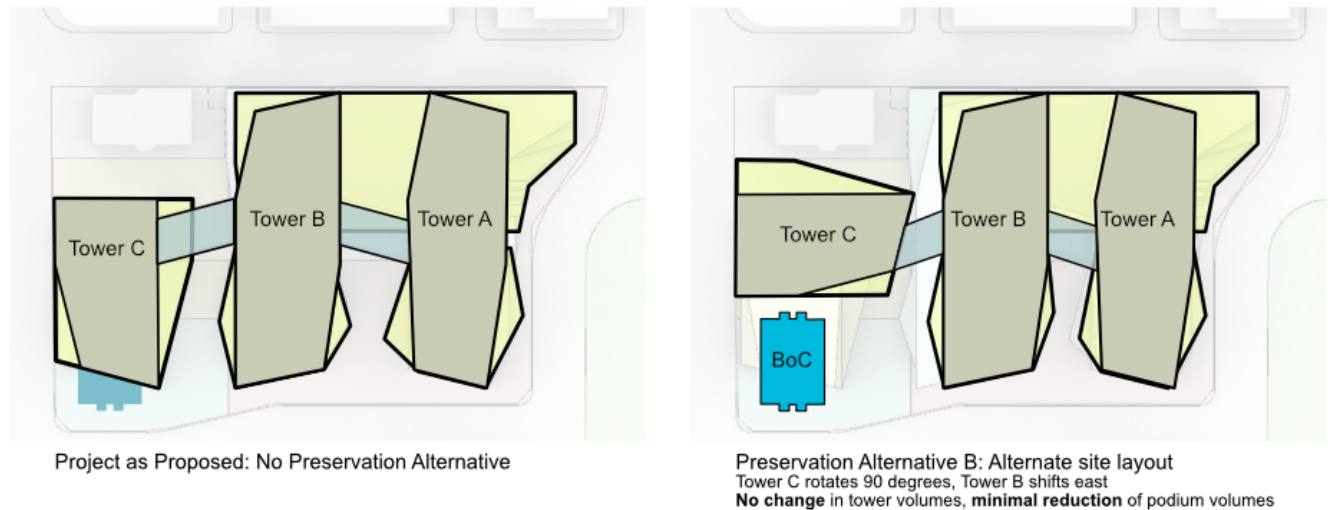


Figure 2: Preservation Alternative B: Alternate Site Layout (rendering by PAC*SJ)

- CEQA Guidelines state that, in evaluating project alternatives, an EIR “shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project” (Guideline §15126.6(d)). In its cursory exploration of the preservation of the Bank of California (“Preservation Alternative 6” §7.4.1.6, p. 130), the DSEIR includes the unexplained and unsupported claim that the “preservation of the Sumitomo Bank [Bank of California] building would also require retention of the existing tower immediately north of the bank building (150 Almaden Boulevard). By retaining both buildings, only two of the three proposed towers could be constructed.” The DSEIR completely lacks sufficient evidence to support this conclusion, and does not demonstrate why a slightly reduced third tower cannot feasibly be constructed (see Fig. 3, “Preservation Alternative C”).

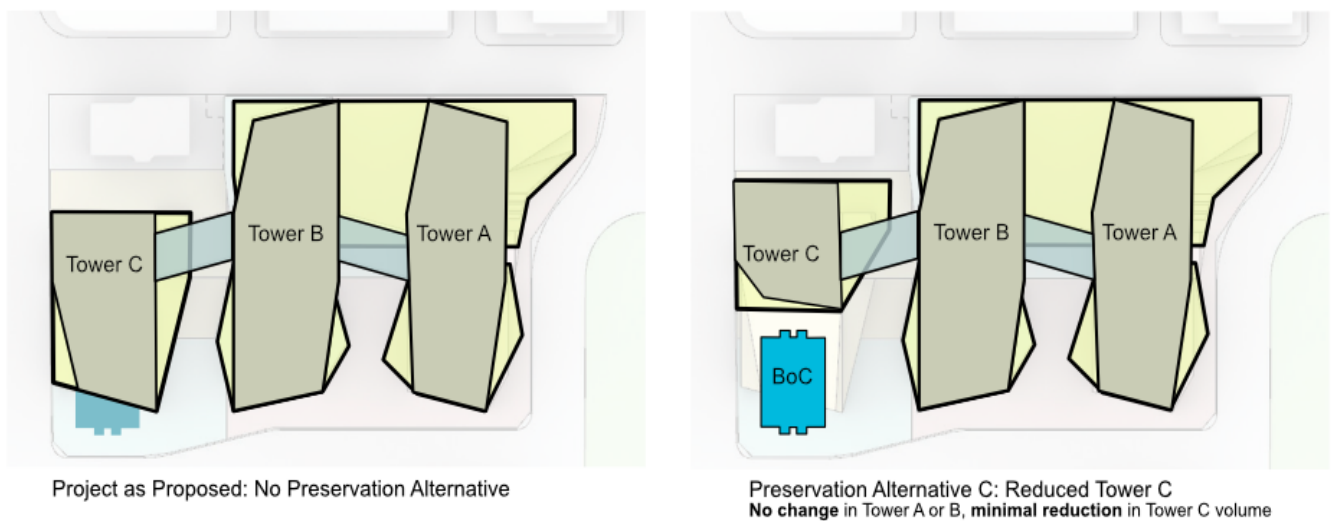


Figure 3: Preservation Alternative C: Reduced Tower C (rendering by PAC*SJ)

- CEQA Guidelines further state that feasible project alternatives must be considered “even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly” §15126.6(b). Even the DSEIR’s questionable analysis of “Preservation Alternative 6” concedes that “the loss of approximately 605,958 to 1,211,916 square feet of office space would not, by itself, be inconsistent with the project objectives” (§7.4.1.6, p. 130). While we challenge the veracity of the lost square footage figures, we strongly concur that a majority of the proposed project goals can nevertheless be met without demolishing the Bank of California. Therefore the DSEIR’s ultimate rejection of Preservation Alternative 6 is flawed and unwarranted.

Impacts to Other Identified Historic Resources

In addition to the Bank of California building, the project DSEIR and its associated Historic Resource Project Assessment (Appendix E) have rightly identified numerous additional historic resources on the proposed project site that were not initially recognized at the project's outset. These include:

Candidate City Landmarks (Individual)

- Wells Fargo Bank (121 S. Market St.): Skidmore, Owings & Merrill, 1969
- Bank of America (125 S. Market St.): Gruen Associates, 1969-71
- United California Bank (177 Park Ave.): Gruen Associates, 1971

Candidate City Landmark Districts

- Park Center Plaza (1969-1973), 5 contributing buildings

Structures of Merit

- Landmark Building and Pavilions (100 W. San Fernando St.): Gruen Associates, 1969

We strongly concur with the Historic Resource Project Assessment that these buildings and their associated features are significant architectural and historic resources that merit preservation. Given the magnitude of potential loss to historic resources on this site, any project approvals must be accompanied by an extremely robust Historic Resources Mitigation Action Plan that takes the full spectrum and volume of impacted resources into account, as outlined in our mitigation recommendations below.

Mitigation Recommendations

- The Historic Resources Mitigation Action Plan must include the *in situ* preservation of the Bank of California as part of its scope, as it is demonstrably feasible and would help mitigate the loss of the remainder of the site's historic resources.
- The mitigation measures outlined in MM CUL-1.1 (pp. viii-xi) do not meet CEQA standards for "rough proportionality." This single project proposes the elimination of an entire Candidate City Landmark District and the loss of the majority of downtown San José's exemplary and representative examples of Urban Redevelopment-era commercial architecture. Because this era of architecture is only now reaching an age of recognized historical significance, there is an urgent need for additional survey efforts and context statements for both downtown San Jose and the City at large. An appropriate scope of mitigation should include financial support for these efforts.
- Likewise, because the project is proposing the demolition of a significant number of buildings associated with the banking industry in San Jose, an appropriate

mitigation scope should include financial support for the survey efforts addressing bank structures, particularly post-World War II banks, across San José.

- The scope of any proposed documentation, commemoration, and interpretive programming must include all contributing elements of the Candidate City Landmark District (structures of merit, landscape features, public art, etc), not just the four specifically identified candidate city landmarks. We also strongly encourage Candidate City Landmark District's proposed period of significance to be extended to c.1985 to include the Heritage Bank Building (150 Almaden Blvd) and numerous pieces of public art within the district boundaries.
- Given the site's proximity to a number of highly significant City Landmarks and civic spaces, including but not limited to the San José Museum of Art, Plaza De César Chávez, the Civic Auditorium, and the Center for Performing Arts, appropriate mitigation measures would include financial contributions to support the historic preservation of these adjacent resources.

Envision 2040 Goals

Finally, we conclude our comments with an analysis of the proposed Cityview Plaza project relative to the Envision San José 2040 General Plan and Downtown Strategy 2040. While the project does meet some of the stated objectives of these documents, namely by locating high density development on a downtown site near public transit, the project clearly conflicts with other major goals and policies of the Envision San José 2040 General Plan and Downtown Strategy 2040. For example:

- Despite DSEIR claims to the contrary, this project clearly does not support San Jose's Environmental Stewardship goals (see Project Objective #4, p.15). By proposing the complete demolition of 1,017,846 square feet of existing construction, one of the largest demolitions in the City's recent history, the project threatens to squander an enormous amount of embodied energy that would very likely never be offset by even the most efficient new construction. This is in direct conflict with General Plan policies LU-16.1 (*"Integrate historic preservation practices into development decisions based upon fiscal, economic, and environmental sustainability."*) and LU-16.2 (*"Evaluate the materials and energy resource consumption implications of new construction to encourage preservation of historic resources."*)
- The DSEIR claims that "approximately 500 tons of demolition debris would be hauled from the site and taken to a certified Waste Diversion Facility in compliance with the City's Construction and Demolition Diversion Program which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills" (p.14). This figure seems exceedingly low to us given the scale of

demolition proposed. We request that this claim be corroborated and adequately cited.

- The proposed project clearly conflicts with the majority of historic preservation goals and policies included in the General Plan, including the following:
 - Policy LU-13.1 Preserve the integrity and fabric of candidate or designated Historic Districts.
 - Policy LU-13.2 Preserve candidate or designated landmark buildings....
 - Policy LU-13.3 For landmark structures located within new development areas, incorporate the landmark structures within the new development....
 - Policy LU-13.4 Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
 - Policy LU-13.5 Evaluate areas with a concentration of historically and/or architecturally significant buildings, structures, or sites and, if qualified, preserve them through the creation of Historic Districts.
 - Policy LU-13.8 Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

- As proposed, the project represents an architectural “monoculture” of similarly-scaled, identically-detailed buildings whose full occupation of a prominent downtown superblock represents a net loss of architectural, historic, and programmatic diversity-- characteristics which are clearly valued in the Envision San José 2040 General Plan and Downtown Strategy 2040. By incorporating the historic and visually dynamic Bank of California Building into the current development plans, the Cityview Plaza project would better reflect the following goals:
 - Policy CD-6.6 Promote iconic architecture and encourage and incorporate innovative, varied, and dynamic design features (e.g., appearance, function, sustainability aspects) into sites, buildings, art, streetscapes, landscapes, and signage to make Downtown visually exciting and to attract residents and visitors.
 - Policy CD-6.7 Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown skyline.
 - Policy CD-6.8 Recognize Downtown’s unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban

environment there. Respect and respond to on-site and surrounding historic character in proposals for development.

The very definition of the "Destination Downtown" envisioned by the 2040 General Plan is one of "an eclectic mix of historic architecture side by side to award-winning contemporary urban design" ("Major Strategy 9, Ch.1 p. 24). Rather than viewing the preservation of the Bank of California as an obstacle to progress, PAC* SJ believes strongly that the building is an asset with the potential to improve the ultimate success of the Cityview Plaza redevelopment. We thank you for the opportunity to advance these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Leech". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ben Leech
Executive Director
Preservation Action Council of San José

cc: Juliet Arroyo, Cassandra van der Zweep



SAN JOSE DOWNTOWN ASSOCIATION

April 24, 2020

Department of Planning, Building and Code Enforcement
Attention: Reema Mahamood, Planner III (File No. SP19-064)
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113

Dear Reema,

The San Jose Downtown Association (SJDA) provides the following feedback on the proposed commercial development at City View Plaza.

SJDA's Downtown Design Committee previously reviewed this project on July 19, 2019 in a letter submitted to Project Manager Cassandra Van Der Zweep, the design team at Gensler and the development team at Jay Paul. In that letter we were generally supportive of the project but had some concerns about the amount and placement of the ground floor retail and wanted to ensure that the plaza would be accessible to pedestrians regardless of the final design and choice of tenant for the new buildings. We feel that the most recent set of renderings addresses most of these concerns, particularly the retail piece, and we commend Jay Paul for working with the City on this issue.

Our fundamental position is that downtown San Jose needs the Cityview Plaza blocks to be re-imagined and we are supportive of Jay Paul and Gensler's vision for this extremely important area to become a modern development that restores the site to ground level and will attract thousands of jobs into the local economy.

We appreciate the development team's addition of a 60-foot podium level to the buildings in order to respond to the surrounding buildings, including the San Jose Museum of Art and the Tech Interactive, two of the most distinct buildings in the downtown core. We feel that this will make the overall project more approachable and human-scale in addition to helping integrate the modern look of the proposed office towers with the surrounding area.

An extremely important part of this environmental review process is centered on the fate of the former courthouse on the northeast corner of Park Avenue and Almaden Boulevard. We concur that the courthouse is not architecturally significant enough to impede this necessary development and therefore should be removed from the site. We support Jay Paul's offer to document the building.

Maintaining public access through the site (once the construction period is over) is of critical importance to us and our members. Even though the current iteration of the block is above the sidewalk level with minimal building interface to the surrounding four streets, the plaza itself has always been publically accessible. We have an opportunity with this new development to not only bring the entrances back to ground level but to welcome pedestrians into the beautifully-designed spaces to see the architecture from both inside and out. We ask that PBCE condition public pedestrian access into the approvals for this site, allowing pedestrians to traverse this central city block freely. This clear position on public access would allow future tenant protocols for the block to plan accordingly.

SJDA is pleased to see the development team add more retail spaces to the design, particularly at the vital corner of Market and San Fernando Streets. We feel that these improvements help balance the development and help pay proper homage to the neighboring Plaza de Cesar Chavez.

Thank you for your consideration of our comments. We look forward to the approval of this flagship center city project.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Knies".

Scott Knies
Executive Director

CC:

Rosalynn Hughey
Robert Manford
Cassandra Van Der Zweep
Councilman Raul Peralez
Kelly Kline
Janette D'Elia
Matt Lituchy
Katia McClain
Brian Corbett
Nate LeBlanc