

First Amendment to the Draft SEIR CityView Plaza Office Project



Prepared by the



In Consultation with



May 2020

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SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Supplemental Environmental Impact Report (SEIR), constitute the Final SEIR for the CityView Plaza Office project.

1.1 PURPOSE OF THE FINAL SEIR

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

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

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

1.2 CONTENTS OF THE FINAL EIR

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

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

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final SEIR and all documents referenced in the Final SEIR are available for public review at the office of the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, Third Floor, San José, California on weekdays during normal business hours. The Final SEIR is also available for review on the City's website: <https://www.sanjoseca.gov/active-eirs/>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft SEIR for the CityView Plaza Office project, dated March 2020 was circulated to affected public agencies and interested parties for a 45-day review period from March 11, 2020 through April 24, 2020. The City undertook the following actions to inform the public of the availability of the Draft SEIR:

- The Notice of Availability of Draft SEIR was published on the City's [website](#) and in the San José Mercury News;
- The Notice of Availability of the Draft SEIR was mailed to neighboring cities, tribal contacts, organizations, and individual members of the public who had indicated interest in the project or requested notice of projects in the City;
- The Notice of Availability was sent to members of the public who signed up for City notices via *Newsflash*;
- The Draft SEIR was delivered to the State Clearinghouse on March 11, 2020, which forwarded the Draft SEIR to various governmental agencies and organizations, (see *Section 3.0* for a list of agencies and organizations that received the Draft SEIR); and
- Copies of the Draft SEIR were made available on the City's [website](#) and the Dr. Martin Luther King Jr. Library (150 East San Fernando Street, San José CA 95112).

SECTION 3.0 DRAFT EIR RECIPIENTS

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

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

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Forestry and Fire Protection
- California Department of Parks and Recreation
- California Department of Resources Recycling and Recovery
- California Department of Transportation, District 4
- California Department of Transportation, Division of Aeronautics
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- California State Lands Commission
- Department of Toxic Substances Control
- Office of Historic Preservation
- State Water Resources Control Board, Division of Water Quality

Copies of the Notice of Availability for the Draft SEIR were sent by mail and/or email to the following organizations, businesses, and individuals who expressed interest in the project:

- Preservation Action Council of San José
- San José Downtown Association
- Santa Clara Valley Transportation Authority (VTA)
- Santa Clara Roads and Airports
- Bay Area Air Quality Management District
- Association of Bay Area Governments
- California Department of Fish and Wildlife
- U.S. Fish and Wildlife
- California Department of Energy

- California Environmental Protection Agency
- Air Resources Board
- Bay Area Metro
- California Department of Transportation
- Valley Water
- Pacific Gas & Electric
- San Jose Water Company
- Tribal contacts from the American Heritage Commission
- County of Santa Clara
- City of Campbell
- City of Cupertino
- City of Fremont
- City of Milpitas
- City of Palo Alto
- City of Santa Clara
- City of Saratoga
- Town of Los Gatos
- City of Morgan Hill
- City of Mountain View
- Adams Broadwell Joseph and Cardozo
- Lozeau Drury, LLP
- Sierra Club-Loma Prieta Chapter
- Santa Clara Valley Audubon Society
- California Native Plant Society
- Greenbelt Alliance
- Land Rights Services
- San Jose Unified School District
- Campbell Union High School District
- Campbell Union Elementary School
- Docomomo US/NOCA
- Morton's of Chicago/San Jose LLC
- CBRE
- SPUR
- Silicon Valley Business Journal
- San Jose Made
- KT Urban
- Kevin Johnson

- J.D. Heindel
- Martha Black
- Josue Garcia
- Jim Hoge
- Justin Kim
- Robert Murtagh

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

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

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

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FEDERAL AND STATE AGENCIES

A. California Native American Heritage Commission (March 20, 2020)

Comment A.1: 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:

- 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.

Response A.1: As discussed on page 116 of the Initial Study (Appendix A of the Draft SEIR) the tribal representatives for the Ohlone Tribe, and other tribes known to have traditional lands and cultural places within the City of San José, were sent the Notice of Preparation on August 8, 2019. No response or request for consultation was received. The Draft SEIR supplements the FEIR prepared for the Downtown Strategy 2040 in 2018, which evaluated cultural resources in the Downtown area including the project site. The Downtown Strategy 2040 FEIR found that the potential for cultural resources does exist in the Downtown area including the project site. To address the potential discovery of subsurface cultural resources or human remains, the Draft SEIR includes Standard Permit Conditions on pages 76 and 77 (consistent with the Downtown Strategy 2040 FEIR) which requires the applicant to perform specific actions if subsurface cultural resources or human remains are found during construction activities. This comment does not raise any issues with the adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

Comment A.2: The California Environmental Quality Act (CEQA), 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. 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. 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). **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", 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. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. 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 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.

Response A.2: The Historic Resource Assessment conducted for the project (Appendix E of the Draft SEIR) determined that several buildings are individually eligible for listing on the California Register of Historic Resources and/or the National Register of Historic Places, and the existing CityView Plaza is a potential historic district in the City of San José. These historic buildings and the potential historic district are discussed starting on page 61 of the Draft SEIR. Tribal consultation in the Downtown area which includes the project site, is discussed on pages 104 and 105 of the Downtown Strategy 2040 FEIR which the Draft SEIR supplements. The project does not require an amendment to the City’s General Plan or any specific plan and therefore is not subject to Senate Bill 18. Additionally, the project is not subject to NEPA. This comment does not raise any issues with the adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

Comment A.3: 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.

Response A.3: Tribal consultation in the Downtown area which includes the project site, is discussed on pages 104-105 of the Downtown Strategy 2040 FEIR which this Draft SEIR supplements. This comment does not raise any issues with the

adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

B. Department of Toxic Substances Control (April 23, 2020)

Comment B.1: 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 F 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.

Response B.1: A Soil Investigation Report dated March 19, 2020, was prepared for the project site (see Attachment D of this Final SEIR for the body of the report, the entire report is available on the City’s website at <https://www.sanjoseca.gov/active-eirs/>). Based upon the lack of significant environmental issues found in the Soil Investigation Report, there is no cleanup identified prior to excavation because there is nothing identified that requires such measures. Also, because the site will be excavated for the five-level below-grade parking structure, any sources of potentially undiscovered contamination will be removed from the site. Therefore, the City has determined that regulatory oversight is not required.

The project applicant will be required to submit a Site Management Plan (SMP) to the City’s Environmental Compliance Officer and the Director of Planning, Building and Code Enforcement or the Director’s designee prior to obtaining any ground disturbing permit. All soils that would be excavated for this project including soil in the vicinity of the former laundry business shall be appropriately screened, managed, and profiled for off-site disposal or reuse in accordance with the SMP during redevelopment. If impacted soils are found during excavation and removal activities,

the appropriate regulatory agency(ies) shall be notified in accordance with the guidelines in the SMP.

Comment B.2: 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.

Response B.2: Subsequent to circulation of the Draft SEIR, the applicant provided updated project information that the proposed project would include the use of a shoring wall to approximately 140 feet bgs along the periphery of the entire city block. Dewatering wells would be installed within the boundary of the shoring wall to sufficiently dewater the area in order to facilitate construction and excavation/removal activities. The shoring wall serves as means to capture in place the on-site groundwater to be removed, treated, and/or discharged via a National Pollutant Discharge Elimination System (NPDES) permit, and to prevent or minimize the migration of potential off-site groundwater. It is our understanding that the selected dewatering contractor would provide a dewatering plan as a condition of applying for and obtaining the NPDES permit. The nominal concentrations of volatile organic compounds (VOCs) detected in on-site groundwater at the current dewatering system at the 150 Almaden Avenue site do not indicate there is a vapor intrusion concern with the existing parking garage in place. Vapor intrusion occurs when volatile chemicals off-gas from contaminated groundwater into the soil above the groundwater and then rise and seep into the structures such as offices or residences where they can be inhaled by occupants. Since the offices are at the ground surface with five levels of parking there is no potential pathway for vapors to migrate to the public areas 70 feet above. The City’s Environmental Compliance Officer has reviewed the documents and the methodology and has concluded that a

mitigation, contingency plan, and completion report for approval by an environmental oversight agency is not warranted.

REGIONAL AND LOCAL AGENCIES

C. Valley Water (April 24, 2020)

Comment C.1: 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.

Response C.1: The comment provides administrative text corrections to the Draft SEIR. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments. These text amendments do not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required.

Comment C.2: 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.

Response C.2: The Phase I Environmental Site Assessment (Appendix F of the Draft SEIR) prepared for the project did not identify any on-site wells except for those used for the dewatering system (at 150 South Almaden Boulevard) and emergency use (in the fire pump room of 125 South Market Street) [page 6 of Appendix F]. The project will be required to comply with all permit conditions regarding on-site wells that are discovered during construction activities. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments. The text revision to this section does not require additional analysis or result in new significant impacts or mitigation measures than those analyzed and

disclosed in the Draft SEIR and associated appendices. Therefore, the conclusion of the Draft SEIR and associated appendices remains unchanged.

Comment C.3: 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.

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.

Response C.3: This comment did not raise any further environmental issues under CEQA and therefore, no specific response is required.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

D. Peter Duffy Bennett (April 22, 2020)

Comment D.1: 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?

Response D.1: While the commenter is correct that The James and Aura apartment buildings are currently occupied, pursuant to CEQA the baseline for the analysis in the Draft SEIR is the existing conditions as of the date of the Notice of Preparation (NOP). Both properties noted by the commenter did not begin leasing and allowing tenants to occupy the sites until after the release of the NOP (August 8, 2019). As a result, both properties were correctly included in the list of approved but not yet constructed or occupied projects.

Comment D.2: 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 the one that reduces parking closer to zero spaces.

Page 138: Why wasn’t “Reduced Development Alternative 2 - Reduced Parking” included as a[n] environmentally superior alternative? It is the same as the proposed project, with less cars. How is that not superior than the proposal?

Response D.2: Pursuant to CEQA, the Draft SEIR must identify the Environmentally Superior Alternative out of all the identified feasible alternatives. The intent is not to list every alternative that may be environmentally superior to the project. As shown in the matrix on pages 137 and 138 of the Draft SEIR, the Reduced Development Alternative 2 – Reduced Parking would result in the same impacts as the proposed project. Among the alternatives considered, the Preservation Alternative 3 would be the environmentally superior alternative since it would reduce the significant unavoidable noise and air quality impacts to less than significant levels. In addition, Preservation Alternative 3 would avoid the shade and shadow impact and would avoid demolition of the historic structures (refer to page 138 of the Draft SEIR).

Comment D.3: 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.

Response D.3: As discussed on page 114 of the Initial Study (Section 4.17 Transportation) and pages 41 and 42 of the Local Transportation Analysis (Appendix A and Appendix I of the Draft SEIR), the proposed project meets the

total minimum number of bicycle parking spaces required by Table 20-190 and Section 20.70.485 of the San José Municipal Code. This comment does not raise any issues related to the adequacy of the Draft SEIR. No response is required.

Comment D.4: 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.

Response D.4: Per the City's adopted methodology, transportation impacts under CEQA are addressed through City Council Policy 5-1 and applicable General Plan policies. The City's Climate Smart policy is referenced in the Energy and Greenhouse Gas sections of the Initial Study (Appendix A of the Draft SEIR).

Comment D.5: 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.

Response D.5: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct, but differs from the conditions at the time the analysis was initiated. Additionally, the light rail line should be Winchester-Old Ironsides and not Mountain View-Winchester. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments and updated Existing Bicycle Facilities and Transit Services figures.

Comment D.6: Page 111: What is "Site Distance?" Do you mean "sight distance?"

Response D.6: The typographical error has been corrected. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendment.

Comment D.7: 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.

Response D.7: The project's trip generation rates were estimated using the Institute of Transportation Engineers' (ITE) *Trip Generation Manual* consistent with City methodology. The commenter has not provided any documentation to demonstrate that the methodology is flawed.

Comment D.8: 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.

Response D.8: Required vehicle parking for the Downtown is established in Section 20.70.100 and Table 20-140 of the San José Municipal Code. Parking reductions are options available for developments but are not required. The proposed project includes a request for up to a 20 percent parking reduction pursuant to Section 20.90.220 of the San José Municipal Code and is eligible for the reduction as a downtown project providing the minimum code required bicycle parking, as discussed on page 114 of the Initial Study and page 41 of the Local Transportation Analysis (Appendix A and Appendix I of the Draft SEIR). As a result, the Municipal Code required number of parking spaces could be reduced by 20 percent from 7,718 to 6,175 parking spaces. This comment does not raise any issues related to the adequacy of the Initial Study or Draft SEIR. No response is required.

Comment D.9: 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.

Response D.9: As mentioned on page 1 of the Local Transportation Analysis (Appendix I of the Draft SEIR), the purpose of the Local Transportation Analysis is to identify any potential operational issues that could occur as a result of the project and to recommend site access improvements. This comment does not raise any issues with the adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

Comment D.10: Page 2, Figure 1: It appears that this maps [sic] 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.

Response D.10: Figure 1 shows the project site and project trip distribution pattern as mentioned on page 17 of the Local Transportation Analysis and in the legend. This comment does not raise any issues with the adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

Comment D.11: 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.

Response D.11: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on pages 3 and 4 of the Local Transportation Analysis (Appendix I of the Draft SEIR). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments.

Comment D.12: 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.

Response D.12: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on pages 3 and 4 of the Local Transportation Analysis (Appendix I of the Draft SEIR). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments.

Comment D.13: Page 4: San Salvador Street has Class II bike lanes from Market and Fourth Street, not Seventh Street.

Response D.13: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on pages 3 and 4 of the Local Transportation Analysis (Appendix I of the Draft SEIR). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments.

Comment D.14: Page 4: The Second Street Class II bike lanes are said to extend "south of William Taylor Street." There is no such street.

Response D.14: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on pages 3 and 4 of the Local Transportation Analysis (Appendix I of the Draft SEIR). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments.

Comment D.15: 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.

Response D.15: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on pages 3 and 4 of the Local Transportation Analysis (Appendix I of the Draft SEIR). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendments.

Comment D.16: Page 4: The Guadalupe River Trail is not continuous to Curtner Avenue. It terminates on Palm (east) and Virginia (west).

Response D.16: The commenter is correct about the Guadalupe River trail network. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendment.

Comment D.17: 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.

Response D.17: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. As a result, the commenter's assessment of bicycle facilities under current conditions is correct but differs from the conditions at the time the analysis was initiated which are described on the pages noted above in the comment. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed amendments to Figure 2. These amendments do not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required. Refer also to Responses D.5 and D.9.

Comment D.18: Page 6: There are also existing transit services provided by Santa Cruz METRO and Monterey Salinas Transit.

Response D.18: Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendment. This amendment does not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required.

Comment D.19: Page 8, Figure 4: VTA buses 72 and 73 turn off of San Fernando St at 6th St, not 1st and 2nd Streets.

Response D.19: Figure 4 on Page 8 of the Local Transportation Analysis does not show VTA bus routes 72 and 73 turning off First and Second Streets at San Fernando Street. Table 1 does, however, note that the nearest bus stop for the 72 and 73 routes are at the intersection of First and Santa Clara Streets.

Comment D.20: 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.

Response D.20: By using a lower trip reduction than is allowed, the assessment overestimates the number of trips generated by the project and, as a result, would show a potentially higher degree of operational impact. The comment does not provide new information that would change the project's impact or provide new information that would result in new significant impacts or mitigation measures than those analyzed and disclosed in the Draft SEIR and associated appendices.

Comment D.21: 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.

Response D.21: The project's trip generation rates were estimated using the Institute of Transportation Engineers' (ITE) *Trip Generation Manual* consistent with City methodology. The commenter has not provided any documentation to demonstrate that the methodology is flawed. Refer also to Response D.7.

Comment D.22: 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.

Response D.22: The narrow travel way referenced in the Local Transportation Analysis (Appendix I of the Draft SEIR) pertains to the automobile travel lanes and not the curb-to-curb width of the roadway.

With regard to the Better Bikeways improvements, the addition of the wider protected bike lane and parking would reduce the width of the legal travel way for vehicles. Therefore, the vehicular travel way that pedestrians must cross is reduced.

Comment D.23: Page 19: Why is this blank page here?

Response D.23: This comment does not raise any issues with the adequacy of the Initial Study or Draft SEIR; therefore, no further response is required.

Comment D.24: 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?

Response D.24: Bicyclists are discussed in the pedestrian circulation section, page 31 of the Local Transportation Analysis (Appendix I of the Draft SEIR) where there are shared bicycle and pedestrian facilities. Bicycle facilities are specifically addressed on page 33 of the Local Transportation Analysis. The comments are acknowledged. The comment does not change the analysis of the project and the comment does not include new information that would result in new significant impacts or mitigation measures than those analyzed and disclosed in the Initial Study, Draft SEIR, and associated appendices.

Comment D.25: Page 33: The Guadalupe River Trail is not continuous to Curtner Avenue. It terminates on Palm (east) and Virginia (west).

Response D.25: The commenter is correct about the Guadalupe River trail network. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR and Appendix C of this Final SEIR for the proposed text amendment.

Comment D.26: 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.

Response D.26: The bike lane width is consistent with the Complete Streets Design Guidelines¹ for raised one-way cycle tracks (page 99) which recommends a minimum width of five feet and a maximum width of eight feet for bike lanes. In addition, consistent with the Complete Streets Design Guidelines, no separation is provided between the sidewalk and the bike lane. The comment does not change the analysis of the project and the comment does not include new information that would result in new significant impacts or mitigation measures than those analyzed and disclosed in the Initial Study, Draft SEIR, and associated appendices.

Comment D.27: Page 34: There are no existing bus stop islands on the streets discussed in this section.

Response D.27: Between the time the analysis is initiated and the Draft SEIR is circulated for public review, existing conditions can change. At the time the Local Transportation Analysis was prepared, there were existing bus stop islands at the southeast corner of the Almaden Avenue/West San Fernando Street intersection and at the northwest corner of the San Pedro Street/West San Fernando Street intersection.

Comment D.28: 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: [T]he 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.

¹ City of San José. "San José Complete Streets Design Standards & Guidelines." Accessed May 7, 2020. <https://www.sanjoseca.gov/home/showdocument?id=33113>.

Response D.28: As mentioned in Response D.8, the required vehicle parking for the Downtown is established in Section 20.70.100 and Table 20-140 of the San José Municipal Code. Parking reductions are options available for developments but are not required. The project includes a request for up to a 20 percent parking reduction pursuant to Section 20.90.220 of the Municipal Code and is eligible for the reduction as a downtown project providing the minimum code required parking, as discussed on page 114 of the Initial Study and page 41 of the Local Transportation Analysis (Appendix I of the Draft SEIR).

The City Municipal Code (Table 20-190) requires one bicycle parking space per 4,000 square feet of office use. Bicycle parking spaces shall consist of at least eighty percent short-term and at most twenty percent long-term spaces. Per Code 20.70.485, uses which are not required to provide vehicle parking spaces (i.e. the ground-floor commercial use) are required to provide only two short-term bicycle parking spaces and one long-term bicycle parking spaces. Thus, the proposed mixed-use project is required to provide a total of 775 bicycle parking spaces. The project would meet the City's bicycle parking requirements as discussed on pages 51, 71, and 114 of the Initial Study and Appendix I of the Draft SEIR.

Additionally, the project would provide 30 shower and changing rooms for bicycle users consistent with Table 20-216 of the Municipal Code, which requires a minimum of 26 showers. Long-term and short-term bicycle parking will be located on the ground floor of the development within secured bicycle rooms and 41 spaces scattered throughout the project's frontage for easy access for retail users. Each bicycle room has direct access to office lobbies and two have direct access to the outdoors and will be designed with identifiable entrances to indicate the availability of bicycle parking. The comments did not raise any further environmental issue under CEQA and therefore no specific responses were required.

E. Omar Billawala (April 24, 2020)

Comment E.1: 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.

Response E.1: The analysis in the Draft SEIR was based on information provided by the project applicant/property owner at the outset of the analysis. Lease agreements between tenants and property owners are private contracts that not under the purview of the Lead Agency and, as such, the analysis is based on the development scenario provided by the project applicant/property owner so the project description will not be modified.

Nevertheless, an alternative construction scenario was considered by the City’s Air Quality consultant, Illingworth & Rodkin, Inc., to address the commenter’s concerns.

The Draft SEIR Air Quality and Greenhouse Gas Assessment (Appendix B of the Draft SEIR) analyzed construction conservatively, assuming a continuous six-year period (2020-2025). Based on the assumed leasing scenario provided by the commenter, the air quality consultant looked at a construction schedule that would run continuously for four years with a one- to two-year break and then continue for another two years till completion. Because the size and construction methods of the project would not change, the same construction intensity (i.e., construction hours and equipment usage) is assumed for when construction would be occurring. The air quality consultant concluded that the change in construction phasing would not

change the conclusions for the construction criteria pollutant calculations or the Toxic Air Contaminants (TAC) emissions.

Whether the project was constructed in a continuous period or phased as described above, construction would still last approximately six years. Therefore, the total number of active workdays would be similar, so the emissions calculation would not change. NO_x emissions from construction would still be in exceedance of the BAAQMD's 54 pounds per day threshold, while the (Reactive Organic Gases) ROG, PM₁₀, and PM_{2.5} emissions would be below their respective BAAQMD thresholds. The mitigation measures included in the Draft SEIR would not change.

For the TAC emissions, the increased cancer risk from construction would decrease slightly in the commenter's scenario due to the extended timeline and lower age-sensitivity factors. However, since the PM_{2.5} concentration is based on the maximum-modeled annual concentration and the construction inputs would not change, the risk would be similar to that reported in the Draft SEIR Air Quality and Greenhouse Gas Assessment (Appendix B of the Draft SEIR). Under the phased construction scenario, the increased cancer risk and annual PM_{2.5} concentration would still be significant. Therefore, the mitigation measures included in the Draft SEIR would not change.² As a result, the findings of the Draft SEIR are correct and no additional analysis or mitigation is required.

The Commenter requests for a project condition requiring that the applicant provide quiet enjoyment to existing tenants during their leases. This comment raises a potential privately enforceable legal issue between lessor and lessee; not a CEQA issue. "Quiet enjoyment" means generally that a tenant has a right to occupy the premises without landlord interference. This right is governed by a private lease agreement and state law. The City is not a party to these lease agreements nor does the City regulate such tenancies. Additionally, the Comment does not include any information to support the contention that construction will take longer than the estimated 69 months.

Comment E.2: 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 unmitigable. It concludes the same for Noise/Vibration impacts.

² Personal Communication. Mimi McNamara, Illingworth & Rodkin, May 4, 2020.

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.

Response E.2: Illingworth & Rodkin, Inc. prepared a memorandum addressing the commenter’s air quality concerns (attached as Appendix B of this Final SEIR). As mentioned in the memorandum, sensitive receptors include children less than 16 years old, the elderly, and people with cardiovascular and chronic respiratory diseases pursuant to guidance from the Bay Area Air Quality Management District (BAAQMD).³ Workers are not considered sensitive receptors; therefore, the SEIR did not analyze the air quality and noise/vibration impacts to the tenants that would remain on-site. Refer to Response E.3 below.

Comment E.3: 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[d] 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 is 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.

Response E.3: It should be noted that the Draft SEIR incorrectly states that the maximum modeled DPM and PM_{2.5} concentrations were identified at the first floor of the interim housing building and the maximum-modeled cancer risk maximum exposed individual (MEI) would be located on the second floor of the approved Greyhound Residential development site at 70 South Almaden Boulevard. The reference to DPM is incorrect, but the Draft SEIR correctly identifies the maximum PM_{2.5} location and the MEI (which is the DPM receptor). Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendment.

With regard to the commenter’s opinion that on-site tenants would be the MEI, per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*), effects of the environment on the project are not considered CEQA impacts. Furthermore, as mentioned above, workers are not

³ Bay Area Air Quality Management District, 2017. CEQA Air Quality Guidelines. May 2017.

considered sensitive receptors; therefore, a health risk assessment for the tenants is not required. The Draft SEIR identified the most sensitive receptor within the project area which include infants (assumed at all residences), children (assumed at all residences), and adults. On-site and off-site workers were not addressed since 1) they are not considered sensitive receptors and 2) adults are less sensitive to toxic air contaminants (TACs) compared to infants and children.

As noted in the Draft SEIR, the maximally impacted adult residential receptor would have an increased cancer risk of 6.9 cases per million, the hazard index (HI) value would be 0.14, and the annual PM_{2.5} concentration would be 1.60 µg/m³. In response to the commenter's concern, Illingworth and Rodkin assessed the exposure to on-site tenants during construction. Individual workers are assumed to be exposed to construction for eight hours per day and five days per week. With the worker construction duration adjustments (on-site tenants would have less exposure per day/per week and would only be on-site for a portion of the construction period, thereby having less overall exposure than the residential MEI), the increased cancer risk, HI value, and PM_{2.5} concentration would all be less than the risk identified for the residential adult receptor. As a result, both the cancer risk and HI value would be below adopted thresholds of significance.

The annual PM_{2.5} concentration would be less than half the residential concentration of 1.60 µg/m³, but would exceed BAAQMD's PM_{2.5} concentration of 0.3 µg/m³. With implementation of the Standard Permit Conditions and Mitigation Measure AIR-2.1 identified in the Draft SEIR, however, the PM_{2.5} concentration at the residential adult receptor would be 0.25 µg/m³. The Standard Permit Conditions and Mitigation Measure AIR-2.1 identified on pages 29 and 32 of the Draft SEIR, respectively, would also reduce the construction-related risks and hazards for on-site tenants below the BAAQMD threshold. As a result, on-site tenants would not be exposed to a substantive health risk from construction activities on-site.

The comment does not change the analysis of the project. The comment does not include new information that would result in new significant impacts or mitigation measures than those analyzed and disclosed in the Draft SEIR and associated appendices.

Comment E.4: 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.

Response E.4: The building located at 150 South Almaden Boulevard is part of the project site. Since project construction would occur for a period of more than 12 months and would be within 200 and 500 feet of existing off-site commercial and planned residential uses, the project would be required to prepare a construction noise logistics plan and implement Best Management Practices (refer to Mitigation Measures NOI-1.1b) consistent with the Municipal Code and General Plan Policy EC-1.7 to reduce construction noise levels by 5.0 to 10 dBA as mentioned on page 113 of the Draft SEIR. Even with mitigation, the adjacent land uses (e.g., hotel guests, residents of the interim housing building, and future residences of the approved projects) would be exposed to interior noise levels greater than 40 dBA L_{eq} during nighttime construction. Implementation of the project would result in a significant unavoidable noise impact.

As noted in Response E.2, office workers are not considered sensitive receptors. Per the General Plan Policy EC-1.2, sensitive noise receptors are identified by the City as residential, hotels/motels, hospitals, residential care facilities, outdoor recreational facilities, schools, libraries, museums, meeting halls, churches, public and quasi-public auditoriums, concert halls, and amphitheatres. While it is assumed that some tenants would remain on-site during a portion of the construction period, the building at 150 South Almaden Boulevard is the same distance from the proposed construction activities as 190 Park Center Plaza, which is not part of the project site. As a result, any noise impact at 150 South Almaden Boulevard and the effectiveness of the identified noise mitigation measures would be equivalent to that for 190 Park Center Plaza. The commenter notes that appropriate mitigations are ignored in the Draft SEIR for the 150 South Almaden Boulevard building, but does not specify or suggest what those measures are. Nor are the tenants of 150 South Almaden Boulevard sensitive receptors. As such, no further response is possible.

The commenter does not provide new information that would change the project's impact or provide new information that would require additional analysis or result in new significant impacts or mitigation measures than those analyzed and disclosed in the Draft SEIR and associated appendices.

F. National Trust for Historic Preservation (April 24, 2020)

Comment F.1: 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.

Response F.1: This comment provides an overview of the commenter’s concerns. Refer to Responses F.3 to F.8 below regarding the commenter’s specific concerns about the project alternatives.

Comment F.2: 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.

Response F.2: This comment does not raise any environmental issue under CEQA and; therefore, no specific response is required.

Comment F.3: 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.

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.

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.

Response F.3: The Draft SEIR correctly identifies the impact to historic structures to be significant and unavoidable after implementation of the identified mitigation. As explained on page 122 of the Draft SEIR, the three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project’s objectives, and (3) the feasibility of the alternatives available. In this regard, “feasible” means it is legally and physically possible. The analysis in the Draft SEIR focused on the alternatives’ ability to reduce or avoid the significant impacts of the project and consistency with project objectives. The decision-makers may consider economic, planning, and CEQA considerations when determining whether or not to approval a project alternative or adopt a Statement of Overriding Considerations.

Also refer to Responses F.4 to F.8 for a discussion of feasibility of alternatives.

Comment F.4: 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.” 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.

Response F.4: Per the applicant's architect, the Bank of California building (referred to as the Sumitomo Bank building in the Draft SEIR) is located on a raised concrete podium and underground garage that is shared with other existing buildings throughout the site. Due to the logistics of the integrated above and below grade structures, retention of the Bank of California building would require keeping its corner of the podium and the underground garage. In addition, to maintain the parking area in this location, the existing garage entry below the office tower building (on South Almaden Boulevard) would need to be maintained as discussed on page 130 of the Draft SEIR.

Retention of a portion of the existing below grade parking area for the Bank of California building and the Almaden garage entry would create a structural challenge for the deep excavation proposed for the new office towers. Reduced excavation depths for the new parking levels would require above grade parking on-site which would impact the total net new square footage that could be constructed on-site. Because the 150 South Almaden Boulevard office tower must be retained for structural reasons in this scenario, the total square footage of office space on-site would be less than proposed project (a reduction of approximately 1,510,916 square feet) because of the above grade parking that would be needed to meet the parking requirement. Specifically, the inability to provide parking under the Bank of California building would require above-grade parking for the two new towers, in addition to the below-grade parking, to meet the City's parking requirement. This would result in the loss of approximately 299,000 square feet of office space in the two towers. The 299,000 square feet combined with the loss of the third tower due to retention of the Bank of California building and the 150 Almaden tower would result

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 a total reduction of 1,510,916 square feet compared to the proposed project (3,574,533 square feet).

If a new office tower could be constructed north of the Bank of California building, it could not have a larger footprint than the existing building and would result in the need for above grade parking similar to retaining the existing building. Assuming the new tower would have a maximum height of 293 feet (consistent with the proposed project) the tower would require three levels of above grade parking and would have approximately 227,000 square feet of office space. This would result in a total reduction of 1,283,916 square feet.

The commenter is correct that the alternative analysis included two potential square footage numbers for new office space on-site in case it was determined after further structural analysis during the building permit stage that retention of the 150 South Almaden Boulevard office tower would not be required. Upon further review, the applicant's structural engineer has determined that there are significant challenges to safely being able to construct the proposed project's shoring wall and five-level, below-grade parking garage, adjacent to the Bank of California building and its portion of the below-grade parking structure. Also, the below-grade water pressure prohibits construction of a new shoring wall around the retained Bank of California building and its existing below-grade structure. While providing a shoring and underpinning solution under or adjacent to the existing building is possible, it would be a very expensive, onerous and time-consuming process. Pursuant to Section 15088.5 of the CEQA Guidelines, a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review. New information added to the EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such as effect (including a feasible project alternative) that the project's proponents have declined to implement. This response provides additional information and administrative corrections which have been included as a text amendment to this Final SEIR (refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR). These text amendments do not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required.

Comment F.5: 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).

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.

Response F.5: With regard to the reuse of the Bank of California building, the Draft SEIR (page 130) notes that the design and size of the building could be limiting

factors, as well current light and air requirements. The creation of Class A office space which is desirable to tenants and provides for higher income jobs within the City could be limited by the restrictions of exterior modifications to the buildings. Furthermore, the existing Bank of California building requires abatement of the existing asbestos, which can only occur through removing the exterior wall panels, which would damage the historic fabric of the building⁵.

Comment F.6: 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).

Response F.6: The analysis in the Draft SEIR focused on the alternatives’ ability to reduce or avoid the significant impacts of the project and consistency with project objectives. The decision-makers may consider economic, planning, and CEQA considerations when determining whether or not to approval a project alternative or adopt a Statement of Overriding Considerations. This information is not provided solely in the Draft SEIR but is also provided in the staff report, EIR resolution, and from the project applicant.

The City’s office development goals for the downtown area are not limited to economic development, and financial considerations were not considered as part of the alternative analysis. Consistent with the City’s Environmental Stewardship goals, the City’s General Plan and Downtown Strategy 2040 Plan identify the need for substantive increases in office development within the downtown to provide jobs near housing, services, and multi-modal transit to reduce driving distances and greenhouse gas (GHG) emissions consistent with State mandates. Specifically, the Downtown Strategy 2040 transferred development capacity for 10,000 jobs from the North Coyote Valley Employment Lands Growth Area to the Downtown Strategy 2040 plan area. The Downtown Strategy 2040 was found to be consistent with the major strategies embodied in the 2040 General Plan, and it was concluded that the Downtown Strategy 2040 is a key strategy for achieving many of the City’s goals related to economic growth, fiscal sustainability, and environmental stewardship by directly supporting the objectives of focusing growth in the downtown near regional transit hubs and existing employment centers.

By placing jobs closer to housing and by replacing older office buildings with new, higher density, LEED office buildings, criteria air pollutants are also reduced, as is energy and water consumption. As stated in the Draft SEIR, Project Objective 4 is to

⁵ Personal Communication: Britt Lindberg, Gensler, May 5, 2020.

support the City’s Environmental Stewardship goals⁶. While retaining existing buildings and rehabilitating them could be considered a green building strategy, it would not meet the City’s General Plan goals of intensifying office space⁷ in this prime Downtown location.

Comment F.7: 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.

Response F.7: The proposed project was identified as being inconsistent with the City’s General Plan historic preservation policies on pages 59-60 of the Draft SEIR. The Draft SEIR explains the significant environmental impacts of this inconsistency, the physical conditions which exist within the area affected by the project, and the significant effects of demolition of the existing development on-site with regard to the four individually significant historic buildings and the Candidate City Landmark District (CityView Plaza, as a whole). As discussed on pages 72-75 of the Draft SEIR, the project site was the original Park Center Plaza which was San José’s first redevelopment project and represents the City’s modern-era banking and financial center developed beginning in 1968 and was intended to assist with the revitalization of the downtown. Thus, the Draft SEIR recognizes that demolition of the structures on the project site would be a significant and unavoidable impact. While the project is not consistent with the City’s historic preservation policies, in practice and in the law it is recognized that it is nearly impossible for a project to be in conformity with each and every policy in the applicable plan, nor is such consistency required for the decision-maker. (See e.g., *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1510-1511.) Under Project Objective 1, the project would be consistent with other City policies, including those outlined in Response F.6 herein, including the goals outlined in the Downtown Strategy 2040. Consistent with the City’s Environmental Stewardship goals, the City’s General Plan and Downtown Strategy 2040 Plan identify the need for substantive increases in office development within the downtown to provide jobs near housing, services, and multi-modal transit to reduce driving distances and greenhouse gas (GHG) emissions

⁶ City of San José. Downtown Strategy 2040 Integrated Final Environmental Impact Report. December 2018. Page 198.

⁷ City of San José. Downtown Strategy 2040 Integrated Final Environmental Impact Report. December 2018. Page 25.

consistent with State mandates. The significant unavoidable impact identified in the Draft SEIR is clear in identifying that the project is inconsistent with the preservation policies listed on pages 59-60 of the Draft SEIR.

There is a difference in the consideration of the project under CEQA and the ultimate determination of the decision-maker whether to approve or deny the project which must be distinguished in this response to the comment. Although the lead agency evaluates the environmental impacts (physical conditions) of a project's inconsistency with the General Plan under CEQA, the inquiry is different for the decision-maker when determining whether to approve a project. An inconsistency between a proposed project and an applicable plan is a legal determination, not a physical impact on the environment. (See *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170; and discussion in *Kostka and Zischke, Practice Under the California Environmental Quality Act* (CEB, 2d Ed. March 2016 Update)). The City Council can interpret its General Plan and determine its priorities when a project is not consistent with all General Plan goals and policies. General Plan consistency determinations by a City Council are entitled to substantial deference. (See *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 142.)

Comment F.8: 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.).

Response F.8: As stated on page 14 of the Draft SEIR, "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. Some of the demolished concrete would remain on-site and be used for winterization and base." In addition, recycling of construction debris is addressed in Section 4.19 of the Initial Study and energy usage is addressed in Section 4.6 of the Initial Study (Appendix A of the SEIR). Furthermore, as discussed on page 130 of the Downtown Strategy 2040 FEIR, future development under the Downtown Strategy 2040 would involve the use of energy during demolition and construction, including fuels and electrical power for operation of construction equipment, construction worker travel to and from construction sites, and the fabrication and transport of construction materials. Energy will also be used to demolish, transport, and dispose of demolition materials. Implementation of 2040 General Plan policies and existing regulations and programs

would reduce energy loss resulting from the disposal of construction and demolition materials through diversion and recycling. Therefore, development allowed under the Downtown Strategy 2040 would not consume energy in a manner that is wasteful, inefficient, or unnecessary.

As discussed on page 5 of the General Plan, the City has set forth environmental goals and policies for topics related to the City's continuing commitment to Environmental Leadership. It is organized into four categories: Measurable Sustainability includes policies that fulfill the City's Green Vision goal for the incorporation of specific measurable standards in the General Plan related to green building, recycling, air quality, energy, water resources and the community forest; Environmental Resources includes policies intended to protect the high-quality ecologies and other environmental resources that can be found within the City; Environmental Considerations/Hazards includes policies to reduce the potential land use risks related to various environmental hazards; and Infrastructure includes policies for provision and management of the City's infrastructure systems. Over the useful life of the proposed buildings, the energy and water savings resulting from efficiencies of new LEED construction, reductions in criteria pollutant emissions and GHG emissions, as well as reduced traffic trips with lower vehicle miles traveled from increasing available office space on-site consistent with the City's Green Vision, Council Policy 6-32, the General Plan, and the Downtown Strategy 2040 would outweigh the environmental benefit of preserving and retrofitting the existing buildings. In particular, reductions of traffic trips, increased use of transit, and building efficiencies gained, plus the increase in available office space would provide more long-term environmental benefit to the health and welfare of San José residents over the life of the proposed buildings than gains from reduced construction debris and manufacturing of building materials resulting from preservation of the Bank of California building. Refer to Section 3.1 of the Draft SEIR, and Sections 4.6, 4.8, and 4.17 of Appendix A of the Draft SEIR for a complete analysis of air quality, energy, greenhouse gases, and transportation.

G. Preservation Action Council of San José (April 24, 2020)

Comment G.1: 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.

Response G.1: This comment did not raise any environmental issue under CEQA and therefore, no specific response is required.

Comment G.2: 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.

Response G.2: Responses to specific comments are provided below.

Comment G.3: 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.

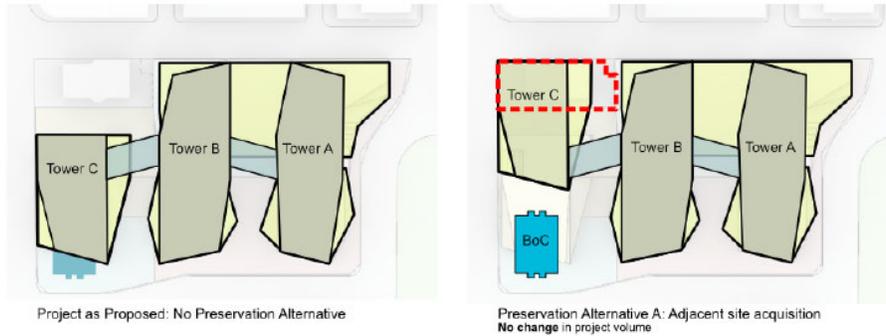


Figure 1: Preservation Alternative A: Adjacent site acquisition (rendering by PAC*SJ)

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.

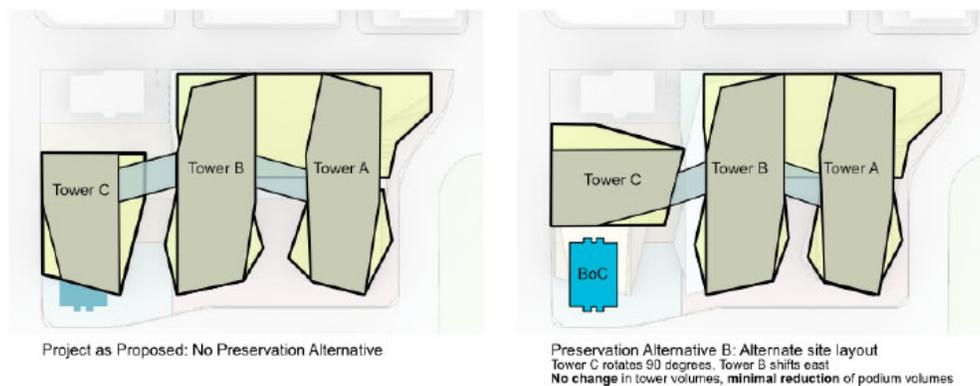


Figure 2: Preservation Alternative B: Alternate Site Layout (rendering by PAC*SJ)

Response G.3: Assumed acquisition of additional adjacent property is not a feasible alternative under CEQA. A project applicant cannot propose any land use change to a property they do not legally control, and the City Council cannot approve any private project proposal or alternative that considers the use of property not legally controlled by the project applicant.

Alternative B may appear to work based on the two-dimensional visual representation provided by the commenter, but does not take into consideration the three-

dimensional structural and engineering issues of the project site or the parking requirements as outlined in Response F.4.

References to the Sumitomo Bank building have been made consistent. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR the proposed text amendments. These text amendments do not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required.

Comment G.4: 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”).

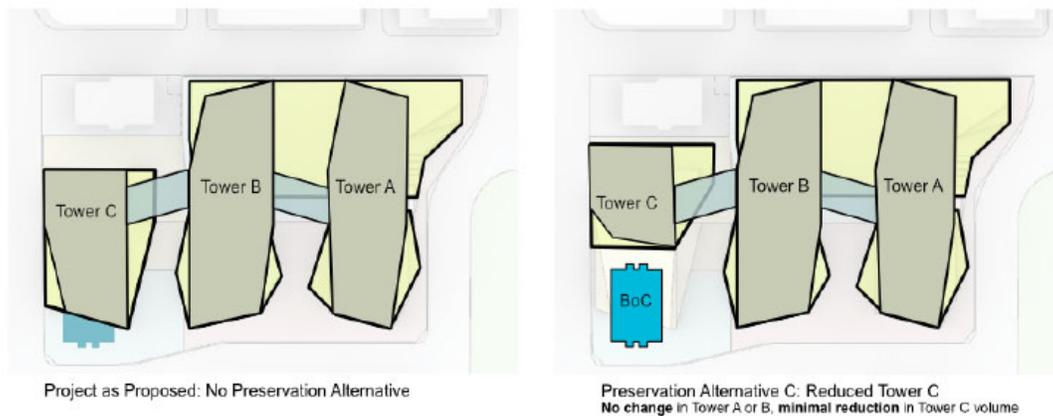


Figure 3: Preservation Alternative C: Reduced Tower C (rendering by PAC*SJ)

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.

Response G.4: Per the applicant’s architect, the Bank of California building is located on a raised concrete podium and underground garage that is shared with other existing buildings throughout the site. Due to the logistics of the integrated above and below grade structures, retention of the Bank of California building would require keeping its corner of the podium and the underground garage. In

addition, to maintain the parking area in this location, the existing garage entry below the office tower building (on South Almaden Boulevard) would need to be maintained as discussed on page 130 of the Draft SEIR.

Retention of a portion of the existing below grade parking area for the Bank of California building and the Almaden garage entry would create a structural challenge for the deep excavation proposed for the new office towers. Reduced excavation depths for the new parking levels would require above grade parking on-site which would impact the total net new square footage that could be constructed on-site. If the 150 South Almaden Boulevard office tower must be retained for structural reasons, then the total square footage of office on-site would be less (a reduction of approximately 1,510,916 square feet) than proposed because of the above grade parking that would be needed. Specifically, the inability to provide parking under the Bank of California building would require above-grade parking for the two new towers, in addition to the below-grade parking, to meet the City's parking requirement. This would result in the loss of approximately 299,000 square feet of office space in the two towers. The 299,000 square feet combined with the loss of the third tower due to retention of the Bank of California building and the 150 Almaden tower would result in a total reduction of 1,510,916 square feet compared to the proposed project (3,574,533 square feet).

If a new office tower could be constructed north of the Bank of California building, it could not have a larger footprint than the existing building and would need above grade parking. Assuming the new tower would have a maximum height of 293 feet (consistent with the proposed project) the tower would require three levels of above grade parking and would have approximately 227,000 square feet of office space. This would result in a total reduction of 1,283,916 square feet.

Upon further review, the applicant's structural engineer has determined that there are significant challenges to safely being able to construct the proposed project's shoring wall and five-level, below-grade parking garage, adjacent to the Bank of California building and its portion of the below-grade parking structure. Also, the below-grade water pressure prohibits construction of a new shoring wall around the retained Bank of California building and its existing below-grade structure. While providing a shoring and underpinning solution under or adjacent to the existing building is possible, it would be a very expensive, onerous and time-consuming process.⁸ Nevertheless, this alternative would still generally meet the project objectives, but to a lesser degree than the proposed project.

The commenter's statement that the Draft SEIR rejected Alternative 6 is incorrect. The Draft SEIR only rejects alternatives which are found to be infeasible and Alternative 6 is presented as a viable alternative. Therefore, it was not rejected. Only the decision-makers for the Lead Agency can reject a viable alternative. Pursuant to CEQA Guidelines Section 15093, CEQA requires the decision-making agency to

⁸ Personal Communication: Britt Lindberg, Gensler, May 5, 2020.

balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.” As previously noted, the City Council will consider all available information from the SEIR, the staff report, EIR resolution, and from the project applicant when making their determination on the project.

The commenter has provided no evidence to support their challenge of the veracity of the lost square footage figures. Therefore, no responsible is possible.

Comment G.5: 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

Structure 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.

Response G.5: Retention of a historic building on a project site is not a mitigation measure but would be an alternative to the proposed project. The Draft

SEIR correctly identifies a preservation alternative for the Bank of California building to address the impact from demolition of the building.

Comment G.6:

- 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.

Response G.6: Under CEQA, demolition of the designated historic structure and structures eligible for listing on the federal or State registers or a local register would be a significant and unavoidable impact. Even if an impact is significant and unavoidable, the EIR must identify all feasible mitigation measures. Mitigation measure CUL-1.1 was included to ensure appropriate recordation of the buildings on-site and the Candidate City Landmark District. The measure also provides for relocation, salvage, and commemoration. All actions completed under MM CUL-1.1 must be approved by the City’s Historic Preservation Officer. While Section 15126.4(a)(4)(B) of the CEQA Guidelines states that mitigation must be roughly proportional to the impact of the project, there is no evidence provided to suggest that complete documentation as outlined in the mitigation is not proportional. Requiring any one project to support Citywide or downtown survey efforts is not, however, proportional and there is no nexus for the City to require it. Furthermore, the City cannot require a project to provide financial contributions to support preservation of other buildings within the City.

The historic assessment completed for the proposed project found no evidence to support the Candidate City Landmark District’s proposed period of significance to be

extended to c.1985 to include the Heritage Bank Building (150 South Almaden Boulevard) and public art within the district boundaries. As stated in the Draft SEIR (page 71), the Heritage Bank Building has no identified historical association (as the second phase of the original Park Center Plaza redevelopment project) because its design and setting were after the urban renewal process was mostly completed in San José. As a result, it is outside the period of significance and was not found to be individually significant or a contributor to the Candidate City Landmark District.

Comment G.7: 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.

Response G.7: Refer to Responses F.5 to F.8 and Responses G.3 to G.6.

H. San José Downtown Association (April 24, 2020)

Comment H.1: The San José 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 José 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.

Response H.1: Per discussions with the City, the project applicant has confirmed that public access through the site shall be maintained at all times except that future pedestrian gates may be located at or along the east/west pedestrian walkway, for security, with the approval of a Planning Permit Adjustment. A Condition of Approval for the site development permit will require such gates to remain open for public access through the site between 7:00AM and 11:00PM, unless a Temporary Special Event is occurring on-site.

Comment H.2: 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 publicly 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.

Response H.2: Refer to Response H.1.

SECTION 5.0 DRAFT SEIR TEXT REVISIONS

This section contains revisions to the text of the CityView Plaza Office Project Draft SEIR dated March 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Appendix A, Section 4.1.1.2,
Page 26

The first and second paragraph is **REVISED** as follows:

The former ~~Santa Clara County Superior Family Court building~~ Sumitomo Bank building, located at 170 Park Avenue, was constructed in 1971. The building is two stories tall with modern Brutalist architectural design (see Photo 2). The building is primarily grey stucco with no coverage. The entrance to the building is located between two prominent cement columns on the southern façade and the signs located on the southwestern building façade have been removed. There are brown-tinted windows located on the second floor around the building.

Located east of the former ~~Santa Clara County Superior Family Court building~~ Sumitomo Bank building is a six-story structure which is comprised of ground floor retail fronting a five-level parking garage (see Photo 3). Located on the top floor of this commercial building is a restaurant. The most prominent feature is the elevator enclosure which appears as a tower with a large clock. Adjacent to the six-story structure is a three-story commercial building (177 Park Avenue) comprised of brown-tinted windows with thin vertical cement columns that run from the ground level to the bottom of the large eave. The easternmost building is two stories and comprised of two large cement wings on either side of a recessed entrance. An arched pergola further defines the entrance

Appendix A, Section 4.10.2,
Page 79

The sentence under the Dam Failure section is **REVISED** as follows:

The project site is located within the Leroy Anderson Dam and James J. Lenihan Dam on Lexington Reservoir dam failure inundation hazard zones.^{9,10} Additionally, the project

⁹ Santa Clara Valley Water District. “Anderson Dam Flood Inundation Maps.” Accessed December 18, 2019. <https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>.

¹⁰ Santa Clara Valley Water District. “Lexington Dam Flood Inundation Maps.” Accessed December 18, 2019. <https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf>.

site would be subject to inundation by the Guadalupe dam on the Guadalupe Reservoir.^{11,12}

Appendix A, Section 4.10.2,
Page 85

The first paragraph under checklist question 4 is **REVISED** as follows:

The project site is not located within a Special Flood Hazard Area as delineated by FEMA. The western half of the project site is located in Flood Zone X and the eastern half of the project site is located in Flood Zone D which ~~has~~ has no floodplain requirements. Additionally, there are no bodies of water near the project site that would affect the project area in the event of a seiche or tsunami. As a result, development of the proposed project would not release any pollutants due to flood hazards, tsunamis, or seiches that would impact adjacent properties.

Appendix A, Section 4.17.1.2,
Page 103

The discussion under Bicycle Facilities is **REVISED** as follows:

Bicycle facilities are comprised of paths (Class I), lanes (Class II), routes (Class III), and protected bicycle lanes (Class IV). Class II bicycle facilities (striped bike lanes) are provided along South Almaden Boulevard and Park Avenue. Class II bicycle lanes are also provided along the following roadways within the project area:

- South Almaden Boulevard, between Woz Way and Carlisle Street
- Park Avenue, west of Market Street
- West San Fernando Street, between Tenth Street and Cahill Street
- Woz Way, between San Carlos Street and Almaden Avenue
- Santa Clara Street, west of South Almaden Boulevard
- San Salvador Street, between Market Street and ~~Seventh~~ Fourth Street

¹¹ Santa Clara Valley Water District. "Inundation Map for the Hypothetical Fair Weather Failure of Guadalupe Dam." Accessed April 28, 2020.

https://www.valleywater.org/sites/default/files/Guadalupe_inundation_FW_1000.pdf.

¹² Santa Clara Valley Water District. "Inundation Map for the Hypothetical Inflow Design Flood Failure of Guadalupe Dam." Accessed April 28, 2020.

https://www.valleywater.org/sites/default/files/Guadalupe_inundation_IDF_1000.pdf.

- Second Street, ~~south of~~ between William Taylor Street and West San Carlos Street
- Third Street, ~~north of~~ between Jackson Street and St. James Street
- Fourth Street, between Jackson Street and ~~Reed~~ Santa Clara Street; between San Salvador Street and Reed Street
- Almaden Avenue, between Alma Avenue and Grant Street
- Vine Street, between Alma Avenue and Grant Street

Class III bicycle routes with shared-lane pavement markings are provided along the following roadways:

- San Carlos Street, between Woz Way and Fourth Street
- West San Fernando Street, east of 10th Street
- Second Street, between San Carlos Street and Julian Street
- First Street, between San Salvador Street and St. John Street
- San Salvador Street, between Fourth Street and Tenth Street (eastbound)
- William Street, between First Street and McLaughlin Avenue

Appendix A, Section 4.17.1.2,
Page 104

The discussion under Bicycle Facilities is **REVISED** as follows:

Class IV bicycle facilities (protected bicycle lanes) are currently being installed throughout the downtown area as part of the Better Bikeways project. Protected bike lanes have been implemented along the following roadways:

- West San Fernando Street, between ~~South Almaden Boulevard~~ Cahill Street and Tenth Street
- Second Street, between San Carlos Street and William Street
- Third Street, between St. James Street and Reed Street
- Fourth Street, between Santa Clara Street and San Salvador Street
- San Salvador Street, between Fourth Street and Tenth Street (westbound)

- Autumn Street, between Santa Clara Street and St. John Street
- Cahill Street, between West San Fernando Street and Santa Clara Street

The Guadalupe River Trail, an 11-mile Class I bicycle path that extends from Curtner Avenue to Willow Street, and between Virginia Street and Palm Street to Alviso, can be accessed along both West San Fernando Street and Park Avenue, approximately 700 feet west of the site. Existing bicycle facilities are shown in **Error! Reference source not found..**

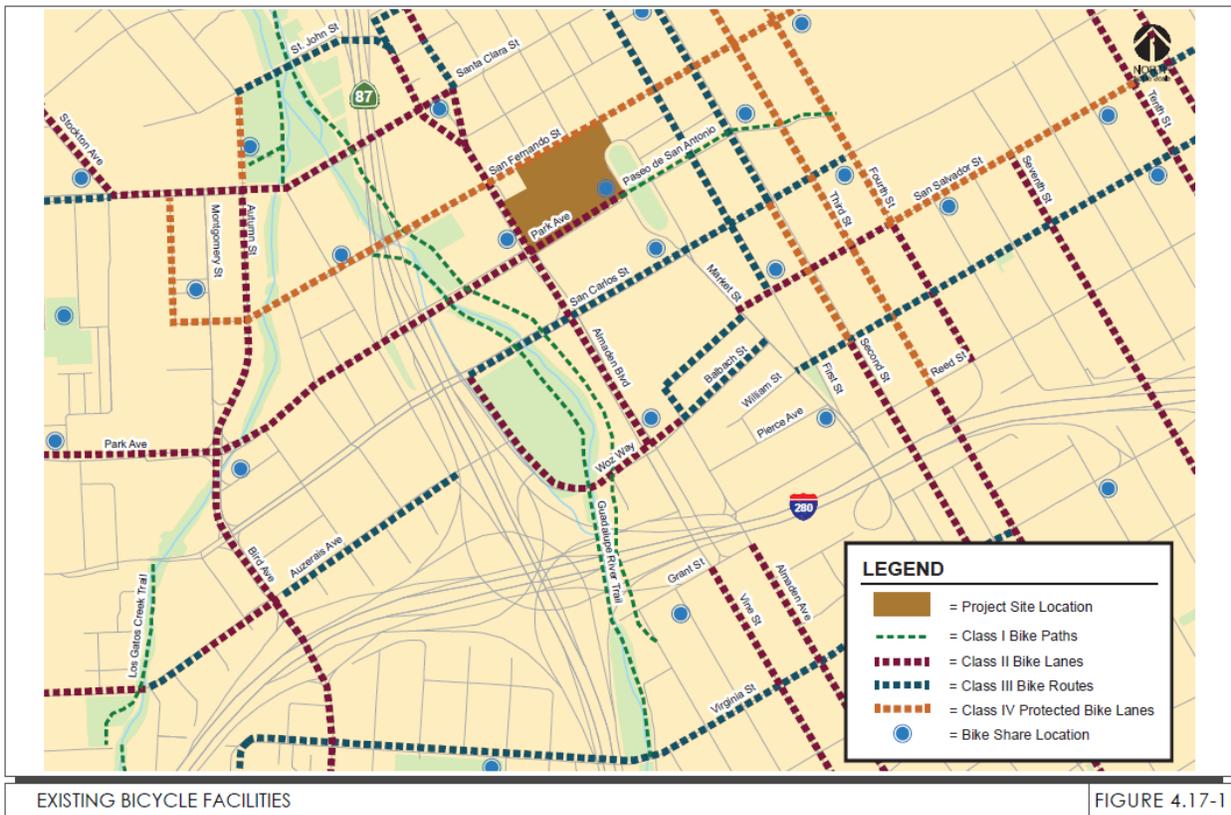
Appendix A, Section 4.17.1.2,
Page 104

The first paragraph under Transit Services is **REVISED** as follows:

Train services in the project area is provided by the VTA, Caltrain, ACE, and Amtrak. In addition, there are existing transit services provided by Santa Cruz METRO and Monterey Salinas Transit. Existing transit facilities are shown in Figure 4.17-3. The project site is located approximately 600 feet north of the Convention Center Light Rail Station and approximately 0.75-mile from the San José Diridon Station

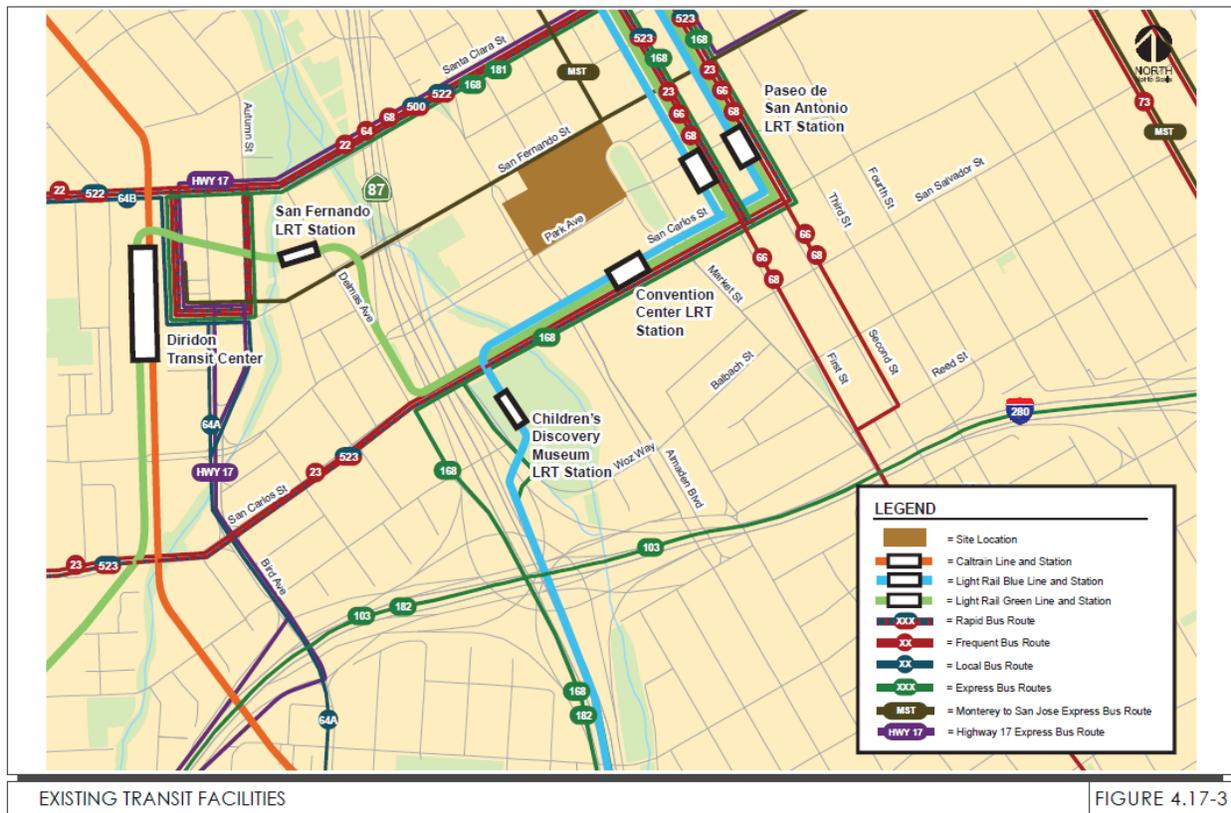
Appendix A, Section 4.17.1.2,
Page 105

Figure 4.17-1, Existing Bicycle Facilities is **REVISED** as follows:



Appendix A, Section 4.17.1.2,
Page 107

Figure 4.17-3, Existing Transit Facilities will be **REVISED**
as follows:



Appendix A, Section 4.17.1.2,
Page 108

The paragraph under Light Rail Transit Service is **REVISED** as follows:

The VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The San Antonio LRT station is located less than 700 feet of the project site on Paseo de San Antonio. The Convention Center LRT station is located less than 600 feet from the paseo that runs between Park Avenue and San Carlos Street. The Winchester-Old Ironsides and Baypointe-Santa Teresa LRT lines operate along San Carlos Street and along First Street and Second Street. The San José Diridon Station (approximately 0.75-mile west from the site) is located along the ~~Mountain View-Winchester~~ Winchester-Old Ironsides LRT line and serves as a transfer point to Caltrain, ACE, and Amtrak services.

Appendix A, Section 4.17.1.2,
Page 110

The first paragraph under Transit Facilities is **REVISED** as follows:

The project site is in close proximity to major transit services that would support multi-modal travel to and from the project site. The nearest bus stops are located along First Street, San Carlos Street, and Santa Clara Street. The ~~Mountain View-Winchester and Alum Rock-Santa Teresa~~ Winchester-Old Ironsides and Baypointe-Santa Teresa LRT lines operate along San Carlos Street and along First and Second Streets, north of San Carlos Street.

Appendix A, Section 4.17.1.2,
Page 111

The second heading under checklist question 3 is **REVISED** as follows:

Site Sight Distance

Appendix A, Section 4.17.1.2,
Page 114

The last sentence under Bicycle Parking is **REVISED** as follows:

The project would provide ~~776 long-term bicycle parking spaces and thirty short-term~~ bicycle parking spaces, which meets the total minimum number of bicycle parking spaces required.

Page iv

The first paragraph is **REVISED** as follows:

The 8.1-acre project site is currently developed with nine buildings and an underground parking structure. The project

proposes to demolish the existing buildings and parking structure and construct three office towers with approximately 3,574,533 square feet of leasable office space and 65,500 square feet of ground floor retail. The 19-story buildings would have a maximum height of 293 feet. The project would also include five levels of below grade parking and a 15-car surface parking lot.

Page iv

The following text is **ADDED** to the summary table:

Significant Impacts	Mitigation Measures
<u>Land Use and Planning</u>	
<p><u>Impact LND-1: The proposed project would shade the Plaza de César Chávez in March, June, September, and December at 3:00 PM by more than 10 percent.</u></p> <p><u>[New Significant Unavoidable Impact (Significant Unavoidable Impact)]</u></p>	<p><u>Redesigning the project to reduce the height, so that the shadow would not exceed the 10-percent threshold specified in the Downtown Strategy 2040 FEIR, would not provide the office space that is desired by the Downtown Strategy 2040 and the Envision San José General Plan for this prime downtown location. The proposed project would have a significant unavoidable shade and shadow impact.</u></p>

Section 3.1.3.1, Page 30

The third paragraph under Community Risk Impacts Within 1,000 feet of the Project Site From Project Construction – On-Site and Hauling is **REVISED** as follows:

The maximum modeled annual ~~DPM~~ and PM_{2.5} concentrations ~~were~~ was identified at the first floor of the interim housing building. The maximum-modeled cancer risk maximum exposed individual (MEI) would be located on the second floor of the approved Greyhound Residential development site located at 70 South Almaden Boulevard. Figure 3.1-1 depicts the locations of the sensitive receptors. The maximum annual cancer risk would be 246.48 cases per one million for infants (246.38 cases per one million for on-site construction and 0.10 cases per one million for truck hauling) and 6.9 cases per one million for adults (6.9 cases per one million for on-site construction and 0.1 cases per one million for truck hauling). The maximum residential cancer risk would exceed the BAAQMD threshold of 10 cases per one million. The maximum annual PM_{2.5} concentration was calculated to be 2.57 µg/m³ which exceeds BAAQMD significance threshold of 0.3 µg/m³. The maximum annual residential DPM concentration was 0.68 at the construction

MEI. The maximum Hazard Index (HI) based on this DPM concentration is 0.14 which does not exceed the BAAQMD significance criterion of a HI greater than 1.0.

Section 3.3, Page 55

The first paragraph under the section title is **REVISED** as follows:

The following information is based on a Historic Resource Project Assessment prepared by *Archives & Architecture* in December 2019, and updated February 7, 2020. The Historic Resource Project Assessment can be found in Appendix E of this document. Public comments received during the NOP scoping process pertained to the historic significance of the ~~Bank of California~~ Sumitomo Bank building that would be demolished as part of the proposed project.

Section 3.3.1.2, Page 61

Table 3.3-1 is **REVISED** as follows:

Table 1.3-1: Existing Structures On-Site			
No.	Building(s)	Address	Build Dates
1	Landmark building, Plaza Pavilion Buildings, and garage	100 West San Fernando St	1968-1969
1		130 South Almaden Blvd	
1		115 South Market St	
2	Wells Fargo Bank	121 South Market St	1969-1970
3	Bank of America and tower	125 South Market St	1970-1971
4	United California Bank (Morton's Steakhouse)	177 Park Avenue	1971-1973
5	Bank of California (Sumitomo Bank Building/Family Court)	170 Park Center	1971-1973
6	Mitsui Manufacturers Bank (Heritage Bank/Kiosk)	150 South Almaden Blvd	1984-1985
7	Scott's Seafood/Parking Garage	183-185 Park Avenue	1985

Section 3.3.1.2, Page 66

The last sentence under the Bank of America Building (No. 3) subheading is **REVISED** as follows:

Its sculptural southern wing is somewhat similar to the former ~~Bank of California~~ Sumitomo Bank building, in the southwest corner of the shared block; however, it is less purposefully sculptural, it has large expanses of wall planes and a massive appearance.

Section 3.3.1.2, Page 69

The fifth subheading under Existing Structures on the Project Site is **REVISED** as follows:

~~Bank of California~~/Sumitomo Bank Building (No. 5)

The first paragraph is **REVISED** as follows:

CityView Plaza, originally Park Center Plaza, was San José's first redevelopment project and represents the City's modern-era banking and financial center developed beginning in 1968 and was intended to assist with the revitalization of the downtown. The plaza remains a key and exceptional representation of an important local pattern of community development. While the plaza has undergone some minor renovations, most of the circa 1970 buildings remain intact. The exception is the small promenade that connected the ~~Bank of California~~ Sumitomo Bank building (at 170 Park Center) to the plaza and early kiosks on the plaza deck. The promenade was replaced in the 1980s with the current parking garage, which occurred after the plaza's period of significance (1968-1973).

The first paragraph is **REVISED** as follows:

With the plaza complex, individual buildings have been identified as notable examples of modern architecture, including the Wells Fargo building, the ~~Bank of California~~ Sumitomo Bank building, the United California Bank building, and the Bank of America building and tower. These buildings individually contribute to the significance of the plaza complex. Each of these buildings also qualify individually under Criterion 3 of the CRHR and as Candidate City Landmarks. The ~~Bank of California~~ Sumitomo Bank building is also individually eligible for the NRHP under Criterion C. As proposed, the project would demolish all structures on the project site resulting in a significant impact on multiple historic resources.

The following language is **ADDED** under checklist question 2:

Valley Water records have identified three active wells on-site. If the active wells are proposed to be retained on-site, the wells shall be protected during construction. If the wells would not be used following project development, the applicant shall obtain a well permit from Valley Water prior to destroying any wells on-site (as a Condition of Project Approval).

The following language is **ADDED** after checklist question 2:

3) Would the project result in a 10 percent or greater increase in the shadow cast onto any one of the six major open space areas in the Downtown San José area (St. James Park, Plaza of Palms, Plaza de César Chávez, Paseo de San Antonio, Guadalupe River Park, and/or McEnery Park).

Section 3.5.2, Page 95

The following language is **ADDED** to checklist question 3 after the Required Downtown Strategy 2040 FEIR Measures:

Impact LND-1: The proposed project would shade the Plaza de César Chávez in March, June, September, and December at 3:00 PM by more than 10 percent.

Section 7.4, Page 124

The eighth bullet under Alternatives is **REVISED** as follows:

The City considered the following alternatives to the proposed project:

- Location Alternative
- No Project – No New Development
- Preservation Alternative 1 – Preservation of all Historic Resources On-Site
- Preservation Alternative 2 – Relocation of Historic Resources
- Preservation Alternative 3 – Preservation of all Buildings Extant in 1974
- Preservation Alternative 4 – Preservation of Candidate Landmark Buildings
- Preservation Alternative 5 – Preservation of the Wells Fargo Building
- Preservation Alternative 6 – Preservation of the ~~Cesar Pelli Buildings~~ Sumitomo Bank Building
- Reduced Development Alternative 1 – Square Footage Reduction
- Reduced Development Alternative 2 – Reduced Parking
- Reduced Development Alternative 3 – Height Reduction for East Tower

Section 7.4, Page 124

The 16th bullet under Alternatives is **REVISED** as follows:

- Building 1 – Landmark Building and Plaza Pavilion Buildings (104 and 130)
- Building 2 – Wells Fargo Building
- Building 3 – Bank of America and Tower

- Building 4 – United California Bank (Morton’s Steakhouse)
- Building 5 – ~~Bank of California~~ (Sumitomo Bank/~~Family Court~~) Building

Section 7.4.1.6, Page 130

Preservation Alternative 6 is **REVISED** as follows:

The Sumitomo Bank building (Building 5) is located at the southwestern corner of the project site. Preservation of this building would reduce the significant and unavoidable impact to a potential NRHP historic resource, but would not eliminate the significant and unavoidable impacts to CRHR and City historic resources. The building is currently vacant, but was originally a bank and then housed the Santa Clara County Family Court. It could potentially be used as office or event space, but reuse may be limited due to the design of the structure which is relatively small and has limited natural light within the building. Refer to Figure 7.4-2 for a rendering of Preservation Alternative 6.

The project applicant has indicated that preservation of the Sumitomo Bank 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, a loss of approximately 1,211,916 square feet in new office development and 2,061 parking spaces.¹³ This would result in 2,362,617 square feet of new development on-site. If retention of the office tower was not required, then this alternative would result in a loss of approximately 605,958 square feet in new office development because any building in this location could not have a larger footprint than the existing building and would need above grade parking. This would result in 2,968,575 square feet of new development on-site. The new building at 150 Almaden would not be able to be connected to the other new towers with an elevated pedestrian bridge.

Retention of a portion of the existing below grade parking area for the Sumitomo Bank building and the Almaden garage entry would create a structural challenge for the deep excavation proposed for the new office towers. Reduced excavation depths for the new parking levels would require

¹³ Personal Communication: Britt Lindberg, Gensler, February 11, 2020.

above grade parking on-site which would impact the total net new square footage that could be constructed on-site. If the 150 Almaden office tower must be retained for structural reasons, then the total square footage of office on-site would be less than proposed (a reduction of 1,510,916 square feet) because of the above grade parking that would be needed. The ~~Bank of California~~ Sumitomo Bank building is located on a raised concrete podium and underground garage that is shared with other existing buildings throughout the site. Due to the logistics of the integrated above and below grade structures, retention of the ~~Bank of California~~ Sumitomo Bank building would require keeping its corner of the podium and the underground garage. In addition, to maintain the parking area in this location, the existing garage entry below the office tower building (on Almaden Avenue) would need to be maintained.¹⁴ Preservation of the Sumitomo Bank building and adjacent office tower would require altering the site access as one of the site driveways is proposed in the location of the bank building.

Based on quantified air quality and noise impacts from construction for projects of comparable size within the downtown core, it is reasonable to assume that the construction air quality and noise impacts would be reduced but would continue to be significant and unavoidable with the mitigation included in the proposed project. Operational noise and air quality impacts would also be reduced, but not to a less than significant level. Furthermore, consistent with the City's General Plan and Downtown Strategy 2040 Plan, the increase in office development within the downtown would provide jobs near housing, services, and multi-modal transit to reduce driving distances and GHG emissions consistent with State mandates. By placing jobs closer to housing and by replacing the older office buildings with new LEED office buildings, energy and water consumption would be reduced. The significant unavoidable shading impact to Plaza de César Chávez ~~Cesar Chavez Plaza~~ would remain. Preservation Alternative 6 would be required to implement all mitigation, standard measures, and conditions of approval identified for the proposed project. As a result, all other identified impacts would remain less than significant.

Preservation of this building on-site would require the building to be maintained and reused in an appropriate

¹⁴ Personal Communication: Britt Lindberg, Gensler, April 29, 2020

manner. In addition, the new development would be required to comply with the City's Historic Design Guidelines and the Secretary of the Interior Standards to ensure compatibility of design and no further loss of setting.

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. This alternative generally meets the project objectives but to a lesser degree than the proposed project.