

**NOTICE OF PREPARATION OF A
DRAFT SUPPLEMENT ENVIRONMENTAL IMPACT REPORT FOR
THE WOZ WAY PROJECT
June 2020**

Introduction

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed Project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment; to examine methods of reducing adverse impacts; and to consider alternatives to the Project.

A Supplement to an EIR (SEIR) is prepared when it is determined by the Lead Agency that any of the conditions listed in California Environmental Quality Act Guidelines Section 15162 would require preparation of a subsequent EIR, *and* only minor additions or changes would be necessary to make the previous EIR adequate to the project in the changed situation. As the Lead Agency, the City of San José will prepare a SEIR to the Downtown Strategy 2040 EIR (SCH # 2003042127), to address the environmental effects of the proposed Woz Way Project (Project).

The SEIR for the Project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. An Initial Study has been prepared (which will be incorporated in the SEIR as an appendix) to focus the SEIR on potentially significant issues pursuant to CEQA Guidelines Section 15178. In accordance with Sections 15120 et seq. of CEQA Guidelines, the SEIR will include the following:

- A summary of the project;
- A project description;
- A description of the existing environmental setting, environmental impacts, and mitigation measures for the project;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth inducing impacts of the proposed project; and (d) cumulative impacts.

Project Location

The Project is located in the southwest portion of downtown San José, in Santa Clara County, California (Figure 1). The Project site is on the southwest corner of Woz Way and South Almaden Boulevard (Figure 2). The Project site is bound by Woz Way to the north, South Almaden Boulevard to the east, I-280 to the south, and Guadalupe River and pedestrian pathway to the west. The Project site is located within the Downtown Strategy 2040 Plan boundary in the City of San José.

Existing Uses

The Project site comprises 18 parcels as shown on Figure 3, and as listed below.

APNs:

- 264-31-037
- 264-31-038
- 264-31-039
- 264-31-040
- 264-31-041
- 264-31-042¹
- 264-31-043
- 264-31-044
- 264-31-061²
- 264-31-062
- 264-31-063
- 264-31-064
- 264-31-065
- 264-31-066
- 264-31-067
- 264-31-092
- 264-31-107
- 264-31-108

The Project applicant requests approval of two entitlements to facilitate the Project. The first entitlement is a General Plan Amendment (GPA), which would change the land use designation, and the second is a Site Development Permit, which would facilitate construction of the Project.

The 3.08-acre total Project site comprises the boundaries of the proposed General Plan Amendment (GPA), and the proposed Site Development Permit boundary excludes one of the parcels, as shown in Figure 3. The GPA is proposed for the entire Project site, including all 18 parcels noted above.

The Site Development Permit is proposed for 17 of the 18 parcels within the Project site, totaling 2.93 acres, as shown in Figure 3. Specifically, parcel 264-31-024 is not included in the site development boundary.

The approximately 3.08-acre Project site is currently developed with 17 single-family residential dwelling units, with landscaping and surface light fixtures along the frontages of these single-family residences. The Project site is developed with existing sidewalks that run along Locust Street, Woz Way, and South Almaden Boulevard.

Land uses surrounding the Project site are as follows:

- **North** – surface parking lot³ across from Woz Way
- **East** – single-story single-family homes, commercial/retail uses including the City of San José Convention Center across from Almaden Boulevard
- **South** – I-280
- **West** – Guadalupe River Park

¹ Parcel 264-31-042 is included in the proposed GPA boundary and is not included in the site development boundary.

² Parcel 294-31-061 is a vacant lot with no residential structures.

³ Construction of an approximately 2.8 million-square foot building on a 3.67-gross acre site, to replace the existing surface parking lot, is currently proposed for the property immediately north of the Project site, across Woz Way. A Notice of Preparation of an EIR for that project was filed in May 2019.

Project Description

General Plan Amendment

The Project site currently has a land use designation of Public/Quasi- Public in the Envision San José 2040 General Plan and is zoned Downtown Primary Commercial (DC). The Project proposes a GPA to change the entire Project site's land use designation to Downtown (DT).

Site Development

The proposed Site Development is for planning, design, construction, and operation of two interconnected high-rise office towers with offices, some retail set within an office complex ambience within Downtown San José. As part of the Site Development permit, the existing Locust Street is planned to be vacated.

Proposed Project

Office Towers: The project proposes two 20-story office towers, a maximum height of 297 feet, with the towers physically connected on Levels 8-9, 13-14, and 18-19. The total gross square footage will be approximately 1,823, 159 square feet. The proposed Project also includes four levels of underground parking and four levels of on- and above- ground parking at the south tower. The design proposal includes the following:

- Approximately 1,245,399 square feet of office space and
- Approximately 6,073 square feet of retail space.
- The remainder of the gross square footage would comprise lobby, parking, and common open spaces.

The conceptual floor plan consists of:

- Levels B1 to B4 include approximately 475,660 square feet of basement parking (1,046 parking spaces).
- Level 1 includes approximately 50,276 square feet of building lobby, approximately 6,073 square feet of retail space, approximately 18,605 square feet of parking (21 parking spaces) including two secured bike rooms (264 bicycle parking spaces)
- Levels 2 through 4, combined, include approximately 144,836 square feet of office and approximately 80,214 square feet of parking space (184 parking spaces)
- Level 5 through 20 include approximately 1,056,360 square feet of office space and approximately 30,618 square feet of open space

Renderings of the proposed office towers are illustrated in Figures 4 and Figure 5, and the Conceptual Site Plan is shown in Figure 6. The proposed Project is designed and will be constructed in accordance with most current Title 24 California Building Standards, which promotes energy conservation, green design, fire and life safety, and accessibility. The proposed designs will be evaluated and developed to apply the City's Downtown Design Guidelines and Standards.

The Guadalupe River and the Guadalupe River Park are located immediately west of the Project site. The project proposes a 35-foot setback from this riparian corridor. This setback, in conformance to the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) is aimed to protect the environmental quality of the riparian corridor. The Project does not include any alterations to the Guadalupe River corridor. Additionally, the project will be in conformance with the City Council Policy 6-32, Riparian Corridor Protection and Bird Safety Design which supplements the regulations for Riparian Corridor protection in the Habitat Plan and includes additional design guidance for bird-safety.

Project Access, Parking, & Infrastructure: The proposed Project includes a total of 1,251 parking spaces. The four underground parking levels include 1,046 parking spaces and the four at- and above- ground parking levels include 205 parking spaces.

As shown in Figure 6, Conceptual Site Plan, the project includes an internal driveway, located between the proposed north and south towers, with ingress and egress on both Woz Way and Almaden Boulevard. The primary entrance to the north tower lobby is provided from Woz Way and also via the internal driveway. The primary entrance to the south tower lobby is provided from the internal driveway. Vehicle ingress and egress to all parking areas (Levels B1 to B4, and Levels 1 to 4) is provided via the internal driveway, on the north side of the south tower, and via a driveway on Almaden Boulevard.

The Project also includes three loading areas for trucks and waste management. One loading area, located along the north side of the north tower, is accessible from Woz Way; one loading area, located on the south side of the north tower, is accessible from the internal driveway; and one loading area, located in the south tower ground floor parking garage (Level 1), is accessible from the internal driveway.

Off-site improvements associated with the site development include local roadway improvements on Woz Way and improvements along the Project frontage on South Almaden Boulevard to accommodate the site development ingress and egress movements, vacating the existing Locust Street, and connections to existing utility infrastructure.

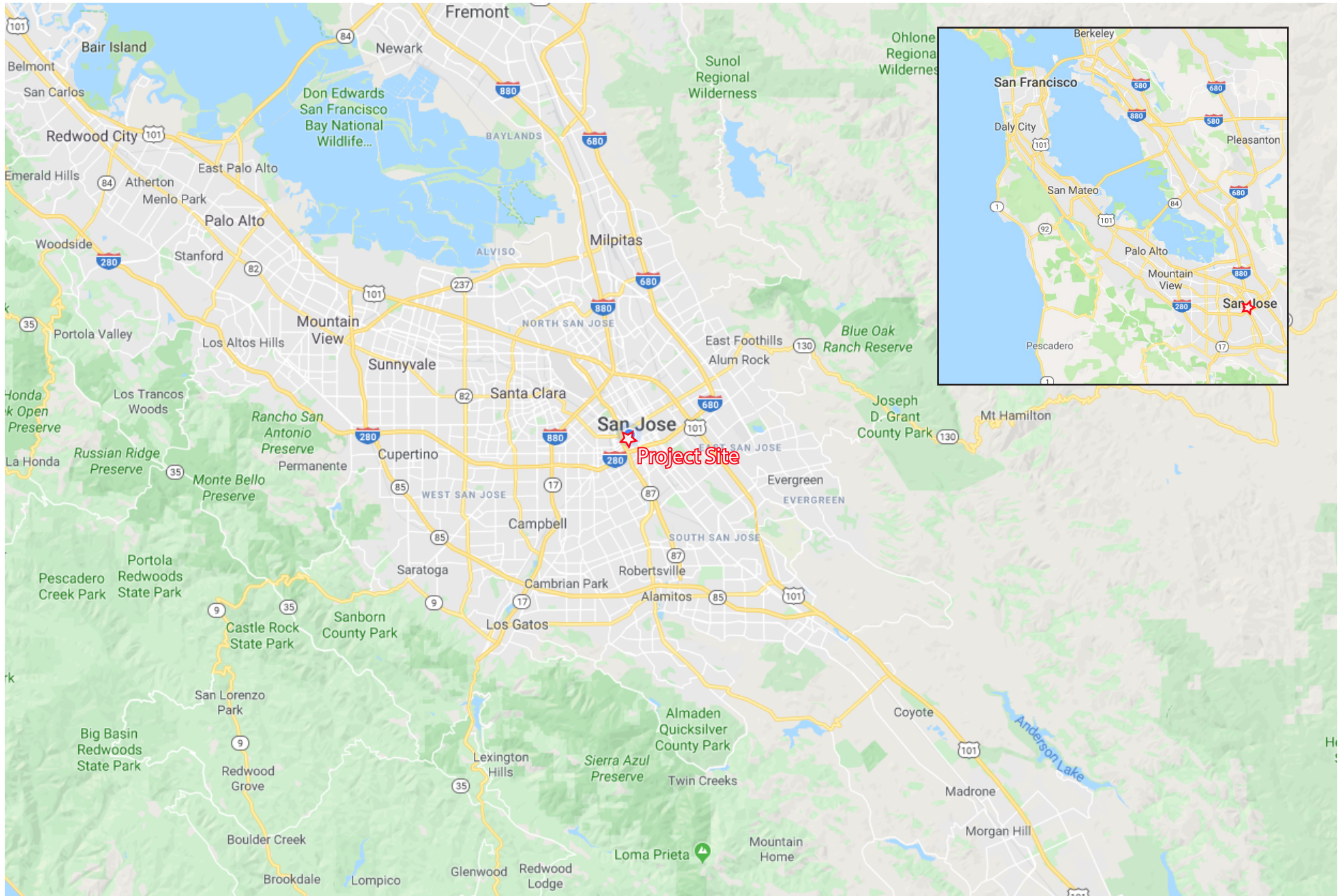
Proposed Demolition: The proposed Project involves demolition of 16 single-family residential structures and removal of on-site trees. The 16 single-family residential structures to be demolished are all low-density, single-family dwellings. These homes have all been purchased by the applicant and would not be occupied by residents requiring relocation assistance.

Excavation: The Project requires excavation to approximately 40 feet of depth to construct four levels of subterranean parking. The Project includes excavation of approximately 191,000 cubic yards of soil and hauling the excavated soil from the Project site.

Operations: Currently, the proponent anticipates leasing the office spaces.

Anticipated Project Approvals

1. General Plan Amendment
2. Site Development Permit
3. Parcel Map
4. Demolition Permit
5. Grading Permit
6. Building Permit
7. Public Works Clearances
8. Historic Preservation Permit



Source: Google Earth, 2020

Figure 1: Regional Location

Woz Way Project



Not to scale

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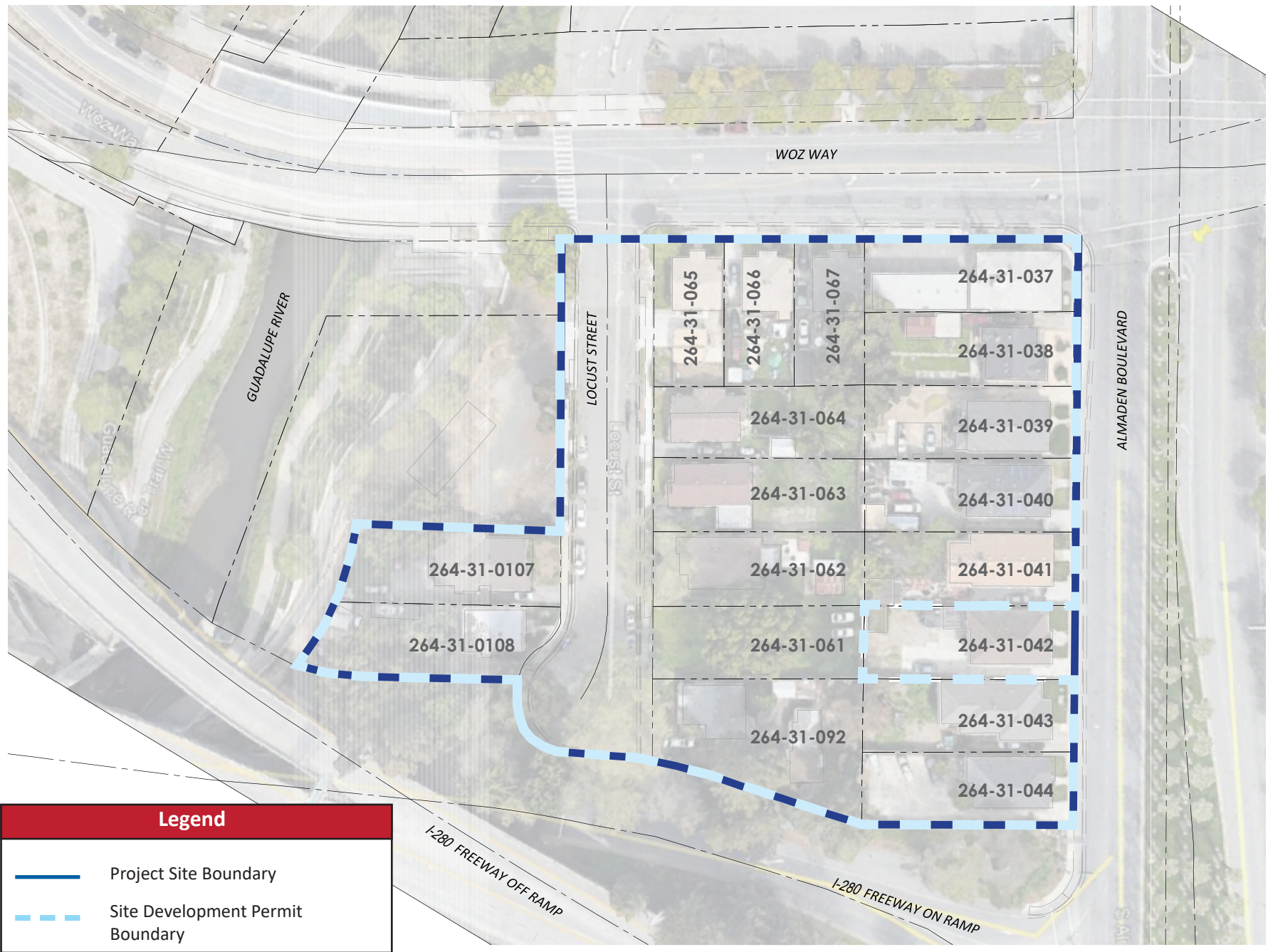
Source: Nemap, 2020

Figure 2: Project Vicinity Map

Woz Way Project



Not to scale



Source: C2K Architecture, 2020

Figure 3: Assessor Parcel Map

Woz Way Project



Not to scale

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FREEWAY PERSPECTIVE LOOKING NORTHWEST



FREEWAY PERSPECTIVE LOOKING EAST



STREET PERSPECTIVE LOOKING SOUTHWEST FROM ALMADEN BLVD.



STREET PERSPECTIVE LOOKING WEST FROM ALMADEN BLVD.



FREEWAY PERSPECTIVE LOOKING NORTH



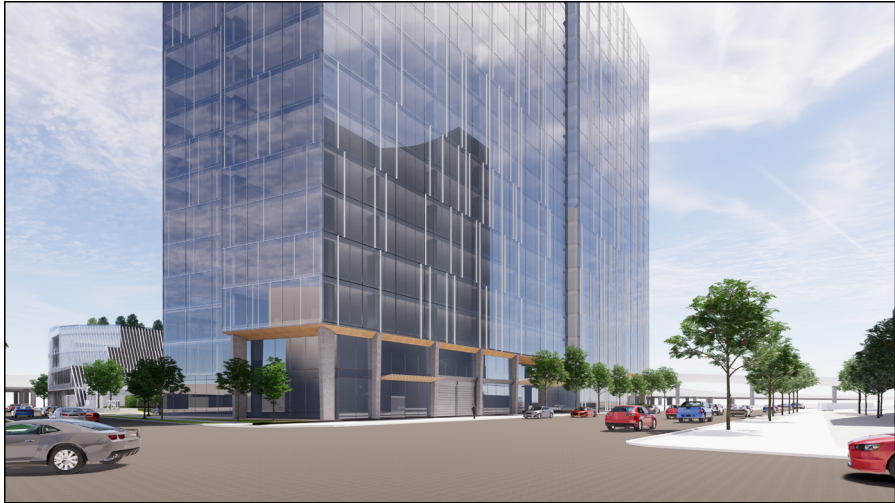
NORTHWEST PERSPECTIVE

Source: C2K Architecture, 2020

Figure 4: Concept Rendering A

Woz Way Project

Not to scale



STREET PERSPECTIVE LOOKING SOUTHWEST FROM ALMADEN BLVD.



STREET PERSPECTIVE LOOKING NORTHWEST FROM ALMADEN BLVD.



STREET PERSPECTIVE LOOKING SOUTHEAST FROM WOZ WAY



INTERNAL STREET PERSPECTIVE LOOKING WEST

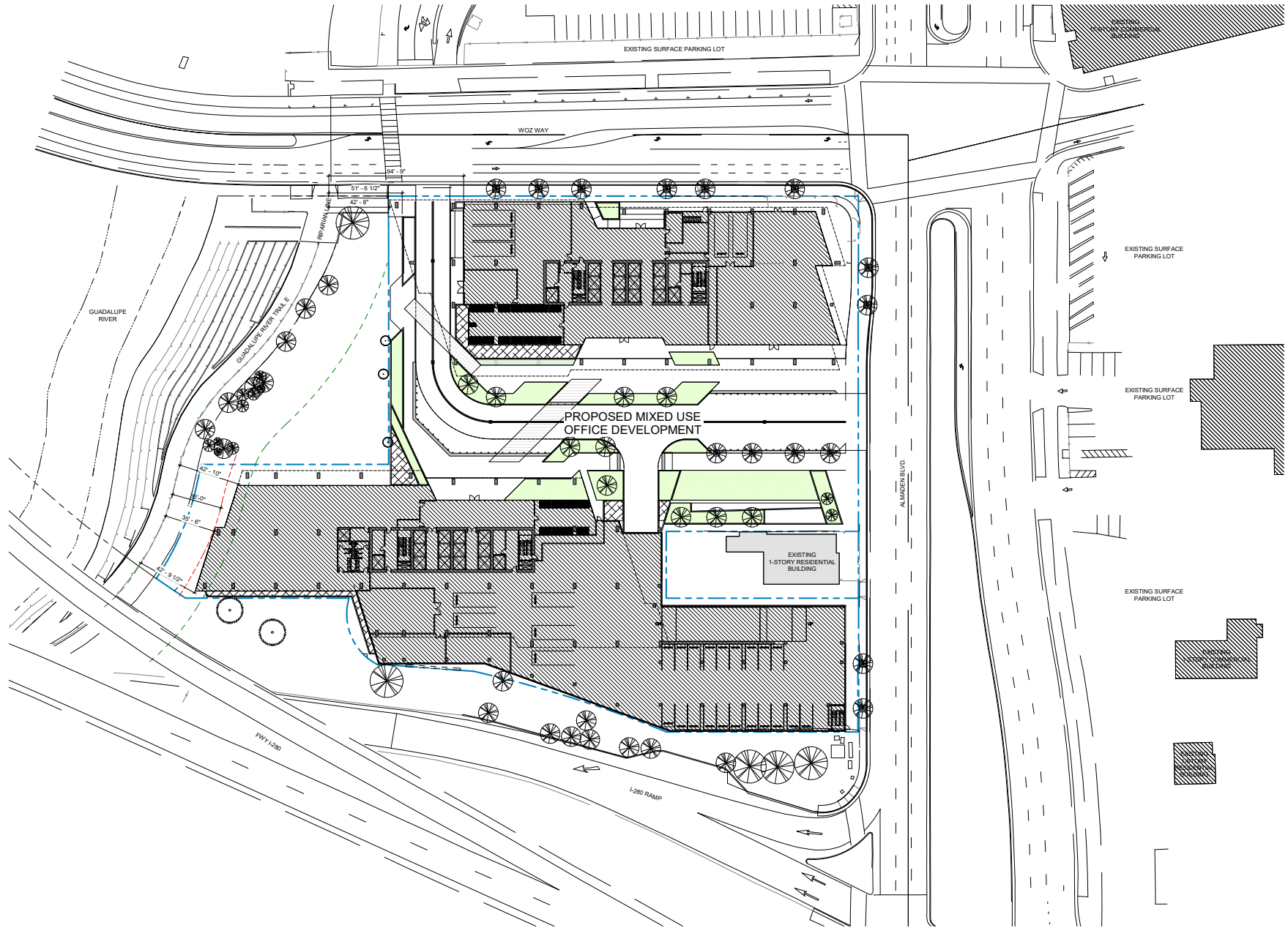
Source: C2K Architecture, 2020

Figure 5: Concept Rendering B

Woz Way Project

Not to scale

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Source: C2K Architecture, 2020

Figure 6: Site Map

Woz Way Project



Not to scale

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Potential Environmental Impacts of the Project

The SEIR will describe the existing environmental conditions on the Project site, discuss and analyze the impacts, and will identify the significant environmental effects anticipated to result from development of the proposed Project (both the GPA and the Site Development). Mitigation measures will be identified for potentially significant environmental impacts, as warranted. The analysis in the SEIR will include the following specific categories of environmental impacts and concerns related to the proposed Project. Additional subjects may be added at a later date, if new information becomes available.

1. Aesthetics & Visual Resources

The Project site is surrounded primarily by mixed-use commercial/retail/office uses and residential uses including single-story single-family homes. The SEIR will describe the existing visual setting of the Project area and discuss the visual changes that are anticipated to occur as a result of the Project, consistent with Senate Bill 743. The EIR will also discuss possible light and glare impacts from the development. If significant impacts related to visual resources and aesthetics are found, including shade and shadow impacts, mitigation measures will be identified.

2. Agricultural and Forestry Resources

The Project site is not located in an area with agricultural resources or forest lands.

3. Air Quality

The SEIR will address the regional air quality conditions in the Bay Area and discuss the Project's impacts to local and regional air quality based on the Bay Area Air Quality Management District (BAAQMD) thresholds. The SEIR will discuss sensitive receptors and temporary construction impacts to air quality. Mitigation measures, if found to be required, will be discussed.

4. Biological Resources

The Project site is within a developed and urbanized area of downtown San José. The Project site is currently developed with 17 single-family single-story residential homes, but contains trees and other vegetation.

The Project site is bordered to the west by the Guadalupe River, a riparian corridor and the Guadalupe River Park. The SEIR will discuss potential for overall loss of existing urban habitat, tree losses, and the proposed Project's consistency with the Santa Clara Valley Habitat Plan (Habitat Plan) and the City's policies and regulations pertaining to the biological resources. Additionally, the SEIR will address the Project's adherence to the City Council Riparian Corridor Protection and Bird Safe Design Policy (City Council 6-34), including riparian setbacks and bird safety design measures and the applicable conditions and setbacks from the SCVHP. Mitigation measures, if found to be required, will be discussed.

5. Cultural and Historic Resources, and Tribal Cultural Resources

The Project has seven existing structures that are listed in the City of San José Historic Resources Inventory and one existing structure that is listed as a Structure of Merit. A historical evaluation will address the existing structures on the Project site and their eligibility for listing on local, state, or federal registers. The SEIR will also address the potential for prehistoric, historic, archeologic, and tribal cultural resources. If cultural and historic resources are found to be significant, mitigation measures will be identified.

6. *Energy*

Implementation of the Project will result in an increased demand for energy on-site. The SEIR will address the increase in energy usage on-site and any proposed design measures to reduce energy consumption. Mitigation measures, if found to be required, will be discussed.

7. *Geology and Soils*

The Project site is located in the seismically active Bay Area region. The SEIR will discuss the possible geological impacts associated with existing soils, groundwater conditions on the Project site, and seismicity activity. Mitigation measures, if found to be required, will be discussed.

8. *Greenhouse Gas Emissions*

The SEIR will address the Project's contribution to regional and global greenhouse gas emissions impacts in compliance with SB 32 and based on the BAAQMD thresholds. Design features, as proposed, to reduce energy consumption, which in turn will reduce greenhouse gas emissions, will be analyzed. Mitigation measures will be identified for significant impacts.

9. *Hazards and Hazardous Materials*

The Project site is surrounded by commercial businesses and downtown residential land uses. In addition, I-280 northbound on-ramp is located directly southeast of the Project site. The SEIR will summarize known hazardous materials conditions on, and adjacent to, the Project site and will address the potential for hazardous materials impacts from the Project. Mitigation measures, if found to be required, will be discussed.

10. *Hydrology and Water Quality*

Based on Flood Insurance Rate Maps the proposed Project site is located in Zone X- an area of minimal flooding. The SEIR will address any possible flooding issues of the Project site as well as the effectiveness of the storm drainage system and the Project's effect on storm water quality consistent with the requirements of the Regional Water Quality Control Board. Mitigation measures, if found to be required, will be discussed.

11. *Land Use*

The Project site is located in a developed urbanized area surrounded by commercial, office, and residential land uses. The SEIR will describe the existing land uses adjacent to and within the Project area. This discussion will evaluate the Project's compatibility with existing and proposed land uses in the Project area. The SEIR will evaluate the Project's consistency with existing land use regulations including the City's Envision San José 2040 General Plan, zoning and municipal code, City's Design Guidelines, and the General Plan Urban Design Guidelines for Downtown. The SEIR will also analyze the shade and shadow impacts from the development. If significant impacts related to land use are found, mitigation measures will be identified.

12. *Mineral Resources*

The Project site is not located in an area known to have mineral resources. The Project will not hinder or preclude any existing mineral extraction operations.

13. Noise and Vibration

The Project site is located adjacent to South Almaden Boulevard and I-280, both major roadways with high traffic volumes. The Project site is located approximately 2.3 miles north of Norman Y. Mineta San José Airport. The SEIR will identify existing ambient noise and analyze potential impacts of operation and construction to the existing environment. Noise levels will be evaluated for consistency with applicable standards and guidelines from the City of San José. If noise and vibration impacts are found to be significant, mitigation measures will be identified.

14. Population and Housing

The SEIR will examine the Project's impact on population growth and housing in the City. The SEIR will evaluate the applicable regional and City plans, policies and regulations to the development. Mitigation measures, if found to be required, will be discussed.

15. Public Services

Implementation of the Project could potentially increase the population of the City which could result in an increased demand on public services, including police, fire protection, schools, and parks. The SEIR will address the availability of public services. Mitigation measures, if found to be required, will be discussed.

16. Recreation

The Project would not result in a direct increase of the City population and therefore would not result in any direct increased use of existing parks, trails, and recreation. The SEIR will examine the potential indirect effects of the Project on the City population, and whether any indirect effects may result in increased demand of existing parks, trails, and recreation centers. The SEIR will examine City policies, such as the Parkland Dedication Ordinance, to ensure the Project is consistent with City of San José policies.

17. Transportation and Circulation

The SEIR will evaluate the project's transportation impacts pursuant to Senate Bill 743 and the City's Transportation Analysis Policy (Council Policy 5-1). The Project's consistency with programs, plans, ordinances, or policies addressing the circulations system (including transit, roadway, bicycle, and pedestrian facilities) will be discussed in the SEIR. The Project's impact on Vehicle Miles Traveled (VMT) will be discussed. It will include a Local Transportation Analysis (LTA) to evaluate the proposed site access/circulation and intersections in the Project area to identify any necessary improvements.

18. Utilities and Service Systems

Implementation of the Project will result in an increased demand on utilities compared to existing conditions. The SEIR will examine the impacts of the Project on wastewater system, storm drains, water supply, and solid waste management. The SEIR will analyze applicable state, regional, and City plans and policies for consistency. Mitigation measures, if found to be required, will be discussed.

19. *Wildfire*

The Project site is located within a developed and urbanized area of downtown San José. The Project site is currently developed with 17 single-family residential structures and is not located near the urban wildland interface. The SEIR will discuss the Project's potential to exacerbate wildfire risks or expose Project occupants to wildlife risks including pollutants from wildfires.

20. *Alternatives*

Pursuant to CEQA Guidelines Section 15126.6, the SEIR will examine a range of reasonable alternatives to the Project including a "No Project" alternative and one or more alternative development scenarios depending on the impacts identified. Other alternatives that may be discussed could include reduced development alternatives (e.g., smaller project site or reduced density alternatives), alternative land uses, and/or alternative locations. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the Project while achieving most of the identified objectives of the Project. The environmentally superior alternative(s) will be identified based on the number and degree of associated environmental impacts.

21. *Significant Unavoidable Impacts*

The SEIR will identify those significant impacts that cannot be avoided, if the Project is implemented as proposed.

22. *Cumulative Impacts*

Pursuant to CEQA Guidelines Section 15130, the SEIR will include a Cumulative Impacts section that will address the potentially significant cumulative impacts of the Project when considered with other past, present, and reasonably foreseeable future projects in the development area. For example, the potential for shade and shadow effects from the Project site development on the Guadalupe River will be considered in the cumulative context with the separate project proposed immediately north of the Project site.⁴

23. *Other Sections*

In conformance with the CEQA Guidelines, the SEIR will also include the following sections: 1) consistency with local and regional plans and policies, 2) growth inducing impacts, 3) significant irreversible environmental changes, 4) areas of known controversy, 5) references, 6) organizations/ persons consulted, 6) SEIR author and consultants, and 7) appendices.

An Initial Study has been prepared (which will be incorporated in the SEIR as an appendix) to focus the SEIR on potentially significant issues pursuant to CEQA Guidelines Section 15178.

⁴ Construction of an approximately 2.8 million-square foot building on a 3.67-gross acre site, to replace the existing surface parking lot, is currently proposed for the property immediately north of the Project site, across Woz Way. A Notice of Preparation of an EIR for that project was filed in May 2019.



July 8, 2020

Meenaxi Raval, Environmental Project Manager
Department of Planning, Building and Code Enforcement
City of San Jose

Send via email to: Meenaxi.Raval@sanjoseca.gov

Re: Notice of Preparation for the Woz Way Project (GP19-008 & H20-004)

The Sierra Club Loma Prieta Chapter and the Santa Clara Valley Audubon Society submit the following comments in response to the City of San Jose Notice of Preparation of a Draft Supplemental Impact Report for the Woz Way Project.

The project includes a General Plan Amendment (GP19-008) to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit (H20-004) to allow the demolition of 16 existing single-family homes and the construction of two, 20-story, 297-foot tall office towers, totaling approximately 1.8-million square feet. The office towers consist of approximately 6,100 square feet of retail space and 1.25 million square feet of office space with four levels of underground parking and four levels of above ground parking on the approximately 3.08-acre project site.

General Plan Amendment and the San Jose Downtown Design Guidelines

San Jose has recently adopted Downtown Design Guidelines, which recognize the importance of scale in downtown, of areas fronting the river and park, and of visual permeability and a finer grain of development. Since the project seeks a General Plan Amendment to change the land use designation from Public/Quasi Public to Downtown, the project should comply with the 2019 San Jose Downtown Design Guidelines, including all standards and guidelines, including:

- Please consider the massing and scale of the project
- Please consider the natural setting of the Project by the Guadalupe River
- Please analyze compliance with the Vision and Guiding Principles, especially -
 - Put People First: “Promote health and activity with safe, attractive, functional, and comfortable urban spaces and buildings.”
 - “Blocks are the foundation of urban development. ... Small blocks also promote narrower buildings which provide greater view opportunities and may increase wind flows.”
- Bird Safe Design
- Please provide a list of all deviations from the Downtown Design Guidelines.

Potential Environmental Impacts of the Project

I. Aesthetics & Visual Resources

- Please analyze the project's compliance with all standards and guidelines in the 2019 San Jose Downtown Design Guidelines
- Please provide visual depictions and analyze the visual impacts of this dominant structure on park users at Discovery Meadows Park, trail users along the Guadalupe River, and users of the Children Discovery Museum - during the day and at night.
- Please analyze the impacts of Artificial Night Lighting and of Daytime Glare on park users at Discovery Meadows Park, trail users along the Guadalupe River, and visitors to the Children Discovery Museum.
- Please analyze the impacts of shading on park and trail users along the Guadalupe River
- Please analyze the impacts of reflected sunlight and glare on drivers on 87 and 280, and on air traffic.
- Please provide depictions of impacts to the San Jose view-shed from the Lick observatory, and discuss the impact of any visible light on the night sky.
- Please provide cumulative depictions for all of the above that include both this and the Boston Properties Almaden Office project.

II. Biological Resources

The Project is located within the 100-ft riparian setback of the Guadalupe River. Exceptions may be permitted for projects that are in the Downtown area, hence the requested General Plan Amendment. We strongly believe that the 100-ft setback recommended by 2016 San Jose Riparian Corridor Policy should be maintained and the General Plan Amendment should not proceed. Please analyze the significance of relaxing this Policy, including the precedent this sets to develop within the riparian corridor elsewhere in San Jose.

The buildings will cast a shadow over the Guadalupe River and its riparian corridor in the morning and reflect light to produce glare in the afternoon. At night, ambient light will increase. Thus, this project is likely to cause significant harm to riparian and aquatic life in the Guadalupe River riparian corridor.

- Please describe the Beneficial Uses of the Guadalupe River near the Project site and characterize their significance in the Project or how the Project actions would impact the beneficial uses. Please provide adequate mitigation.
- Please provide an in-depth description and characterize the baseline of the stream aquatic and riparian ecosystems and existing biological conditions along the Project reach of the Guadalupe River. Please note that observations by experts from the undersigned groups show a robust and diverse native riparian forest adjacent to the project site.
- Please provide a complete inventory of all native trees (of all sizes) in the adjacent riparian corridor. Please analyze the biological impact of shading during the day and increased artificial lighting during the night on the riparian forest.

- Please provide information on removal of any California native tree species and identify potential impacts to the roots of any additional native trees. Because mid-story trees provide critically important resources to resident and migratory fauna in the riparian area. Please provide information for all native trees, not only ordinance size trees.
- Please provide analysis of how reflected sunlight and/or glare may impact creek temperatures and the aquatic ecosystem, including Steelhead and light-sensitive aquatic species.
- Please analyze the impacts to animal movement due to reduced cover.
- Please analyze the impacts to animal movement due to increased artificial lighting in the creek corridor. Please consider both indoor and outdoor lighting.
- Please find the attached bird species list for avian species that have been observed along the Guadalupe River Trail in Downtown San Jose. Please analyze the impacts to resident and migratory avian species in the creek corridor.
 - GP19-008 seeks a change in land use designation from Public/Quasi Public to Downtown (DT). Thus, the Project H20-004 must adhere to the Downtown Design Guidelines for Bird Safe Design. The renderings for the project show glass towers within 300-ft of the Guadalupe River with surface protrusions and structural connectors - elements that are known to be especially hazardous to birds. As proposed, the project should impose a significant unavoidable impact to migratory birds and is not compliant with San Jose City Council Policy 6- 32, Riparian Corridor Protection and Bird Safety Design.
 - Please note that we believe that compliance with the San Jose Downtown Design Guidelines is important, but may not reduce the impact to a less than significant level due to the glass envelope of the buildings, their height and its proximity to the River. Glass canyons are hazardous to birds.
 - Please analyze the impacts of increased artificial lighting in the creek corridor due to indoor and outdoor lighting.
- Please mitigate the use of outdoor LED lighting by using fixtures that produce Correlated Color Temperature (CCT) of no more than 3000. See <https://www.led-professional.com/resources-1/articles/hazard-or-hope-leds-and-wildlife> for additional recommendations.
- Please analyze and mitigate the temperature impacts to the Guadalupe River, including impacts of reflection and glare on heat TMDLs in the Guadalupe River adjacent to the project, and the potential impacts to Steelhead and other aquatic species.
- Please evaluate the impacts of construction noise and vibrations, noise from pumps, and construction / security lighting on biological resources
- Use of Pesticides and Fertilizers: The use of herbicides, pesticides, rodenticides and fertilizers can cause direct and secondary harm to aquatic and terrestrial wildlife. This risk is heightened at this location within or adjacent to riparian habitat. Please consider the following mitigation measures.
 - Do not allow the use of pesticides or fertilizers during construction or operation of this project.

- Identify alternatives to biocides and require the use of Integrated Pest Management techniques for this project.

III. Energy

- The NOP acknowledges that implementation of the project would result in an increased demand for energy on-site, and states that the SEIR will propose design measures to reduce energy consumption.
 - The EIR should provide the anticipated electric and gas utility demand during construction and operation of the Project, and provide a seasonal breakdown to analyze summer (July-August) and winter (December-January) demands of heating and cooling.
 - The impacts of energy used for groundwater pumping should be included in the Energy analysis for both construction needs and for ongoing operations of the buildings and garages.
 - Will the Project be a ZNE (Zero Net Energy) commercial building as is required by San Jose's Climate Action Plan in order to meet the city's carbon reduction goals (Page 151, Climate Smart San Jose)?
 - The Project proposes a large glass wall surface to volume ratio. Please analyze the optimal glass surface needed for minimizing energy use while allowing adequate internal daylight penetration. Please compare the energy cost of 100% glass walls to the energy cost of providing artificial light to internal parts of the buildings.
 - Please provide comparative analysis of the project buildings to equivalent California Title-24-2019 compliant buildings.
- Mitigation should require:
 - The Project should be required to be certified by an independent third party to meet the ZNE certification and verification requirements.
 - The Project should be required to reduce the glass surfaces to no more than 40% to comply with a Wall to Glass/Window Ratio recommended by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (<https://www.ashrae.org/technical-resources/ashrae-handbook>) or at the most, 50% as required by California Title-24-2019.

IV. Geology and Soils

The project site is located in a seismically active site along a river, thus it may be susceptible to liquefaction or uncertain seismic action.

- Please conduct geomorphic modeling to determine the near bank shear stress values, and to determine the potential of the Project (especially underground elements) to contribute to greater erosion along the Guadalupe River and greater need for bank stabilization treatments of the Guadalupe River channel in this reach.
- Please analyze the potential risks of flooding if the structure collapses into the Guadalupe River in the event that a magnitude 6 or more earthquake occurs during the rainy season.

- Please evaluate the additional risk of liquefaction due to the presence of an underground historical waterway onsite.

V. Hydrology, Water Quality, Water Supply

The project site is located in a complex hydrological area which includes a high water table, underground water flows, and adjacency to a perennial stream. The following information is needed to understand the hydrological impacts of the project.

- Please provide a Hydrogeological survey.
- Please detail activities related to both temporary dewatering during construction and any ongoing dewatering that may occur during operation and occupancy of the building, including:
 - Depth to groundwater (as documented in a Hydrogeological Study)
 - Flooding risk (as documented in a Hydrogeological Study)
 - Please include information about the amount of dewatering that will be required for the project and how the water will be disposed of.
 - What dewatering technique will be used: 1) groundwater exclusionary techniques (e.g., secant or cut-off wall), 2) controlled groundwater pumping, otherwise known as drawdown well dewatering, or 3) open pit dewatering?
 - Where will pumped water be discharged: 1) to the storm drain, 2) directly into the creek, or 3) into the sanitary sewer system?
 - What is the calculated discharge per minute and duration (and total groundwater pumping in acre feet) to accomplish the dewatering?
 - Please include both groundwater dewatering and dewatering of rainwater if it has accumulated at the bottom of the excavation site.
- Please analyze the impacts of these dewatering activities as follows
 - Test groundwater quality. Do samples show any potentially harmful contaminants that need to be removed with a treatment system before being discharged? Test for mercury compounds in both sediment and groundwater since mercury is present in Guadalupe River runoff.
 - Impacts of groundwater pumping on the project site and surrounding area (Hydrogeological Study). The study should include the radius of influence (i.e. extent of cone of depression) from each dewatering well as a function of time, based on local soil and groundwater conditions. Will groundwater depletion occur due to dewatering and could this impact adjacent sites and result in land subsidence at those sites or impact trees and plants on those sites that rely on groundwater?
 - Impacts of groundwater pumping on the surface water in Guadalupe River (Hydrogeological Study). Will the interaction between groundwater and surface water be impacted?
 - Impacts of groundwater pumping on the capacity of the City's storm drain system or sanitary sewer system, especially during the rainy season from November through March.
- Please analyze the impacts of the completed below ground structure as follows.
 - Provide a description of the distance from the underground parking garage wall to the River's riparian corridor.

- Analyze underground flows into the river and under the project site. Will underground construction alter the flow of groundwater beneath the site?
- How will the below ground structure impact the water table in the surrounding area? Once the below ground structure is constructed, will the water table rise and result in surface flooding on nearby streets or properties (especially those which also have below-ground structures)?
- How will the potential for flooding of the underground parking be addressed? During the Coyote Creek flood, trash and chemicals were also released. In the event of a flood event, how will below-ground structures be safeguarded and what pumping techniques will be used to prevent contamination of groundwater and the Guadalupe River?
- Please consider the following measures to mitigate the impacts of below ground construction and dewatering during construction and operation of the project:
 - Install a groundwater monitoring well at the farthest feasible point on the site from the underground structure.
 - Provide a list of potential actions and solutions should groundwater monitoring program indicate problems.
 - Test groundwater discharged into a storm drain for contamination per Regional Water Quality policies. In addition, test discharged water for contamination by mercury compounds.
 - Meter extracted groundwater.
 - During dewatering, submit periodic reports showing current groundwater levels, pumping rates, and water quality standards.
 - Use avoidance measures to minimize the flow rate and duration of the pumping.
 - Install a sediment settling tank system and/or treatment system to improve discharged water quality.
 - If feasible, percolate the discharge onto the construction property rather than into the storm drain system.
 - Provide a Fill Station to provide the City and nearby residents and business owners the opportunity to use the pumped groundwater to minimize the amount discharged to the storm drain system.
 - Limit dewatering during the rainy season (between November and March) due to stream or storm drain capacity issues.
 - Engineer the post-construction groundwater flow to match the pre-construction groundwater flow through the site.

The existing conditions on the project site include significant landscaping that mitigates stormwater runoff and improves the water quality of that runoff. The project renderings and site map show minimal landscaping areas that could serve to minimize runoff and pollutants flowing into the Guadalupe River. More information is needed to understand and analyze the water quality impacts of the project as follows.

- Please include preliminary landscape and stormwater plans so the impacts of these project elements on the riparian corridor can be evaluated.
- Please include information about soil removal, where it will be stored and how it will be disposed of.

- Please identify and analyze the capacity of stormwater retention infrastructure. Include Low Impact Development strategies to manage stormwater on site and meet Green Infrastructure requirements and reduce impacts on the Guadalupe River.
- Please provide information on where staging will be located and machinery stored.
- Analyze the potential for trash from the site accumulating in the river (including during construction).

Water Supply Assessment (WSA): With the most recent CEQA updates that went into effect in 2019, water supply resiliency was formally entered in the Utilities section of CEQA Appendix G thresholds of significance for land use change/development projects. Because the project is seeking a General Plan Amendment, a WSA should be prepared for the project and the Environmental Impact Report must translate the results and conclusions of the WSA and carefully articulate these conclusions in a logical manner. The EIR must answer the thresholds of significance question: Is there sufficient supply available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

In addition, the approval of taller buildings in San Jose has likely increased the expected baseline for the water use in the downtown area and in San Jose at large from what previous WSAs have analyzed. The increase in allowed height added about 9.5 million square feet of development

(<https://nocalapa.org/2019/03/san-jose-approves-new-building-heights/>).

San Jose currently has a large number of projects (including tall buildings) that are in the pipeline or are currently under construction. Impacts on water supply are therefore likely to be significant, and should be analyzed for the General Plan Amendment, the Project and cumulatively.

Please answer the following questions in relation to the General Plan amendment and the project as well as cumulative impacts on water supply.

- How will additional supplies be sourced and what additional supplies (or conservation, etc.) will need to be developed to meet the additional demand? Please consider committing to net-zero water use as a mitigation measure.
- How will the Project and others that draw from the same water supply source (groundwater pump or water treatment plant) impact that water supply source? Does that source have the capacity to meet all the new demands? Will the additional demand bring overall water demands above or close to the threshold where the source and infrastructure will need to be upgraded to meet the demand?
- Will the project include onsite water reuse (gray and black water) and rainwater capture for reuse to mitigate water supply impacts?

Please evaluate cumulative impacts on water supply together with all anticipated large development projects in the pipeline including but not limited to the following:

- Additional 9.5 million square feet of development due to increased building heights
- Downtown West / Google Diridon project
- The Diridon Station Area Plan Update

- H19-004
 - C15-054, SP16-053
 - SP18-016
 - HP18-002 & H17-062
 - SP18-020 & T17-064
 - PDC16-036
 - H14-011
 - H16-036, T16-048
 - H18-026
 - H18-037
 - H18-038
 - PDC15-058 & PD15-053
 - C17-009, SP17-016 & T17-015
 - PDC17-056
 - PDC17-040
 - GP06-04-01 and PDC03-108
 - SP18-001, T18-001
 - SP17-031 and T16-024
 - HA14-009-02 and HPA14-002-02
 - HA14-023-02
 - PDC17-051
 - H16-042 and HP17-003
 - SP17-009 and T16-056
 - H17-004
 - SPA17-023-01
 - PDC18-037 & GP18-014
 - PDC17-047 and PD18-015
 - PD19-011
 - SP20-002
 - CP20-001
- Almaden Office Project
 - Microsoft 237 Industrial Center
 - 27 South First Street Mixed-Use Project
 - West Santa Clara St & Almaden Ave Project
 - 440 West Julian Street Office Project
 - 4300 Stevens Creek Mixed-Use Project
 - 237@First Homewood Suites Hotel
 - 300 South Second Street Student Housing
 - 477 South Market Street Mixed-Use Project
 - Adobe North Tower
 - Almaden Corner Hotel Project
 - America Center Phase III Project
 - Auzerais Avenue Residential Project
 - Avalon Expansion Project
 - Cambrian Park Plaza Project
 - Flea Market GP Amendment and Rezoning
 - Garden Gate Tower
 - Museum Place Mixed Use Project
 - Park View Towers Revised
 - Post Tower Amendment
 - San Jose Flea Market Southside Rezoning
 - San Jose Tribute Hotel Project
 - SJSC Towers Mixed-Use Project
 - South Fourth Mixed-Use Project
 - Starcity - 199 Bassett St
 - Winchester Ranch Residential Project
 - Bascom Station (Dick's Center) Project
 - 259 Meridian Ave Mixed-Use Project
 - 1073 S Winchester Blvd Mixed-Use Project
 - Sunset Mixed-Use Complex

VI. Noise

- The impact of the noise generated during construction and groundwater pumping should be included in the noise analysis.

VII. Transportation

The NOP describes four levels of underground parking and four levels of above ground parking, which will greatly increase traffic in the area.

The EIR should include a new traffic study for all the intersections for several blocks around the proposed development, including the nearest freeway on and off ramps for I-280 and 87. Traffic needs to be studied cumulatively with the Convention center which also has special traffic needs and 1,140 parking spaces, and with the Almaden Office project.

- Active Transportation: The City of San Jose adopted a Vision Zero plan in 2015 and continues to strive towards safer streets. One statistic that stands out is that 70% of deaths in 2016 in San Jose were on major streets, of which Almaden Blvd is one. Therefore, bicycle lanes and pedestrian sidewalks must meet the requirements in the Vision Zero Plan. Additionally, scooters, electric vehicles, and Zip cars, are all part of the San Jose Climate Action Plan to reduce the carbon footprint, and therefore these elements should be included in plan review. Please describe bicycle lanes (widths and traffic signals) and pedestrian facilities that are needed to service the cumulative traffic anticipated with this proposed development as part of the traffic analysis. If the parking for the building is reduced below what is required by the planning code, the facilities needed for increased active transportation can be included in the Project.

Traffic-Related Pollutants on Roadway

- This project will result in an exponential increase in traffic on Woz Way, which will be cumulative with the Almaden Office Project. Studies show runoff from highways contains detectable levels of zinc, lead, copper, and nitrate/nitrite.
- Please study the following impacts:
 - Pollutants from motor vehicles include oils and grease (from leaks) and heavy metals (from car exhaust, worn tires and engine parts, brake pads, rust, or used antifreeze). Vehicle-related particulates in highway runoff come mostly from tire and pavement wear (~ 1/3 each), engine and brake wear (~ 20%), and exhaust (~ 8%) (EPA 1996). Each year, approximately 185 million gallons of improperly discharged used motor oil pollute streams, lakes, and coastal areas (Indicators of the environmental impacts of transportation. Updated Second Edition. Publication # EPA 230-R-99-001, Office of Policy, Planning and Evaluation. Washington, D.C.).
 - Although not identical to a highway, the additional traffic on Woz Way will substantially increase the accumulation of contaminants on the roadway. Please analyze the impact of these toxins on water quality in the Guadalupe River. How will all the additional pollutants from cars impact runoff from Woz Way into the Guadalupe River?
- Potential mitigation for increased vehicle pollutants includes but is not limited to installation of green street infrastructure on Woz Way.

Displacement and homelessness impacts

- The Project puts additional pressure on existing housing. San Jose is already experiencing an increasing homeless population (the 2017 census showed 4350 homeless individuals; the 2019 census identified 6, 172).
- Please study the following impacts:
 - The effect of the proposed development on housing availability and on increased commuting from distant locations due to the housing shortage in San Jose.
 - The potential for secondary environmental impacts (trash, biological waste, hazardous waste, etc.) of an increased homeless population along San Jose waterways.

VIII. Mitigation and Monitoring

CEQA mitigation measures must be feasible and enforceable.

- Please provide a publicly transparent mitigation monitoring program. Please publish all monitoring results and monitoring reports online during construction and for at least 25 years after construction so all results are available for public review. This should include all impacts to air, water, energy, and biological resources,
- Please include in mitigation a transparent and verifiable Transportation Demand Management program.

IX. Alternatives

CEQA Guidelines requires EIRs to describe "...a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project". We ask for the following alternatives to be analyzed:

- A **Reduced Scale Alternative** that provides a minimum of 50-ft setback and staggered building height from the river. This would be a smaller project than the one proposed.
- A **Sustainable Buildings alternative** that is compliant with California Building Code Title 24-2019 as applied to water and energy, glass facades, and indoor and outdoor lighting for the entire project and all of its components. This alternative will also achieve Zero Net Energy certification.
- A **Bird Safe Design Alternative** that materially complies with the directives of the city's Riparian Corridor Policy and Downtown Design Guidelines. This alternative will reduce the expanses of glass in the facade to reduce bird strikes in this bird-rich riparian corridor.
- An alternative that combines the alternatives illustrated above.

We thank you for the opportunity to provide scoping comments for this project

Respectfully,

Shani Kleinhaus
Environmental Advocate
Santa Clara Valley Audubon Society

Katja Irvin
Conservation Committee Co-chair
Sierra Club Loma Prieta Chapter

San Jose Downtown Species List

Compiled by the Santa Clara Valley Audubon Society

June 21 2016

For additional details, contact:

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Christine Zack

scvasnestbox@gmail.com

		Date Range
Data Notes		
Source	Breeding Bird Atlas of Santa Clara Valley	1994-2005
	eBird: indicates species recorded in eBird	2015-2016
	South Bay Birders Unlimited	2015
Status in Downtown Creek area	Resident: species are present year-round Migrant: species pass through during spring (March - June) and/or fall (August - October) migration. Wintering: species are present during winter months (approximately October - March)	
California Status	SSC-1: Bird Species of Special Concern - First Priority SSC-2: Bird Species of Special Concern - Second Priority SSC-3: Bird Species of Special Concern - Third Priority Threatened: State Threatened Endangered: State Endangered	
SOTB Watch List 2016	x: On the North American Bird Conservation Initiative Watch List for 2016	
Audubon Watch List 2007	yellow list: rare and/or declining red list: highest conservation concern	
USFWS	BCC: Bird of Conservation Concern BCC Focal Species: Species for which WSFWS is prioritizing research and planning for conservation Endangered: the indicated population is on the Federal Endangered Species list	

	Source	Common name	Scientific name	Status	Nesting	California Status	SOTB Watch List 2016	Audubon Watch list 2007	USFWS
1	Breeding Bird Atlas	Acorn Woodpecker	<i>Melanerpes formicivorus</i>	Resident	Yes				
2	Breeding Bird Atlas	Allen's Hummingbird	<i>Selasphorus sasin</i>	Migrant	Yes		x	yellow list	BCC
3	ebird	American Coot	<i>Fulica americana</i>	Winter					
4	Breeding Bird Atlas	American Crow	<i>Corvus brachyrhynchos</i>	Resident	Yes				
5	Breeding Bird Atlas	American Goldfinch	<i>Carduelis tristis</i>	Resident	Yes				
6	Breeding Bird Atlas	American Kestrel	<i>Falco sparverius</i>	Resident					
7	Breeding Bird Atlas	American Pipit	<i>Anthus rubescens</i>	Winter	Yes				
8	Breeding Bird Atlas	American Robin	<i>Turdus migratorius</i>	Resident	Yes				
9	Breeding Bird Atlas	Anna's Hummingbird	<i>Calypte anna</i>	Resident	Yes				
10	Breeding Bird Atlas	Ash-throated Flycatcher	<i>Myiarchus cinerascens</i>	Migrant	Yes				
11	Breeding Bird Atlas	Barn Owl	<i>Tyto alba</i>	Resident	Yes				
12	Breeding Bird Atlas	Barn Swallow	<i>Hirundo rustica</i>	Migrant	Yes				
13	Breeding Bird Atlas	Belted Kingfisher	<i>Ceryle alcyon</i>	Resident	Yes				
14	Breeding Bird Atlas	Bewick's Wren	<i>Thryomanes bewickii</i>	Resident	Yes				
15	Breeding Bird Atlas	Black Phoebe	<i>Sayornis nigricans</i>	Resident	Yes				
16	South Bay Birders Unl	Black-and-white Warbler	<i>Mniotilta varia</i>	Migrant					
17	Breeding Bird Atlas	Black-chinned Hummingbird	<i>Archilochus alexandri</i>	Migrant	Yes				
18	Breeding Bird Atlas	Black-crowned Night-Heron	<i>Nycticorax nycticorax</i>	Resident	Yes				
19	Breeding Bird Atlas	Black-headed Grosbeak	<i>Pheucticus melanocephalus</i>	Migrant					
20	Breeding Bird Atlas	Brewer's Blackbird	<i>Euphagus cyanocephalus</i>	Resident	Yes				
21	Breeding Bird Atlas	Brown Creeper	<i>Certhia americana</i>	Winter	Yes				
22	Breeding Bird Atlas	Brown-headed cowbird	<i>Molothrus ater</i>	Resident	Yes				
23	Breeding Bird Atlas	Bullock's Oriole	<i>Icterus bullockii</i>	Migrant	Yes				
24	Breeding Bird Atlas	Bushtit	<i>Psaltriparus minimus</i>	Resident	Yes				
25	ebird	California Gull	<i>Larus californica</i>	Winter					
26	Breeding Bird Atlas	California Quail	<i>Callipepla californica</i>	Resident	Yes				
27	Breeding Bird Atlas	California Towhee	<i>Melospiza crissalis</i>	Resident	Yes				
28	ebird	Canada Goose	<i>Branta canadensis</i>	Resident					
29	Breeding Bird Atlas	Cedar Waxwing	<i>Bombicilla cedrorum</i>	Winter	Yes				
30	Breeding Bird Atlas	Chestnut-backed Chickadee	<i>Poecile rufescens</i>	Resident	Yes				
31	Breeding Bird Atlas	Chipping Sparrow	<i>Spizella passerina</i>	Migrant	Yes				
32	Breeding Bird Atlas	Cliff Swallow	<i>Petrochelidon pyrrhonota</i>	Migrant	Yes				
33	ebird	Common Merganser	<i>Mergus merganser</i>	Winter					
34	Breeding Bird Atlas	Common Moorhen	<i>Gallinula chloropus</i>	Resident	Yes				
35	Breeding Bird Atlas	Common Raven	<i>Corvus corax</i>	Resident	Yes				
36	Breeding Bird Atlas	Common Yellowthroat	<i>Common Yellowthroat</i>	Resident	Yes				
37	Breeding Bird Atlas	Cooper's Hawk	<i>Accipiter cooperii</i>	Resident	Yes				
38	Breeding Bird Atlas	Dark-eyed Junco	<i>Junco hyemalis</i>	Winter	Yes				
39	Breeding Bird Atlas	Double-crested Cormorant	<i>Phalacrocorax auritus</i>	Resident	Yes				
40	Breeding Bird Atlas	Downy Woodpecker	<i>Picoides pubescens</i>	Resident	Yes				
41	ebird	Eurasian Collared-Dove	<i>Streptopelia decaocto</i>	Resident					
42	Breeding Bird Atlas	Gadwall	<i>Anas strepera</i>	Resident	Yes				
43	Breeding Bird Atlas	Glaucous-winged Gull	<i>Larus glaucescens</i>	Winter	Yes				
44	Breeding Bird Atlas	Golden-crowned Sparrow	<i>Zonotrichia atricapilla</i>	Winter	Yes				
45	Breeding Bird Atlas	Great Blue Heron	<i>Ardea herodias</i>	Resident	Yes				
46	Breeding Bird Atlas	Great Egret	<i>Ardea alba</i>	Resident	Yes				
47	Breeding Bird Atlas	Great-tailed Grackle	<i>Quiscalus mexicanus</i>	Migrant	Yes				
48	Breeding Bird Atlas	Green Heron	<i>Butorides virescens</i>	Resident	Yes				
49	Breeding Bird Atlas	Hairy Woodpecker	<i>Picoides villosus</i>	Resident	Yes				
50	Breeding Bird Atlas	Hermit Thrush	<i>Catharus guttatus</i>	Winter	Yes				
51	Breeding Bird Atlas	Herring Gull	<i>Larus argentatus</i>	Winter	Yes				
52	Breeding Bird Atlas	Hooded Merganser	<i>Lophodytes cucullatus</i>	Winter	Yes				
53	Breeding Bird Atlas	Hooded Oriole	<i>Icterus cucullatus</i>	Migrant	Yes				
54	ebird	House Wren	<i>Troglodytes aedon</i>	Winter					
55	Breeding Bird Atlas	House Finch	<i>Haemorhous mexicanus</i>	Resident	Yes				
56	ebird	Hutton's Vireo	<i>Vireo huttoni</i>	Migrant					

	Source	Common name	Scientific name	Status	Nesting	California Status	SOTB Watch List 2016	Audubon Watch list 2007	USFWS
57	Breeding Bird Atlas	Killdeer	<i>Charadrius vociferus</i>	Resident	Yes				
58	ebird	Lawrence's Goldfinch	<i>Spinus lawrencei</i>	Migrant			x	yellow list	BCC
59	Breeding Bird Atlas	Lesser Goldfinch	<i>Carduelis psaltria</i>	Resident	Yes				
60	Breeding Bird Atlas	Lincoln's Sparrow	<i>Melospiza lincolni</i>	Winter	Yes				
61	Breeding Bird Atlas	Loggerhead Shrike	<i>Lanius ludovicianus</i>	Resident	Yes	SSC-3			BCC
62	Breeding Bird Atlas	Mallard	<i>Anas platyrhynchos</i>	Resident	Yes				
63	ebird	Marsh Wren	<i>Cistothorus palustris</i>	Resident					
64	Breeding Bird Atlas	Mourning Dove	<i>Zenaidura macroura</i>	Resident	Yes				
65	Breeding Bird Atlas	Northern Flicker	<i>Colaptes auratus</i>	Winter	Yes				
66	Breeding Bird Atlas	Northern Mockingbird	<i>Mimus polyglottos</i>	Resident	Yes				
67	Breeding Bird Atlas	Northern Rough-winged Swallow	<i>Stelgidopteryx serripennis</i>	Migrant	Yes				
68	Breeding Bird Atlas	Nuttall's Woodpecker	<i>Picoides nuttallii</i>	Resident	Yes			yellow list	BCC
69	Breeding Bird Atlas	Oak Titmouse	<i>Baeolophus inornatus</i>	Resident	Yes		x	yellow list	BCC
70	Breeding Bird Atlas	Orange-crowned Warbler	<i>Vermivora celata</i>	Migrant	Yes				
71	Breeding Bird Atlas	Pacific-slope Flycatcher	<i>Empidonax difficilis</i>	Resident	Yes				
72	ebird	Palm Warbler	<i>Setophaga palmarum</i>	Migrant					
73	Breeding Bird Atlas	Peregrine Falcon	<i>Falco peregrinus</i>	Winter	Yes				BCC
74	Breeding Bird Atlas	Pied-Billed Grebe	<i>Podilymbus podiceps</i>	Resident	Yes				
75	Breeding Bird Atlas	Pine Siskin	<i>Carduelis pinus</i>	Winter	Yes				
76	Breeding Bird Atlas	Purple Finch	<i>Haemorhous purpureus</i>	Winter	Yes				
77	ebird	Red-breasted Sapsucker	<i>Sphyrapicus ruber</i>	Winter					
78	Breeding Bird Atlas	Red-shouldered Hawk	<i>Buteo lineatus</i>	Resident	Yes				
79	Breeding Bird Atlas	Red-tailed hawk	<i>Buteo jamaicensis</i>	Resident	Yes				
80	Breeding Bird Atlas	Red-winged Blackbird	<i>Agelaius phoeniceus</i>	Resident	Yes				
81	Breeding Bird Atlas	Ring-billed Gull	<i>Larus delawarensis</i>	Winter	Yes				
82	Breeding Bird Atlas	Ruby-crowned Kinglet	<i>Regulus calendula</i>	Winter	Yes				
83	ebird	Rufous Hummingbird	<i>Selasphorus rufus</i>	Migrant			x		BCC
84	ebird	Sharp-shinned Hawk	<i>Accipiter striatus</i>	Winter					
85	ebird	Snowy Egret	<i>Egretta thula</i>	Resident					
86	Breeding Bird Atlas	Song Sparrow	<i>Melospiza melodia</i>	Resident	Yes				
87	Breeding Bird Atlas	Spotted Towhee	<i>Pipilo maculatus</i>	Winter	Yes				
88	Breeding Bird Atlas	Steller's Jay	<i>Cyanocitta stelleri</i>	Resident	Yes				
89	Breeding Bird Atlas	Townsend's Warbler	<i>Setophaga townsendi</i>	Migrant	Yes				
90	Breeding Bird Atlas	Tree Swallow	<i>Tachycineta bicolor</i>	Migrant	Yes				
91	Breeding Bird Atlas	Turkey Vulture	<i>Cathartes aura</i>	Resident	Yes				
92	Breeding Bird Atlas	Vaux's Swift	<i>Chaetura vauxi</i>	Migrant	Yes	SSC-3			
93	Breeding Bird Atlas	Violet-green Swallow	<i>Tachycineta thalassina</i>	Migrant	Yes				
94	Breeding Bird Atlas	Warbling Vireo	<i>Vireo gilvus</i>	Migrant	Yes				
95	Breeding Bird Atlas	Western Bluebird	<i>Sialia mexicana</i>	Resident	Yes				
96	ebird	Western Gull	<i>Larus occidentalis</i>	Winter					
97	Breeding Bird Atlas	Western Kingbird	<i>Tyrannus verticalis</i>	Migrant	Yes				
98	Breeding Bird Atlas	Western Screech-Owl	<i>Megascops kennicotti</i>	Resident	Yes				
99	Breeding Bird Atlas	Western Scrub-jay	<i>Aphelocoma californica</i>	Resident	Yes				
100	Breeding Bird Atlas	Western Tanager	<i>Piranga ludoviciana</i>	Migrant	Yes				
101	Breeding Bird Atlas	Western Wood-Pewee	<i>Contopus sordidulus</i>	Migrant	Yes				
102	Breeding Bird Atlas	White-crowned Sparrow	<i>Zonotrichia leucophrys</i>	Winter	Yes				
103	Breeding Bird Atlas	White-throated Sparrow	<i>Zonotrichia albicollis</i>	Winter	Yes				
104	Breeding Bird Atlas	White-throated Swift	<i>Aeronautes saxatalis</i>	Resident	Yes				
105	Breeding Bird Atlas	Wilson's Warbler	<i>Wilsonia pusilla</i>	Migrant	Yes				
106	Breeding Bird Atlas	wood duck	<i>Aix sponsa</i>	Winter	Yes				
107	Breeding Bird Atlas	Wrentit	<i>Chamaea fasciata</i>	Migrant	Yes		x	yellow list	
108	Breeding Bird Atlas	Yellow Warbler	<i>Setophaga petechia</i>	Resident	Yes	SSC-3			BCC
109	Breeding Bird Atlas	Yellow-rumped Warbler	<i>Setophaga coronata</i>	Winter	Yes				

***This list does not include the following non-native species such as European Starling, House Sparrow, Rock Pigeon. While there are historic records for Burrowing Owls current county-wide surveys show they have been

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
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OAKLAND, CA 94623-0660
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*Making Conservation
a California Way of Life.*

July 21, 2020

SCH # 2003042127
GTS # 04-SCL-2020-00760
GTS ID: 19779
PM: SCL-280-R2.347

Meenaxi Raval
City of San Jose
200 E Santa Clara Street
San Jose, CA 95113

Woz Way Project- Notice of Preparation (NOP) for the Supplement Environmental Impact Report (SEIR)

Dear Meenaxi Raval:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Woz Way Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the June 2020 NOP for the SEIR.

Project Understanding

The project includes a General Plan Amendment to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit to demolish 16 existing single-family homes and construct two, 20-story, 297-foot tall office towers, totaling approximately 1.8 million square feet (s.f.). The office towers are comprised of approximately 6,100 s.f. of retail space and 1.25 million s.f. of office space with four levels of underground parking and four levels of above ground parking, totaling of 1,251 parking spaces.

The primary entrance to the north tower lobby is provided from Woz Way and also via the internal driveway. The primary entrance to the south tower lobby is provided from the internal driveway. Vehicle ingress and egress to all parking

areas is provided via the internal driveway, on the north side of the south tower, and via a driveway on Almaden Boulevard.

The approximately 3.08-acre project site is located at the south corner of South Almaden Boulevard and Woz Way, immediately adjacent to Interstate (I)-280. It is located within the Priority Development Area identified in the Plan Bay Area 2040 and within the Transit Priority Areas defined in the California Public Resources Code, Section 21099.

Hydraulics

Please include a discussion of the floodplain, the potential changes to the drainage pattern and surface features, and the potentially adverse impact(s) to the Guadalupe River as well as to the existing State drainage facilities.

Landscape Architecture

Please note that several mature trees in the planted area between the Caltrans Right of Way (ROW) line and the roadway along the I-280 onramp serve to screen the highway from the surrounding area, some of which are likely to be damaged during construction. Landscape and irrigation in this area need to be protected during construction. Any trees or irrigation damaged due to construction must be replaced per Caltrans Replacement Highway Planting Policy. Please see Caltrans Project Development Procedures Manual, Chapter 29 for more information at <https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>.

Highway Operations

The project is located near State Route (SR)-87 and I-280. The Traffic Impact Analysis report shall include traffic operations and mobility assessment of SR-87 and I-280 in the project vicinity. The report shall also include project trip generation and distribution. Please include the following freeway segments and ramps in the traffic analysis:

- I-280: from I-880 to US-101 on both directions
- SR-87: from I-880 to Almaden Expressway on both directions

In addition, the project applicant shall perform queuing analysis for the ramp terminal intersections. Traffic operations analysis and observations on both on- and off-ramps shall perform within the identified freeway segments.

Vehicle queues due to the project added traffic shall be accommodated within the off-ramps and freeway traffic shall not be impacted. If the project

generated traffic impacts ramp operations, impacts shall be mitigated or allocate a fair share fee for the mitigation. The project applicant shall coordinate with the City of San Jose and Caltrans for the proposed mitigation measures if there are any impacts due to the project.

Travel Demand Analysis

Please submit a travel demand analysis that provides a Vehicle Miles Travel (VMT) analysis resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies using efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. The travel demand analysis should include:

- A vicinity map, regional location map, and site plan clearly showing project access in relation to the State Transportation Network (STN). Ingress and egress for all project components should be clearly identified. Clearly identify the State ROW. Project driveways, local roads and intersections, car/bike parking, and transit facilities should be mapped.
- A VMT analysis pursuant to the City's guidelines. Projects that result in automobile VMT per capita above the threshold of significance for existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact. If necessary, mitigation for increasing VMT should be identified. Mitigation should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.
- A schematic illustration of walking, biking and auto conditions at the project site and study area roadways. Potential safety issues for all road users should be identified and fully mitigated.
- The project's primary and secondary effects on pedestrians, bicycles, travelers with disabilities and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

- Clarification of the intensity of events/receptions to be held at the location and how the associated travel demand and VMT will be mitigated.

Lead Agency

As the Lead Agency, the City of San Jose is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto the ROW requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities, including the sidewalk and curb, must meet American Disabilities Act (ADA) Standards as well as other Caltrans Standard Plan after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application, six (6) sets of plans clearly delineating the State ROW, six (6) copies of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Meenaxi Ravel
July 21, 2020
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Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact ldigr-d4@dot.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Mark Leong". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

cc: State Clearinghouse



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 15, 2020

Ms. Meenaxi Raval
City of San José
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113
meenaxi.raval@sanjoseca.gov

Dear Ms. Raval:

Subject: Woz Way Project, Notice of Preparation of a Supplemental Draft Environmental Impact Report, SCH No. 2003042127, City of San Jose, Santa Clara County

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Supplemental Draft Environmental Impact Report (SDEIR) to the Downtown Strategy 2040 EIR (SCH No. 2003042127) from the City of San José (City) for the Woz Way Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is expected to be a Trustee Agency with regards to this Project. As a Trustee Agency, CDFW has a responsibility pursuant to CEQA for commenting on projects that could directly or indirectly impact biological resources. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e. biological resources). As a Trustee Agency, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities (CEQA Guidelines, § 15386; Fish and Game Code, § 1802).

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Ms. Meenaxi Raval
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PROJECT DESCRIPTION SUMMARY

Proponent: KT Properties

Objective: The proposed Project site is 3.08 acres. The Project includes demolition of 16 single-family residential structures and removal of on-site trees, and construction of two office and retail towers with a maximum height of 297 feet. The Project also includes excavation to 40 feet of depth for construction of four levels and 1,046 parking spaces of subterranean parking. At an above-surface level, there would be a parking lot with 205 parking spaces constructed.

Location: The Project site is bound by Woz Way to the north, South Almaden Boulevard to the east, Interstate 280 to the south, and the Guadalupe River pedestrian pathway to the west; APN#s are 264-31-037, 264-31-062, 264-31-038, 264-31-063, 264-31-039, 264-31-064, 264-31-040, 264-31-065, 264-31-041, 264-31-066, 264-31-0421, 264-31-067, 264-31-043, 264-31-092, 264-31-044, 264-31-107, 264-31-0612, and 264-31-108.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Riparian Setback and Bird Collision with Proposed Buildings

The Santa Clara Valley Natural Community Conservation Plan/Habitat Conservation Plan (SCVHP) includes conditions to minimize impacts on natural communities (Section 6.5). Analysis conducted during development of the SCVHP found that Stream and Riparian Setbacks (Condition 11, Section 6.5) avoided impacts to 16-55% of modeled covered species habitat in comparison to the modeled reserve system habitat alone. Under Condition 11 Stream and Riparian Setbacks, the exceptions to these setbacks is specified. Exceptions may be approved by the local jurisdiction (for this Project the City of San José), upon the Project proponent conducting the analysis as required by the SCVHP and by providing this information in an exception request for review by the City, Santa Clara Valley Habitat Agency, CDFW, and the U.S. Fish and Wildlife Service.

The NOP does not specifically discuss whether or not the Project will be covered by the SCVHP. However, the NOP does discuss a 35-foot setback from the riparian corridor and that this setback is in conformance with the SCVHP. This statement should be clarified since the SCVHP setback is not 35 feet, but rather 100 feet, since the reach of Guadalupe River adjacent to the Project is a Category 1 Stream. CDFW reviewed and coordinated with the Santa Clara Valley Habitat Agency in the review of the City setback exception request.

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The setback exception request contained information as to why an exception to the 100-foot setback should be approved, including providing information that demonstrates the Project does not preclude achieving the biological goals and objectives of the SCVHP. This section of the exception request, and the Biological Technical Report, explained that the Project site is not habitat for riparian special-status species and that bird-safe building designs would be used to reduce collisions with the buildings.

CDFW recommends that the SDEIR sufficiently characterize the relationship of the Project with the SCVHP. It is recommended that the SDEIR clearly identify whether or not the City has determined that the Project is covered under the SCVHP. It is recommended that the SDEIR clearly explain the process and circumstances in which the City may approve a setback exception request.

The Biological Technical Report provided with the setback exception request, dated October 22, 2019, states that bird collisions due to the existence of the buildings constructed as part of the Project would result in a “higher degree” of bird collisions than the existing residential housing and that the impact “would constitute a significant adverse impact”. The Biological Technical Report provided a list of measures to reduce the impact, such as the use of glass that is not transparent or reflective, avoidance of interior plantings close to transparent windows, direct night lighting downward and away from the riparian corridor, and planting a visual screen of native trees between the buildings and the Guadalupe River. The SCVHA response to the City, regarding the exception request, dated April 7, 2020, stated that SCVHA agrees with all mitigation measures and supports the inclusion of those measures in any Project approval by the City.

CDFW agrees with the measures to reduce bird collisions with the proposed buildings, as set forth in the Biological Technical Report, and recommends that these measures be incorporated into the SDEIR. In addition, it is recommended that the City evaluate the applicability of the measures as set forth in the following documents and that any applicable measures be incorporated into the SDEIR: the City of San José Council Policy Number 6-34, Riparian Corridor Protection and Bird-safe Design, effective August 23, 2016; Green Building Council bird-safe building design, available at <https://www.usgbc.org/credits/core-shell-existing-buildings-healthcare-new-construction-retail-nc-schools/v2009/pc55>; and American Bird Conservancy bird-friendly building design at <https://abcbirds.org/program/glass-collisions/learn-more/>.

Bat Measures

The Biological Technical Report provided with the setback exception request, dated October 22, 2019 and discussed above, stated that, although roosting bats and guano were not detected during reconnaissance surveys, there is potential for Pallid bat (*Antrozous pallidus*, State Species of Special Concern) and Townsend's big-eared bat

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(*Corynorhinus townsendii*, State Species of Special Concern) to use the residential housing for roosting. The Biological Technical Report states that demolition of the buildings could cause direct mortality that would constitute a significant adverse impact of the Project.

To reduce impacts to less-than-significant levels, CDFW recommends the following mitigation measures be included in the SDEIR:

1. **Bat Surveys:** A qualified biologist shall conduct surveys for bats within the Project area. The survey should include a visual inspection of potential roosting features (buildings and trees to be removed) and presence of guano within the Project area, access routes, and 50 feet around these areas. The qualified biologist shall survey these areas 14 days prior to the start of work. Potential roosting features found during the survey shall be flagged or marked.
2. **Roost Disturbance Avoidance:** A minimum 50-foot buffer shall be established around maternity roosts adjacent to the work area. Construction proposed adjacent to roosts, including adjacent tree removal, shall not occur within the established buffer area until the time of year in which young are able to fly.
3. **Exclusion Plan:** The exclusion structures (e.g. one-way doors or similar methods) shall be installed after pre-construction surveys have determined that there are bats present in the buildings and trees to be removed. The exclusion structures shall not be placed until the time of year in which young are able to fly. This exclusion plan should be submitted to CDFW for review.
4. **Bat Mitigation and Monitoring Plan.** A Bat Mitigation and Monitoring Plan shall be prepared and implemented to mitigate for the loss of roosting habitat. The Plan should include information pertaining to the species of bat and location of the roost, compensatory mitigation for permanent impacts (including specific mitigation ratios and location of proposed mitigation) and monitoring to assess bat use of mitigation areas. This exclusion plan should be submitted to CDFW for review.

Bird Nest Measures

The NOP does not specify that the proposed Project could potentially result in tree removal. However, upon review of Figure 2 within the NOP, the proposed Project site includes many trees located immediately adjacent to the building to be demolished. Trees are also located within 200 feet of the building to be demolished. Please be advised that both native and non-native trees provide nesting habitat for birds, and habitat value for other wildlife. CDFW recommends that the SDEIR include a clear analysis of potential impacts to trees located within or adjacent to the Project area, and

Ms. Meenaxi Raval
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appropriate and effective compensatory mitigation to completely offset any permanent impacts of removing trees from the Project area.

CDFW also recommends that the following protective measures be included in the SDEIR:

1. **Nesting Bird Surveys:** If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), CDFW recommends that a qualified biologist conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys should be conducted at the appropriate times of day and during appropriate nesting times.
2. **Active Nest Buffers:** If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist should conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email

Ms. Meenaxi Raval
City of San José
July 15, 2020
Page 6

address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

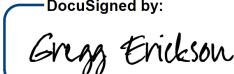
CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or by email at Kristin.Garrison@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or by email at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento



NATIVE AMERICAN HERITAGE COMMISSION

June 23, 2020

Meenaxi Raval
City of San Jose
200 E. Santa Clara St. 3rd Floor
San Jose, CA 95113

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NAHC HEADQUARTERS
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Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2003042127, Woz Way Project, Santa Clara County

Dear Ms. Raval:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §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. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, §15064.5 (b) (CEQA Guidelines § 15064.5 (b))). 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. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). 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 within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that 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. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** 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 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with 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. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

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

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

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

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

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
- c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. 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/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

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

If you have any questions or need additional information, please contact me at my email address: Nancy.Gonzalez-Lopez@nahc.ca.gov.

Sincerely,



Nancy Gonzalez-Lopez
Cultural Resources Analyst

cc: State Clearinghouse

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201

www.parkhere.org



Submitted via e-mail

June 9, 2020

Meenaxi Raval, Environmental Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

SUBJECT: Notice of Preparation of Supplement Environmental Impact Report (SEIR) for the Woz Way Project (GP19-008 and H20-004)

To Whom It May Concern:

Thank you for including the County of Santa Clara Parks and Recreation Department (Department) in the environmental review process for the Woz Way Project (Proposed Project). The Department is charged with the planning and implementation of *The Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan)*, an element of the Parks and Recreation Section of the County General Plan adopted by the Board of Supervisors on November 14, 1995. A copy of the Countywide Trails Plan is available for review at the Department's website (www.parkhere.org).

Project Understanding

The Proposed Project includes a General Plan Amendment to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit to allow the demolition of 16 existing single-family homes and the construction of two, 20-story, 297-foot tall office towers, totaling approximately 1.8-million square feet. The office towers are comprised of approximately 6,1000 square feet of retail space and 1.25 million square feet of office space with four levels of underground parking and four levels of above ground parking on the approximately 3.08-acre project site.

Connection to Regional Trails within Santa Clara County

An existing segment of the Guadalupe River Trail borders the Proposed Project site to the west. The Guadalupe River Trail is off-street trail with a parallel on-street bicycle route connecting to the Los Gatos Creek Trail, Guadalupe/Santa Teresa Trail, and the Coyote Creek/Llagas Sub-Regional Trail. Once complete, the network will provide trails users the opportunity to use non-motorized transportation to connect to the Santa Cruz Mountains, regional parks, educational institutions, and the cities of Santa Clara, San Jose, Los Gatos, and Campbell.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian

County Executive: Jeffrey V. Smith



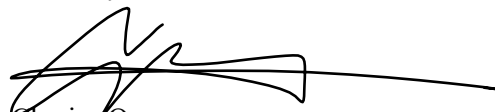
The SEIR should be consistent with, and consider impacts to, the Countywide Trails Plans. To ensure consistency, the Department recommends the SEIR provide a complete analysis of impacts, including:

- Analyze potential impacts of increased use on the existing segment of the Guadalupe River Trail, including impacts on biological resources, riparian habitat, and water quality within the Proposed Project Site and along the trail.
- Analyze impacts of increased use on public services and facilities, such as trails, bike paths, bicycle lanes, parks, and other recreational facilities within the vicinity of the Proposed Project Site.
- Provide a plan to detour trail users during construction activities to avoid impacts to recreational trail use.
- Identify the existing Guadalupe River Trail alignment on all SEIR figures (circulation, aerial, recreation, etc.).

The Department respectfully suggests the Proposed Project includes pedestrian- and bicycle-oriented amenities and facilities, such as street trees and landscaping, benches, low-level lighting, signage, textured crosswalks, and bike lanes.

The County Parks Planning team is available as a resource regarding the Trail Element of the Parks and Recreation Chapter of the 1995 County of Santa Clara General Plan. We appreciate the opportunity to comment on the Notice of Preparation of a Supplement Environmental Impact Report for the Woz Way Project. If you have questions related to these comments, email Jeremy Farr, Interim Principal Planner, jeremy.farr@prk.sccgov.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cherise Orange', with a long horizontal line extending to the right.

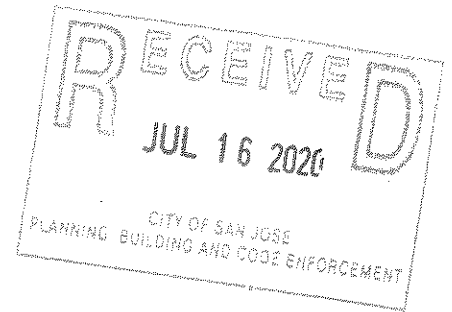
Cherise Orange
Associate Planner



File: 34141
Guadalupe River

July 8, 2020

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



Subject: Notice of Preparation of a Draft Supplemental EIR for the Woz Way Project

Dear Ms. Raval:

The Santa Clara Valley Water District (Valley Water) has reviewed the Notice of Preparation (NOP) of a Draft Supplemental EIR (SEIR) for the Woz Way Project, received by Valley Water on June 8, 2020.

Valley Water owns property encompassing Guadalupe River adjacent to the westerly boundary of the project site. In accordance with Valley Water's Water Resources Protection Ordinance, any work on Valley Water's easement or fee title property will require the issuance of a Valley Water permit, which is a discretionary action and requires Valley Water to be considered a responsible agency under CEQA.

Preliminary plans for the development that have been submitted to Valley Water show installation of tie-backs to facilitate construction on Valley Water property. Such work is subject to issuance of a Valley Water permit and license for use of Valley Water property.

Based on our review of the NOP we have the following comments:

1. Valley Water's property adjacent to the site is located along Locust Street and is accessed via Locust Street. The vacation of the street will impact Valley Water ability to access an important staging and storage site in the downtown area and alternative access needs to be provided.
2. The reference on page 3 to City Council Policy 6-32, Riparian Corridor Protection and Bird Safety Design should reference Policy 6-34, which is the correct policy number.
3. The NOP notes on pages 3 and 11 that the SEIR will address conformance of the project with City Policy 6-34, including bird safe design. However, the bird safe design criteria in the policy only applies to areas north of Hwy 237 and the project site is located south of Hwy 237. The SEIR needs to consider other City policies related to protection of birds.



Ms. Meenaxi Raval

Page 2

July 8, 2020

4. The NOP notes that the project will have a 35 foot riparian corridor setback, in compliance with the Santa Clara Valley Habitat Plan. The Biological Resources analysis needs to clearly discuss how the 35 foot setback applies to this project as it appears the project would require a 100 foot setback from the Guadalupe River, a Category 1 stream.
5. The Utilities and Service Systems analysis should consider use of recycled water for the project and compliance with SB 610 through completion of a WSA.

Please reference Valley Water File Number 34141 on further correspondence regarding this project.

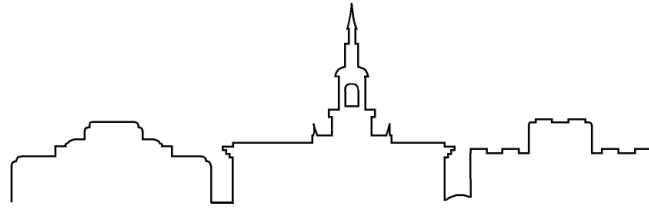
If you have any questions or need further information, you can reach me at chaggerty@valleywater.org or at (408) 630-2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: U. Chatwani, C. Haggerty, File



PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

August 5, 2020

Transmitted via e-mail

Edward Saum, Chair

Paul Boehm, Vice Chair

Harriett Arnold, Anthony Raynsford, Stephen Polcyn, Rachel Royer, Eric Hirst

City of San Jose - Historic Landmarks Commission

200 E Santa Clara Street

San Jose CA 95113

Woz Way Project (GP19-008 and H20-004)

Dear Commissioners,

The Preservation Action Council of San Jose (PAC*SJ) previously submitted the following comments regarding the Woz Way Project (GP19-008 and H20-004) to the Department of Planning, Building, and Code Enforcement as part of the project's DSEIR Notice of Preparation. We believe these comments are equally relevant to the Historic Landmarks Commission's project review and appreciate your consideration of the issues raised.

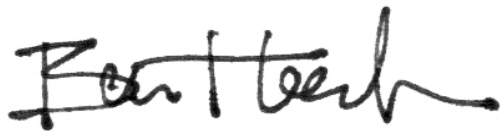
As proposed, the project calls for the demolition of 16 existing single family homes, six of which are listed on the San Jose Historic Resources Inventory (HRI).¹ Given the unprecedented housing crisis facing the City of San Jose and its continued shortcomings in meeting affordable housing goals, PAC*SJ is extremely troubled by any proposal to reduce the City's stock of existing housing, especially for a speculative commercial office development with unproven demand and no clear construction timeline. In this context, we believe it is imperative for the DSEIR to include a robust and independent analysis of all viable preservation alternatives that

¹ A seventh historic home (541 Vine Street / Almaden Blvd) is not currently included in the proposed scope of work, but would also be demolished if acquired by the developer.

would retain some or all of these existing structures, whether *in situ*, relocated to other sites, or a combination thereof. At minimum, this analysis should include the following:

- Individual historic and conditions assessments for all properties within in the Site Development Permit Boundary regardless of current HRI listing. This analysis should include individual determinations of historic significance, physical condition, integrity, and relative potential for relocation/rehabilitation.
- A detailed budget analysis and potential site survey for the relocation of some/all impacted structures, including but not limited to those determined to qualify as historic resources under City, State, and/or Federal criteria.
- Assessment of potential historic district eligibility for properties within the Site Development Permit Boundary. Given the high concentration of HRI-listed structures along Vine Street/ Almaden Boulevard, this row is likely eligible for listing as a City Landmark District. As such, a Preservation Alternative that maintains this row of houses *in situ*, with towers located to their west, should be fully explored.

Sincerely,

A handwritten signature in black ink that reads "Ben Leech". The signature is fluid and cursive, with the first name "Ben" and last name "Leech" clearly legible.

Ben Leech
Executive Director
Preservation Action Council of San Jose