

**NOTICE OF PREPARATION OF A  
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE  
MARK RESIDENTIAL TOWER PROJECT**

FILE NO: SP20-021  
PROJECT APPLICANT: Urban Catalyst  
APNs: 467-47-057, 467-47-092

**Project Description:** The project includes a Special Use Permit to allow the demolition of three residential structures totaling approximately 7,427 square feet and allow construction of a 21-story multi-family residential building consisting of 222 dwelling units with an alternative parking design (four levels of car stackers, including one basement level). The building would have a maximum height of up to 250 feet to the top of the parapet with a proposed roof deck and lounge on an approximately 0.45-gross acre site. **Location:** 459-485 South Fourth Street near the northwest corner of East William Street and South Fourth Street in Downtown San José.

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 EIR for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this EIR may be used by your agency when considering subsequent approvals related to the project.

**An online joint community and environmental public scoping meeting** for this project will be held:

**When:** Thursday, September 17, 2018 from 6:00 p.m. to 8 p.m.

**Where:** Via Zoom (see instructions below)

The live meeting will be recorded. You will be muted upon entry to the meeting. Please do not unmute yourself until the presenter has called on you to speak. If you have not participated in a Zoom meeting before, we encourage you to download the Zoom application to your phone, tablet, or computer and feel free to log in early to troubleshoot any technical issues that may arise. Participants who are unable to install Zoom on their computer or mobile device can join a meeting through their computer's web browser. Meeting function may be limited on a web browser. Zoom currently works best with Google Chrome, Apple Safari, Mozilla Firefox, and Chromium Edge. Members of the public may view and listen to the meeting by following the instructions listed on page 4. Additional instructions are provided on page 4 to those members of the public who would like to comment.

Electronic device instructions:

For participants who would like to join electronically from a PC, Mac, iPad, iPhone or Android device, please click this URL: <https://sanjoseca.zoom.us/j/92833967687>

Please ensure your device has audio input and output capabilities. During the session, if you would like to comment, please use the 'raise hand' feature in Zoom conference call or click \*9 to raise a hand to speak.

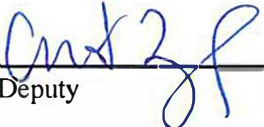
1. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
2. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.

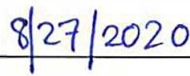
3. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
4. If you wish to speak during open forum, click on "raise hand." Speakers will be notified shortly before they are called to speak.
5. When called, please limit your remarks to the time limit allotted.
6. Telephone device instructions:  
For participants who would like to join telephonically please dial +1-877-853-5257 and when prompted, enter meeting ID: **928 3396 7687**. You may also click \*9 to raise a hand to speak.
7. Public Comments prior to meeting:  
If you would like to submit your comments prior to the meeting, please e-mail [Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov). Comments submitted prior to this meeting will be considered as if you were present in the meeting.

The project description, location, and probable environmental effects that will be analyzed in the EIR for the project can be found on the City's Active EIRs website at [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs), including the EIR Scoping Meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice. However, responses earlier than 30 days are always welcome. If you have comments on this Notice of Preparation, please identify a contact person from your organization, and send your response to:

City of San José  
Department of Planning, Building and Code Enforcement  
Attn: Maira Blanco, Environmental Project Manager  
200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower  
San José CA 95113-1905  
Phone: (408) 535-7837, e-mail: [Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov)

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

  
\_\_\_\_\_  
Deputy

  
\_\_\_\_\_  
Date

**NOTICE OF PREPARATION OF  
A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT  
FOR THE MARK RESIDENTIAL PROJECT**

**August 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 Supplemental EIR (SEIR) is prepared when it is determined by the discretionary authority that changes proposed in an approved project will require revisions to the previous EIR because of possible new impacts or an increase in severity of previously identified impacts. As the Lead Agency, the City of San José will prepare an SEIR to the Downtown Strategy 2040 Final EIR to address the environmental effects of The Mark Residential Project.

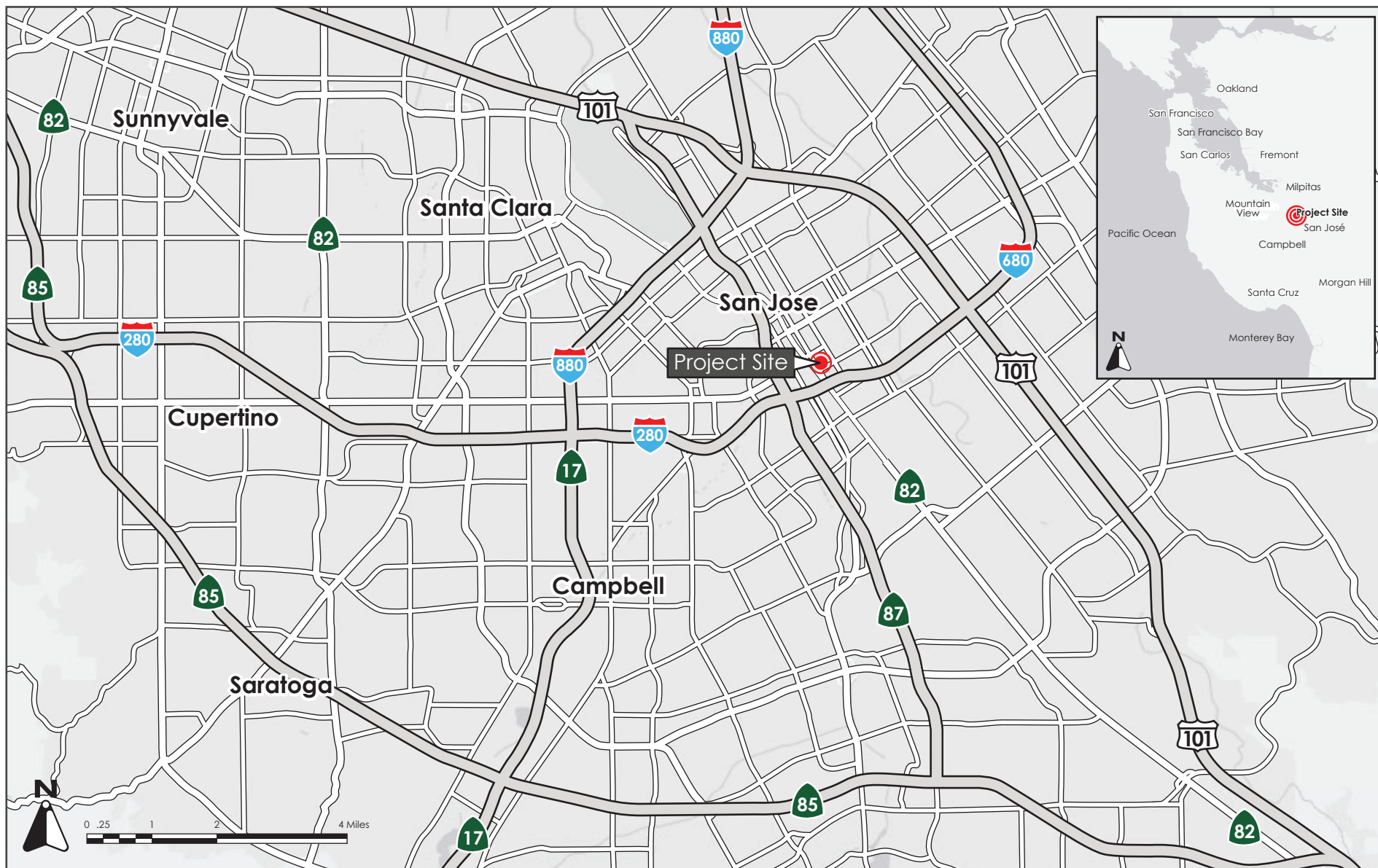
An Initial Study (IS) will be prepared (which will be incorporated in the SEIR as an appendix) to focus the SEIR on potentially significant issues pursuant to CEQA Guidelines Section 15178. In accordance with Sections 15120 et seq. of the CEQA Guidelines, the SEIR will include the following:

- A summary of the project;
- A project description;
- A description of the existing environmental setting, probable environmental impacts, and mitigation measures;
- Alternatives to the project; 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 approximately 0.45-gross acre project site is comprised of two parcels (Assessor Parcel Numbers [APNs] 467-47-057 and -092) located at 459-485 South Fourth Street near the northwest corner of East William Street and South Fourth Street in Downtown San José.

Currently, the site is developed with two apartment buildings and a single-family residence. Regional and vicinity maps, as well as a conceptual site plan and elevations, are provided in Figures 1 to 4, respectively.



REGIONAL MAP

FIGURE 1





VICINITY MAP

FIGURE 2





FLOOR 1



FLOOR 1 MEZZANINE



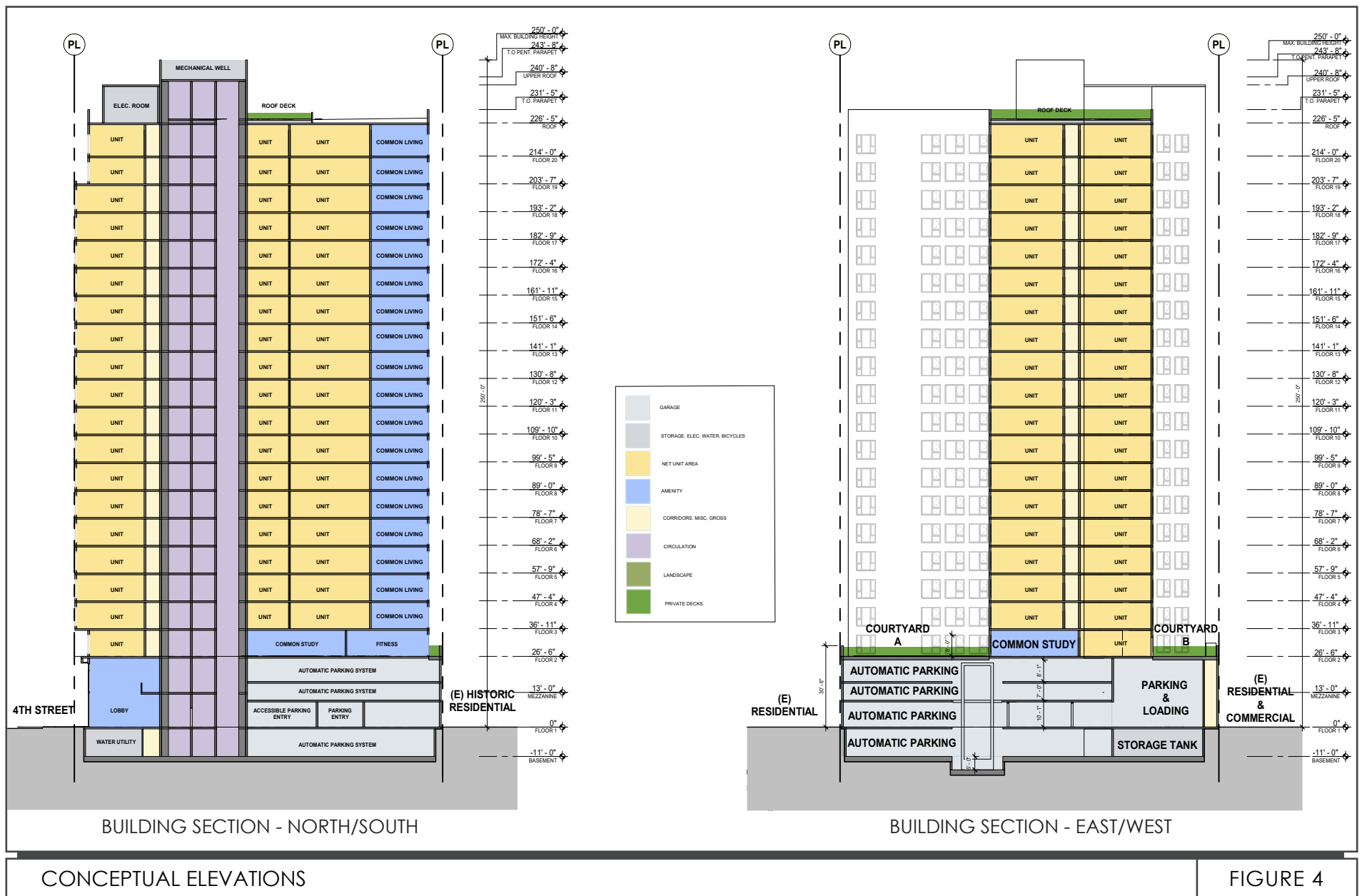
FLOOR 2



FLOOR 4-20 TYP



ROOF



## **Project Description**

The project would demolish the three buildings on-site and construct a 21-story tower with up to 222 dwelling units. The building would have a maximum height of up to 250 feet to the top of the parapet. The project would be programmed for student living and provide 95 parking spaces in four levels of stackers, including one basement level, and 60 bicycle spaces on-site.

Proposed amenities for residents include a second-floor common amenity space (including fitness and community spaces) and two courtyards. Common study space would be located on each residential floor. The project proposes a roof deck and a roof lounge.

## **Required Project Approvals**

1. Tentative Map
2. Demolition Permit(s)
3. Grading Permit(s)
4. Building Permit(s)
5. Site Development Permit
6. Special Use Permit
7. Department of Public Works Clearances

## **Potential Supplemental Environmental Impacts of the Project**

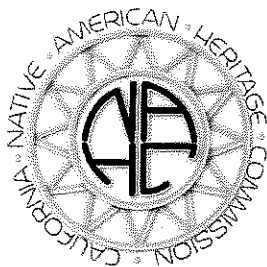
The SEIR will identify the significant environmental effects anticipated to result from development of the project as proposed. Mitigation measures will be identified for significant impacts, as warranted. The SEIR will discuss the project's significant environmental impacts on the topic areas described below.

- **Aesthetics** – The proposed development would demolish the existing one- to- two story structures on-site and construct a 21-story residential tower. The SEIR will describe the existing visual setting of the project area and the visual changes that are anticipated to occur as a result of the proposed project. The SEIR will also discuss possible light and glare issues from the development.
- **Air Quality** – The SEIR will address the regional air quality conditions in the Bay Area and discuss the proposed project's construction and operational impacts to local and regional air quality in accordance with the 2017 Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and thresholds.
- **Biological Resources** – Habitats in the project area are low in species diversity and include predominately urban adapted birds and animals. The SEIR will address the loss of trees within, and adjacent to, the construction zones. In addition, the SEIR will identify and discuss the project's biological impacts during construction and operation and the project's consistency with the Santa Clara County Habitat Conservation Plan.

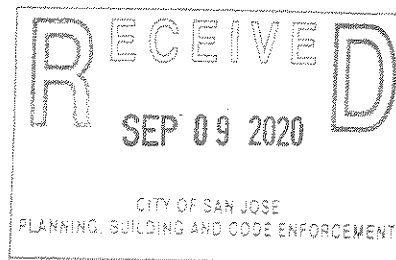
- **Cultural Resources** – The project site is located in the downtown area which has extensive prehistoric historic due to Native American occupation of the Santa Clara Valley. The SEIR will identify and discuss potential archeological resource impacts from construction of the project. The project site may contain historic buildings and is located in proximity to multiple historic structures. The SEIR will address the potential impacts on historic structures on and adjacent to the project site.
- **Energy** – Implementation of the proposed project would result in an increased demand for energy on-site. The SEIR will discuss the increase in energy usage on-site and energy efficiency measures proposed by the project.
- **Geology and Soils** – The SEIR will describe the existing geologic and soil conditions and discuss the possible geological impacts associated with seismic activity and the existing on-site soil conditions.
- **Greenhouse Gas Emissions** – The SEIR will address the project’s contribution to regional and global greenhouse gas (GHG) emissions based on BAAQMD thresholds and consistency with policies adopted by the City of San José for reducing GHG emissions. Proposed design measures to reduce energy consumption, which in turn would reduce GHG emissions, will be discussed.
- **Hazards and Hazardous Materials** – The SEIR will address existing hazardous materials conditions on and adjacent to the project site and will address the potential for hazardous materials impacts to result from implementation of the proposed project.
- **Hydrology and Water Quality** – The SEIR will address the project’s impact to the storm drainage system. In addition, the SEIR will address the possible flooding issues and the projects effect on storm water quality consistent with the requirements of the Regional Water Quality Control Board (RWQCB).
- **Land Use** – The project site is located within a developed, urbanized area of San José surrounded by residential and commercial land uses. The SEIR will describe the existing land uses adjacent to and within the project area. Land use impacts that would occur as a result of the proposed project will be analyzed, including the consistency of the project with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect.
- **Noise and Vibration** – Noise levels in the project area are primarily influenced by vehicular noise on surrounding roadways. The SEIR will discuss noise and vibration that would result from the construction and operation of the proposed project (including noise from project-generated traffic) and its impact on nearby sensitive receptors. Noise levels will be evaluated for consistency with applicable noise standards and guidelines. Additionally, the SEIR will evaluate the effects of vibration during project construction on nearby historic structures and adjacent buildings of normal conventional construction.



- **Population and Housing** – The project would develop up to 222 dwelling units. The SEIR will discuss existing population and housing conditions and if the project would induce substantial growth.
- **Public Services** – Implementation of the proposed project would increase the resident population of the City which could result in an increased demand on public services, including school, police and fire protection, libraries, and recreational facilities. The SEIR will address the availability of public facilities and services and the project’s potential to result in adverse physical impacts to the service facilities.
- **Transportation** – The project site is located within the downtown area and transportation impacts in the area were previously evaluated in the Downtown Strategy 2040 Final EIR. 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.
- **Tribal Cultural Resources** – The SEIR will discuss the project’s potential for impacts to tribal cultural resources under Assembly Bill 52.
- **Utilities and Service Systems** – Implementation of the proposed project could result in an increased demand on utilities and service systems compared to existing conditions. The SEIR will examine the impacts of the project on utilities and service systems, including the sanitary sewer and storm drainage systems, water supply, and solid waste management.
- **Wildfire** –The proposed project is located within a developed area of San José. The SEIR will discuss project impacts on adopted emergency response and evacuation plans and risk due to wildfire.
- **Other CEQA Sections** – In addition, the SEIR will address the project’s impacts on Agricultural Resources and Mineral Resources consistent with the CEQA checklist. The project’s Significant Unavoidable Impacts and potentially significant cumulative impacts when considered with other past, present, and reasonably foreseeable future projects in the development area will also be identified in the SEIR. The SEIR will also provide, alternatives to the proposed project which could reduce project impacts identified in the environmental document.



## NATIVE AMERICAN HERITAGE COMMISSION



August 31, 2020

Maira Blanco  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

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**Laura Miranda**  
Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
Chumash

SECRETARY  
**Merri Lopez-Keifer**  
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**Re: 2020080532, The Mark Residential Tower Project, Santa Clara County**

Dear Ms. Blanco:

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, § 15064 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:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - 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:**
- Avoidance and preservation of the resources in place, including, but not limited to:
    - Planning and construction to avoid the resources and protect the cultural and natural context.
    - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - Protecting the cultural character and integrity of the resource.
    - Protecting the traditional use of the resource.
    - Protecting the confidentiality of the resource.
  - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - 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)).
  - 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:
- 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.
  - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - 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](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](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](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](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

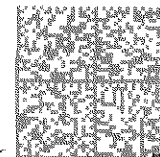
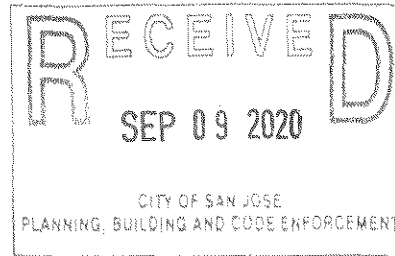
Sincerely,



Nancy Gonzalez-Lopez  
Cultural Resources Analyst

cc: State Clearinghouse

State of California  
Native American Heritage Commission  
1550 Harbor Blvd., Ste. 100  
West Sacramento, CA 95691



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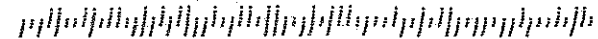
CHAIRPERSON  
**Laura Miranda**  
Luiseno

Maira Blanco  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

PLANNING, BU

Re: 2020080532, The Mark Residential Tower Pr

9511381905 C056



## Blanco, Maira

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**From:** Frost, Erik@DOC <Erik.Frost@conservation.ca.gov>  
**Sent:** Friday, September 18, 2020 12:17 PM  
**To:** Blanco, Maira  
**Cc:** state.clearinghouse@opr.ca.gov; OLRA@DOC  
**Subject:** The Mark Residential Tower - CEQA project SCH 2020080532

[External Email]

Hello,

The California Geological Survey (CGS) has received a Notice of Preparation (NOP) of a draft Supplemental Environmental Impact Report (SEIR) for the Mark Residential Tower Project. Based on the information provided in this NOP, CGS notes the SEIR will address “existing geologic and soil conditions and discuss the possible geological impacts associated with seismic activity and the existing on-site soil conditions.” However, the hazard of liquefaction is not specifically discussed.

The project area is located in an Earthquake Zone of Required Investigation for liquefaction, and the SEIR should address this potential hazard with respect to the project. Relevant digital maps (PDF and Shapefiles) and reports can be downloaded from the CGS Information Warehouse, here: <http://maps.conservation.ca.gov/cgs/informationwarehouse/>.

Please let us know if you have any questions or concerns.

Erik

**Dr. Erik Frost**

Senior Engineering Geologist | Seismic Hazards Program  
California Geological Survey  
801 K Street, MS 12-31, Sacramento, CA 95814  
(916) 205-8255  
[erik.frost@conservation.ca.gov](mailto:erik.frost@conservation.ca.gov)

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# County of Santa Clara

Roads and Airports Department  
Planning, Land Development and Survey

101 Skyport Drive  
San Jose, CA 95110-1302  
(408) 573-2460 FAX 441-0276



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**September 25, 2020**

**Maira Blanco**

Planner | City of San José, PBCE  
[maira.blanco@sanjoseca.gov](mailto:maira.blanco@sanjoseca.gov) | (408) 535-7837  
San Jose, CA 95113

**SUBJECT: Notice of Preparation (NOP) for The Mark Residential Tower Project Draft Supplemental Environmental Impact Report (SP20-021)**

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Preparation (NOP) for The Mark Residential Tower Project Draft Supplemental Environmental Impact Report (SP20-021), and is submitting the following comments:

1. Transportation Analysis should include any County facility if impacted.
2. Provide truck circulation plan during demolition and construction of project to identify if any County facility is impacted with construction trucks.

If you have any questions or concerns about these comments, please contact me at 408-573-2462 or [ben.aghegnehu@rda.sccgov.org](mailto:ben.aghegnehu@rda.sccgov.org)

Thank you.





September 28, 2020

BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

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

**CONTRA COSTA COUNTY**  
John Gioia  
David Hudson  
Karen Mitchoff  
(Secretary)  
Mark Ross

**MARIN COUNTY**  
Katie Rice

**NAPA COUNTY**  
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**SAN FRANCISCO COUNTY**  
VACANT  
Shamann Walton  
Tyron Jue  
(SF Mayor's Appointee)

**SAN MATEO COUNTY**  
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Carole Groom  
Davina Hurt

**SANTA CLARA COUNTY**  
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Cindy Chavez  
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(Chair)

**SOLANO COUNTY**  
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Lori Wilson

**SONOMA COUNTY**  
Teresa Barrett  
Shirlee Zane

Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

Connect with the  
Bay Area Air District:



Ms. Maira Blanco, Environmental Project Manager  
City of San Jose, Department of Planning  
200 East Santa Clara Street, 3rd Floor Tower  
San Jose CA 95113-1905

**RE: Mark Residential Tower Project -Notice of Preparation of a Supplemental Draft Environmental Impact Report**

Dear Ms. Blanco:

Air District (District) staff has reviewed the City of San Jose's (City) Notice of Preparation of a Draft Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 EIR prepared for the proposed Mark Residential Tower Project (Project). As we understand, the project will consist of construction of a 21-story multi-family residential building tower that will have up to 222 dwelling units, 60 bicycle spaces and 95 parking spaces onsite with courtyard and rooftop lounge areas. The City will demolish three residential structures totaling 7,427 square feet to allow for construction of this Project. The Project is located on South Fourth Street near the northwest corner of East William Street in Downtown San Jose.

Staff commends the City's effort to locate a high-density residential development project in the downtown area near public transit, which will help reduce vehicle miles traveled and therefore reduce air pollution and greenhouse gas impacts. The San Jose community however is disproportionately impacted by air pollution and is identified as a priority community through our Community Air Risk Evaluation (CARE) program and our Community Health Protection Program per Assembly Bill 617, consequently the Air District is concerned about the potential air quality impacts that may result from this project.

Air District staff recommends the SEIR include the following information and analysis:

- **As identified by the Air District's CARE program and our Community Health Protection Program, the San Jose community is currently cumulatively impacted with air pollution, which makes any additional air pollution a potentially significant localized impact.** We recommend that the SEIR analyze regional and local air quality impacts and include additional mitigation for this Project.



- **The SEIR should estimate and evaluate the potential health risk to existing and future sensitive populations within and near the Project area from toxic air contaminants (TACs) and fine particulate matter (PM<sub>2.5</sub>) as a result of the project's construction and operation.** The Project should be evaluated for localized impacts on the community, such as TACs and PM 2.5 emission impacts on receptors within the area.
- **The GHG impact analysis should include an evaluation of the Project's consistency with the most recent draft of the AB 32 Scoping Plan by the California Air Resources Board and with the State's 2030 and 2050 climate goals.** The Air District's current recommended GHG thresholds in our CEQA Guidelines are based on the State's 2020 targets, which are now superseded by the 2030 GHG targets established in SB 32. The SEIR should demonstrate how the Project will be consistent with the Scoping Plan.
- **The SEIR should include design features that minimize Project air quality and GHG impacts.**

Examples of potential design features that lessen air quality and GHG impacts include, but are not limited to:

  - o Creating a construction phase traffic management plan that reduces diesel equipment idling.
  - o Requiring construction vehicles to operate with Tier 4 engines.
  - o Creating a Transportation Demand Management Program that includes funding for zero emission transportation projects, including a neighborhood electric vehicle program, community shuttle/van services, parking pricing, car sharing, and enhancement of active transportation initiatives, among others.
  - o Providing the funding for new infrastructure and connections to existing bicycle and pedestrian projects that improve access to transit, employment, and major activity centers.
  - o Prohibiting or minimizing the use of diesel fuel, consistent with the Air District's Diesel Free By '33 initiative (<http://dieselfree33.baagmd.gov/>).
  - o Implementing green infrastructure and fossil fuel alternatives in the development and operation of the Project, such as solar photovoltaic (PV) panels, renewable diesel, electric heat pump water heaters, and solar PV back-up generators with battery storage capacity.
  - o Implementing a zero-waste program consistent with SB 1383 organic waste disposal reduction targets including the recovery of edible food for human consumption.
- **The SEIR should evaluate the Project's consistency with the Air District's 2017 Clean Air Plan (2017 CAP).** The SEIR should discuss 2017 CAP measures relevant to the Project and show the Project's consistency with the measures. The 2017 CAP can be found on the Air District's website: <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>.

- 
- **The SEIR should analyze the Project's consistency with the City of San Jose's most recently adopted Climate Action Plan.** The 2018 update can be found at this link: <https://www.sanjoseca.gov/home/showdocument?id=32171>
  - **The Air District's CEQA website contains several tools and resources to assist lead agencies in analyzing air quality and GHG impacts.** These tools include guidance on quantifying local emissions and exposure impacts. The tools can be found on the Air District's website: <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/cegatools>. If the Project requires a site-specific analysis, please contact Air District staff to obtain more recent data.
  - **Certain aspects of the Project may require a permit from the Air District (for example, backup diesel generators and hot water/space heat boilers).** Please contact Barry Young, Senior Advanced Projects Advisor, at (415) 749-4721 or [byoung@baaqmd.gov](mailto:byoung@baaqmd.gov) to discuss permit requirements. Any applicable permit requirements should be discussed in the SEIR. All stationary sources of air pollution should be described in the SEIR.

We encourage lead agencies to contact Air District staff with questions or to request assistance during the environmental review process. If you have any questions, please contact Andrea Gordon, Senior Environmental Planner at [agordon@baaqmd.gov](mailto:agordon@baaqmd.gov) or 415-749-4940.

Sincerely,



Greg Nudd  
Deputy Air Pollution Control Officer

cc: BAAQMD Director Margaret Abe-Koga  
BAAQMD Director Vice Chair Cindy Chavez  
BAAQMD Director Liz Kniss  
BAAQMD Chair Rod G. Sinks

## Blanco, Maira

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**From:** Lisa Brancatelli <LBrancatelli@valleywater.org>  
**Sent:** Monday, September 28, 2020 10:04 AM  
**To:** Blanco, Maira  
**Cc:** Colleen Haggerty  
**Subject:** FW: NOP for The Mark Residential Tower Project DSEIR (SP20-021)

[External Email]

Hello Maria,

Valley Water has reviewed the Notice of Preparation of a Draft Supplemental Environmental Impact Report for the Mark Residential Tower Project, dated and received by Valley Water on August 31, 2020.

Valley Water does not have any facilities or right of way within or adjacent to the project site; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water permit is not required for the proposed project.

We appreciate the opportunity to review the document and would like to review future documents as they become available. If you have any questions, you may reach me at (408) 691-1247, or by email at [LBrancatelli@valleywater.org](mailto:LBrancatelli@valleywater.org). Please reference Valley Water File No. 34232 on further correspondence regarding this project.

Thank you,  
Lisa

**LISA BRANCATELLI**  
ASSISTANT ENGINEER II (CIVIL)  
Community Projects Review Unit  
[lbrancatelli@valleywater.org](mailto:lbrancatelli@valleywater.org)  
Tel. (408) 630-2479 / Cell. (408) 691-1247  
CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118  
[www.valleywater.org](http://www.valleywater.org)

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**From:** CPRU-Dropbox <CPRU@valleywater.org>  
**Sent:** Thursday, September 24, 2020 7:55 AM  
**To:** Lisa Brancatelli <LBrancatelli@valleywater.org>

**Subject:** FW: Notice of Preparation (NOP) for The Mark Residential Tower Project Draft Supplemental Environmental Impact Report (SP20-021)

**LISA BRANCATELLI**

ASSISTANT ENGINEER II (CIVIL)

Community Projects Review Unit

[lbrancatelli@valleywater.org](mailto:lbrancatelli@valleywater.org)

Tel. (408) 630-2479 / Cell. (408) 691-1247

CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118

[www.valleywater.org](http://www.valleywater.org)

---

**From:** Blanco, Maira <[Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov)>

**Sent:** Monday, August 31, 2020 3:43 PM

**Cc:** Blanco, Maira <[Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov)>

**Subject:** Notice of Preparation (NOP) for The Mark Residential Tower Project Draft Supplemental Environmental Impact Report (SP20-021)

**NOTICE OF PREPARATION OF A  
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE  
MARK RESIDENTIAL TOWER PROJECT**

FILE NO: SP20-021  
PROJECT APPLICANT: Urban Catalyst (Attn: Alex Sinunu)  
APN: 467-47-057, 467-47-092

**Project Description:** The project includes a Special Use Permit to allow the demolition of three residential structures totaling approximately 7,427 square feet and allow construction of a 21-story multi-family residential building consisting of 222 dwelling units with an alternative parking design (four levels of car stackers, including one basement level). The building would have a maximum height of up to 250 feet to the top of the parapet with a proposed roof deck and lounge on an approximately 0.45-gross acre site.

**Location:** 459-485 South Fourth Street near the northwest corner of East William Street and South Fourth Street in Downtown San Jose.

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this SEIR may be used by your agency when considering subsequent approvals related to the project.

A **virtual joint community and environmental public scoping meeting** for this project will be held via Zoom:

**When:** Thursday, September 17, 2018 from 6:00 p.m. to 8 p.m.

**Where:** <https://sanjoseca.zoom.us/j/92833967687>

The live meeting will be recorded. Participants can participate in the meeting with the Zoom app on their computer or mobile device, through their computer's web browser, or through phone. Additional instructions for Zoom participation are provided below to those members of the Public who would like to comment. **Additional instructions will also be available on the project web page in [www.sanjoseca.gov/planning](http://www.sanjoseca.gov/planning) (navigate to “Projects of High Interest” page) and in the future meeting agenda.**

Electronic device instructions:

For participants who would like to join electronically from a web browser please use the Meeting Link URL. Ensure your device has audio input and output capabilities. During the session, if you would like to comment, use the ‘raise hand’ feature in Zoom conference call or click \*9 to raise a hand to speak.

Telephone device instructions:

For participants who would like to join telephonically please dial 888-475-4499 (Toll Free). When prompted, enter meeting ID: **928 3396 7687**. You may also click \*9 to raise a hand to speak during the meeting.

Questions or Public Comments prior to meeting:

If you have questions regarding the virtual community meeting or would like to submit your comments prior to the meeting, please e-mail [Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov). Comments submitted prior to this meeting will be considered as if you were present in the meeting.

The project description, location, and probable environmental effects that will be analyzed in the SEIR for the project can be found on the City’s Active EIRs website at [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs), including the SEIR Scoping Meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice. However, responses earlier than 30 days are always welcome. If you have comments on this Notice of Preparation, please identify a contact person from your organization, and send your response to:

City of San José  
Department of Planning, Building and Code Enforcement  
Attn: Maira Blanco, Environmental Project Manager  
200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower  
San José CA 95113-1905  
Phone: (408) 535-7837, e-mail: [Maira.Blanco@sanjoseca.gov](mailto:Maira.Blanco@sanjoseca.gov)



**Maira Blanco**

Planner | City of San José, PBCE

[maira.blanco@sanjoseca.gov](mailto:maira.blanco@sanjoseca.gov) | (408) 535-7837

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**September 28, 2020**

**Steve Cohen  
Mojmir Properties LLC  
470 S 3<sup>rd</sup> Street  
San Jose Ca 95112  
408-947-7877  
Slc91@Yahoo.com**

### **Mark Tower EIR Comments**

*“Recognize downtowns character as the oldest part, the heart of the city. And leverage historic resources to create a unique urban living environment there. Respect and respond to on-site and surrounding historic character in proposals for development” (Envision San Jose 2040 General Plan).*

This is not an affordable housing project. It is student housing but a privately-owned dormitory. The applicants claim that this project addresses the affordable housing crisis are invalid. This is a for-profit venture to add to the supply of student housing which has already increased beyond demand. With the Covid 19 scenario, classes will probably never go back to 100% on-campus, campus dorms are at <40% capacity.

It will be the third project of its kind with another large project proposed for South 3<sup>rd</sup> and San Carlos Street. If it is not financially self-sustaining, the design and cannot be transformed to another use (market rate apartments or condos). Will primarily be occupied when and if school is in session from late August until mid-December and late January until mid-May. The rest of the year it will generate no revenues for the city and minimal revenues due to students' budget constraints. This will be a loss for the city which is responsible to cover the costs of city services needed for 700+ people.

It adds nothing to the neighborhood or the development of the city.  
*“Through the development of new housing....facilitate the creation of economically. Culturally and demographically diverse and integrated communities” (Envision San Jose 2040 General Plan).*

Since it is not run by SJSU the level of supervision of the occupants is not regulated by SJSU but by the project owner. Policing will be reliant on SJPd and the University Police, both of which are on austerity budgets.

This project sets a dangerous precedent putting all neighborhoods at risk for housing density and mass encroachments on existing neighborhoods without considering balance, historic preservation or smart growth.

## **Historic neighborhood impacts**

### **Loss of a structure of merit and one ordinance size tree**

The house should remain intact (with the tree) and incorporated into a smaller project that is in proportion to the existing historic structures.

The ordinance size palm tree should be protected or relocated on the project site or in the neighborhood on S 4<sup>th</sup> or S 3<sup>rd</sup> Street.

The project is not compatible with the neighborhood.

### **Height and set-backs**

21 stories are 18 stories higher than any building within 3 blocks to the north west and all buildings except on SJSU campus for half a mile or more.

The rear of the building will overshadow designated city landmarks to the north and south west of the project and the landmark directly behind it.

It will be visual for several blocks of historic properties, and does not conform to any of the existing architecture with its' concrete, blue metal and glass façade, prison style at best design.

Claims by the architect that the second-floor awnings will make the project conform to the 2 story existing properties on S 4<sup>th</sup> Street is ludicrous.

The setback on all sides of the building are too short and will degrade the existing structures by being overbearing in mass.

### **Parking**

Parking is inadequate with 95 spaces for 222 units, 715 bedrooms. This project is allotting .4 spots per unit, .13 spots per bedroom. There is also no allotment for any visitor parking, staff parking or delivery parking. There will also

be a significant loss of existing street parking directly in front of the project site in an area starved for parking. The applicant's suggestion of making a deal with use of SJSU parking is not feasible since the university is already in a parking deficit. Parking alternatives are not existent and all flat lots in the core area are already slated for more high-rise development also with minimum parking requirements.

Existing neighborhoods throughout the city, are already suffering from parking spill-over effects, with several more projects in the pipeline that will intensify the problem.

Permit parking placards will also be available for all the new residents, eliminating the relief from existing parking shortages. Contrary to the applicants claim, there is not an allowable provision to eliminate a residential project's occupants from participating in the existing permit parking program.

Existing businesses are already struggling from the parking shortage, compounded by the bike pathway project. This proposal puts more stress on our neighborhood businesses.

### **Open Space Requirement, Roof party area**

This needs to be eliminated. The project needs to decrease in size and find another alternative to fulfill the open space requirement. This is student housing which makes the rooftop a party area. The negative impacts on the surrounding neighbors should be obvious. The applicants claim that the use of the rooftop is by reservation only is unenforceable, again these are students. This side of campus is not zoned for fraternities or sororities which is what this project will resemble.

### **Construction mitigation**

NO construction should start before 8am. I have never understood why the construction industry is privileged to start at 7am at the expense of the existing residents.

There should be no work Saturday or Sunday, no exceptions.

All workers must not be allowed to park in the neighborhood, even if they could find a spot, and there must be a designated parking area supplied by the contractor, use of which must be enforced.

The marshalling yard must be located away from the neighborhood.

Truck access must be limited to major streets with commercial businesses.

## **Impacts on the Mojmir Apartments, a SJ designated Landmark and adjoining properties**

The Tower will put the apartments, surrounded by picture windows in darkness until mid-afternoon at best.

It will also diminish the effectiveness of the solar panels on the carport of the apartment building.

If the windows open, it will be a huge disturbance to all surrounding existing tenants (proposal is a dormitory). This area is not zoned for fraternities or sororities and this project should be put in that category.

The picture windows of the apartments and the other adjacent properties on South 3<sup>rd</sup> street will be looking directly at 3 levels of a parking garage with unlimited activity 24 hours a day with sight, noise, air and light pollution. This is in direct contrast to the 2040 General Plan, *CD-1.17 "screen parked vehicles from view from the public real. Ensure that garage lighting does not impact adjacent uses, and the extent feasible, avoid headlights on adjacent land users"*.

## **How this project does not conform to the Envision San Jose 2040 General Plan**

### *General Plan Vision*

*"We must plan carefully for the land remaining under our stewardship so that this good fortune is preserved and enhanced".*

*Healthy Neighborhoods- San Jose neighborhoods are attractive, affordable and safe places to live with residents engaged in their community.*

P.16:

Major Strategy #3-Focused Growth

*"Promote the ongoing development of complete cohesive neighborhoods"*

*"reduce environmental and fiscal impacts".*

*"Strictly limit new residential development through neighborhood infill....*

*To preserve and enhance the quality of established neighborhoods".*

*"Protect the quality of existing neighborhoods, while also enabling the development of new urban village areas".*

P. 5:

VN-1-6: 'Design new development to contribute to the positive identity of a neighborhood and also to encourage pedestrian activity'.

VN-1.11: "Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment".

VN 1-12: "Design new development to build upon the vital character and desirable qualities of existing neighborhoods".

P.11:

"Community design policies collectively aim to guide future development to create great places, to enhance live ability. To improve the quality of life in San Jose, and to make the city more attractive to residents, businesses and visitors".

CD1.1; "apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas of different types of land uses".

P.13:

CD-1.12: "Use building design to reflect both the unique character of a specific site and the context of surrounding development."

CD-1.14 Use the Urban Village Planning process to establish standards for their architecture, height and massing".

CD 1.17: "screen parked vehicles from view from the public real. Ensure that garage lighting does not impact adjacent uses, and the extent feasible, avoid headlights on adjacent land users".

P. 14:

CD-1.24: 'Within new development projects, include preservation of ordinance-size trees and other significant trees, particularly natives'.

CD1.26: "Apply the historic preservation goals of this to proposals that modify historic resources or include development near historic resources".

P.22:

CD 6.5: "Promote iconic architecture and encourage and incorporate innovative, varied, and dynamic design features.....to make downtown visually exciting and to attract residents and visitors".

CD-6.7 “Recognize downtowns character as the oldest part, the heart of the city. And leverage historic resources to create a unique urban living environment there. Respect and respond to on-site and surrounding historic character in proposals for development”.

CD-6.10: “Maintain downtown design guidelines and policies adopted by the city to guide development and ensure a high standard of architectural and site design in its center.”

P.29:

H-1.1: “Through the development of new housing.....facilitate the creation of economically. Culturally and demographically diverse and integrated communities”.

## **General comment**

**There needs to be another community meeting to conform to “the encouragement of community input” laid out in the General Plan. One meeting on a project this consequential is inadequate. The claim that it is not possible due to covid, is not relevant since it is a fact that most of the city staff is in meetings on zoom every day, all day. There was one zoom meeting on this project, there is no reason not to have at least one more.**

The comments of the particulars of this project align with all the comments on record for the 4<sup>th</sup> Street Tower (H17-004) and can be copied and pasted to this project for the record.

Particularly all the comments made at the EIR meeting for the project. The SEIR must account for the impacts of the 4<sup>th</sup> Street Mixed Use project assuming it is completed as proposed. Also, the project coming in the pipeline for 420 S 3<sup>rd</sup> street, the Metro Apartments.

## **Comments from the presenters which are totally contrary to their project:**

“This addresses the current housing crises”

It does not, it is unsubsidized student housing built by a for-profit company.  
“We looked at the historic neighborhood and took it to heart”

But nothing in their design reflects that  
“We responded to the local architecture”

Not in their design  
“(Project) relates to the adjacent buildings”

The mass is overbearing to the existing structures and has no architectural features of the neighborhood.

“The existing neighborhood is primarily wood and stucco materials which we cannot work with”

This is an insane comment.  
“(The) height (and density) reduces loss of other buildings”

Another insane comment.  
“(We) want to prevent sprawl”

Ditto, see above  
“New and old should co-exist” examples of New York and London.

This is the only statement I agree with, the architect should go to San Francisco for examples and redesign their project since this project does not “practice what they preach”.

## **Conclusion**

This project needs to be redesigned with proper neighborhood input. I am not against any building, there can be a great project on the site that fulfills the needs of the city, enhances the neighborhood and makes the developers a reasonable profit. Nothing in this proposal benefits anyone except the profit for the developers, all at the expense of the city and the neighborhood. This is an improper use of a parcel that can benefit all the stakeholders rather than sacrificing them. And sending a message to this and all neighborhoods that even though they have a lifetime of work invested in their city and neighborhood, they are expendable for the benefit of developers.



**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

TTY 711

www.dot.ca.gov

*Making Conservation  
a California Way of Life.*

September 29, 2020

SCH # 2020080532

GTS # 04-SCL-2020-0078

GTS ID: 20313

Co/Rt/Pm: SCL/280/1.85

Maira Blanco, Environmental Project Manager  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

**The Mark Residential Tower Project – Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report (SEIR)**

Dear Maira Blanco:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Mark Residential Tower 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 August 2020 NOP.

***Project Understanding***

The project would demolish three residential structures totaling approximately 7,427 square feet (s.f.) and construct a 21-story multi-family residential building consisting of 222 dwelling units. The project would be programmed for student living and provide 95 parking spaces in four levels of stackers, including one basement level, and 60 bicycle spaces on-site.

The project is located at 459-485 South Fourth Street in Downtown San Jose, in close vicinity of Interstate (I)-280. It is located within the Downtown Growth Area Boundary, for which an EIR, *Downtown San Jose Strategy Plan 2040*, has been completed and approved.

***Travel Impact Analysis***

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies,

and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' [Transportation Impact Study Guide](#).

If the project meets the screening criteria established in the City's adopted VMT policy to be presumed to have a less-than-significant VMT impact and exempt from detailed VMT analysis, please provide justification to support the exempt status in align with the City's VMT policy. Projects that do not meet the screening criteria should include a detailed VMT analysis in the DEIR, which should include the following:

- 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.

### **Highway Operations**

Due to the project located within in close vicinity to I-280, a transportation analysis should be prepared to identify any potentially adverse impacts on the State Highway facilities. To determine the potential impact(s), please provide the following information for the proposed development on the local and regional roadway system: vehicular trip generation, trip distribution, and trip assignment estimates. The traffic analysis should also include freeway segments,

ramp intersections and queuing analysis for the following ramp terminal intersections adjacent to the project site: I-280 Southbound (SB) off-ramp to E. Virginia Street, I-280 Northbound (NB) off-ramp to 7th Street, I-280 NB on-ramp from 4th Street, and I-280 SB on-ramp from 1st Street.

Vehicle queues due to the added traffic generated by the proposed project shall be accommodated within the ramps and the freeway traffic shall not be impacted. If the traffic impacts ramp operations, the impacts shall be mitigated, or a fair share fee shall be allocated for the mitigation.

### **Lead Agency**

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

### **Construction-Related Impacts & Encroachment Permit**

Please be advised that any temporary traffic control that encroaches onto the State ROW requires a Caltrans-issued encroachment permit. Potential impacts to the State ROW from project-related temporary access points should be analyzed. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit issued by Caltrans. Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the STN. For more information, and to apply, visit:

<https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

Maira Blanco, Environmental Project Manager  
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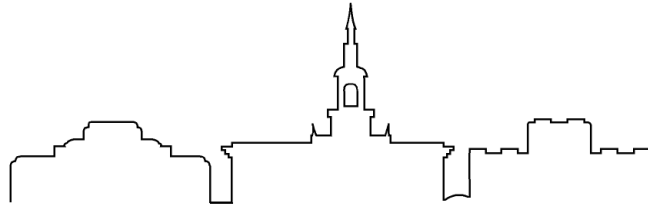
Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at [Yunsheng.Luo@dot.ca.gov](mailto:Yunsheng.Luo@dot.ca.gov). Additionally, for future notifications and requests for review of new projects, please contact [LDIGR-D4@dot.ca.gov](mailto:LDIGR-D4@dot.ca.gov).

Sincerely,

A handwritten signature in black ink that reads "Mark Leong". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Mark Leong  
District Branch Chief  
Local Development - Intergovernmental Review

cc: State Clearinghouse



# PRESERVATION ACTION COUNCIL OF SAN JOSE

*Dedicated to Preserving San Jose's Architectural Heritage*

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September 30, 2020

**Transmitted via e-mail: Maira.Blanco@sanjoseca.gov**

Maira Blanco

Environmental Project Manager

City of San José Department of Planning, Building and Code Enforcement

200 East Santa Clara Street, 3rd Floor Tower

San José CA 95113-1905

## **Re: The Mark Project (SP20-021) DSEIR Scoping Comments**

Dear Ms. Blanco,

The Preservation Action Council of San Jose (PAC\*SJ) appreciates this opportunity to provide DSEIR scoping comments for the Mark Project at 459-475 S. Fourth Street, which proposes to replace three existing residential buildings constructed between 1900 and 1960 with a 21-story, 222-unit privately-operated student housing tower. Located south of the SJSU campus and southeast of the commercial downtown core, this area of the city represents an established and valued gateway neighborhood of low-rise residential and mixed-use structures representing a variety of scales and building types, including numerous designated and potential City Landmarks and one established City Landmark District. This diversity of building types should be recognized as an asset to the City and its correspondingly diverse composition of its residents. If constructed as proposed, the Mark Project would have profound impacts on the development patterns, demographic makeup, visual characteristics, and functionality of the surrounding neighborhood. These myriad impacts—both positive and negative, intended and

History Park, 1650 Senter Road, San Jose, CA. 95112

[www.preservation.org](http://www.preservation.org) • Tel: (408) 998-8105 • [info@preservation.org](mailto:info@preservation.org)

PACSJ is a 501 (c) 3 non-profit organization. EIN: 77-0254542

unintended, immediate and cumulative—must be weighed against the project’s own stated objectives and the objectives of the Envision San José 2040 General Plan.

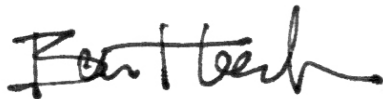
In this context, PAC\*SJ has identified three areas of concern that warrant detailed analysis in the DSEIR and subsequent project review by the Planning Commission and City Council. First is the applicant’s claim that the height of the project—acknowledged by all parties to be vastly out of scale with its current surroundings—is a necessary to address the City’s housing crisis. Given that the proposed design is very specifically tailored to a dormitory-style student housing market, with correspondingly minimal parking, common areas, or other amenities, it is important to acknowledge that the project is not designed to accommodate the needs of families, senior citizens, low or moderate income workers, or any other citizens disproportionately affected by the current housing crisis. While high-rise student housing may be viable from a strict financing perspective under current market conditions, this does not guarantee that long-term demand exists for such a narrowly-tailored housing product. The building’s massive scale is an acknowledged point of public controversy with potentially significant negative impacts on the surrounding neighborhood. Any potential benefits of this increased density would be forfeited if the building proved chronically underoccupied. The DSEIR and subsequent City review should therefore independently verify the project’s market viability and explore feasible alternatives that would 1) reduce the project’s height, and/or 2) increase the project’s suitability for a broader range of tenants.

Second, the applicant claims that the project will benefit the preservation of surrounding historic resources by concentrating development on the project site and reducing development pressure elsewhere. This is an aspirational claim at best and disingenuous at worst. Common sense would suggest that the project will just as likely increase development pressure on surrounding historic resources, the majority of which (as identified in TreanorHL’s June 20, 2020 Draft Historic Resources Assessment) are currently unprotected from demolition and redevelopment. If preservation of these resources is truly a priority, as PAC\*SJ believes it should be, the DSEIR and subsequent City review should include analysis of the potential cumulative effects of continued high-rise development in the vicinity and a proactive strategy for mitigating its impacts. This strategy might include the establishment of new or expanded historic districts or conservation areas, coordinated multi-project mitigation action plans, and strategic limits on parcel consolidations. Because the Mark Project proposes and requires

approval for the consolidation of two existing parcels, decision-makers and the general public would benefit from a comparative DSEIR analysis of feasible project alternatives where such discretionary approval is *not* granted.

Finally, PAC\*SJ is concerned by the proposed demolition of the existing buildings on the project site, particularly the Doerr/Hollister House (c. 1900, 459 S. 4<sup>th</sup>) and the Spanish Colonial Revival apartments at 467 S. 4<sup>th</sup> (1939), listed on the City's Historic Resources Inventory as a Structure of Merit and an Identified Structure, respectively. While we generally concur with TreanorHL's assessment that none of the existing structures are likely eligible for historic designation at the local, state, or federal level, we nevertheless encourage the project applicant to explore all feasible options for their preservation, relocation or salvage. We are also concerned by potential adverse impacts to the immediately adjacent City Landmark Rucker Mansion (418 S. Third Street) and the City Landmark Mojmir Apartments (470 S. Third Street). We insist that the proposed project conform to all applicable City standards and guidelines for new construction adjacent to historic resources, including relevant setback requirements. We do not believe the current design conforms to these standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Leech", with a stylized, cursive script.

Ben Leech  
Executive Director  
Preservation Action Council of San Jose

**Blanco, Maira**

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**From:** Suzanne Morrone <gowithdog@icloud.com>  
**Sent:** Wednesday, September 30, 2020 4:56 PM  
**To:** Blanco, Maira  
**Subject:** parking for the Mark Residential tower

[External Email]

The City of SJ has to realize that just because they wish it, residents aren't going to use public transportation as much as you hope. Slating only 95 spaces for 711 residents is ridiculous and absolutely unacceptable.

Public transportation doesn't take us to all the places we need to go. Bikes and scooters aren't always an option (or are never an option for some of us.) If you build you must provide parking. The only time this would be acceptable is if you were building this for homeless residents who don't own cars generally. Otherwise: totally unacceptable.

Suzanne Morrone  
353 N. 17th ST.  
San Jose, Ca. 95112

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