

**NOTICE OF PREPARATION OF A
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE
SUZACO MIXED-USE PROJECT**

FILE NO: H21-026
PROJECT APPLICANT: Sunstone QOZB, LLC (Attn: Matt
Conti)
APNs: 467-23-034, 467-23-035, and
467-23-37

Project Description: The project proposes to demolish three existing, two-story buildings on-site, while retaining the historic façades of the 142-150 East Santa Clara Street Landmark building at the corner of East Santa Clara and South Fourth Streets. The project would construct a four and six-story mixed-use, U-shaped building (approximately 72,600 square feet) with ground floor retail/restaurant space and one level of below-grade retail (totaling approximately 9,900 square feet), and the remaining floors would consist of office space (totaling approximately 56,000 square feet). The building would be six stories at the corner of the South Fourth Street and East Santa Clara Street intersection and four stories at the portion of the building facing East Santa Clara Street, west of the existing building to remain, and the maximum height to the top of the roof parapet would be 85 feet, not including proposed rooftop amenities and mechanical equipment. Additionally, the project proposes up to three surface parking spaces. Vehicular access to the site is proposed along South Fourth Street.

Location: The approximately 0.34-gross acre project site is located at the southwest corner of East Santa Clara and South Fourth Streets at 130 to 134 East Santa Clara Street (APN: 467-23-037); 142 to 150 East Santa Clara Street (APN: 467-23-035); and 17 South 4th Street (APN: 467-23-034). The site is currently developed with one- and two-story commercial/residential buildings, and two of the three parcels are located within the San José Downtown Commercial National Register Historic District.

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) for the project summarized 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 **joint community and environmental public scoping meeting** for this project will be held:

When: Wednesday, September 15, 2021 from 6:00 to 7:30 p.m.

Where: Via Zoom (see instructions below and on www.sanjoseca.gov/activeeirs)

The project description, location, and probable environmental effects to be analyzed in the SEIR for the project can be found on the City's Active EIRs website at 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, and responses provided before the 30-day deadline are always welcome. The City will accept comments on the scope of the SEIR until **5:00 p.m. on Thursday, September 23, 2021**. If you have comments on this Notice of Preparation (NOP), please identify a contact person from your organization, and send your response via mail or email to:

City of San José, Department of Planning, Building and Code Enforcement
Attn: Shannon Hill, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905
E-mail: Shannon.Hill@sanjoseca.gov

Christopher Burton, Director
Planning, Building and Code Enforcement


Deputy

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August 2021

Introduction

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the public of the environmental effects of a proposed project that an agency may 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 avoiding or reducing adverse impacts, and to consider alternatives to the project that would reduce identified significant impacts.

A Supplemental EIR instead of a Subsequent EIR can be prepared by a Lead Agency (discretionary authority) when it is determined by the discretionary authority that new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete will result in one or more significant effects not discussed in the previous EIR, and only minor additions or changes would be necessary for the previous EIR to adequately apply to the project [CEQA Guidelines Sections 15162(a)(3) and 15163(a)]. As the Lead Agency, the City of San José will prepare a Supplemental EIR (SEIR) to the Downtown Strategy 2040 Final EIR (SCH#2003042127) to address the environmental effects of the proposed SuZaCo Mixed-Use Project because the details of the project were not available at the time the Downtown Strategy 2040 Final EIR was prepared.

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 EIR 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 0.34-acre site [Assessor's Parcel Numbers (APNs) 467-23-034; -035; -037] is located at the southwest corner of the East Santa Clara Street and South Fourth Street intersection in downtown San José. The following addresses are associated with the project: 17 South Fourth Street (APN 467-23-034), 142-150 East Santa Clara Street (APN 467-23-035), and 130-134 East Santa Clara Street (APN 467-23-037). The site is currently developed with one- and two-story commercial

buildings and two of the three parcels are located within the San José Downtown Commercial National Register Historic District (San José Commercial District). Regional and vicinity maps of the project site are shown in Figure 1 and Figure 2 below, respectively.

Project Description: The project includes a Site Development Permit and a Historic Preservation Permit to demolish three existing, two-story buildings on-site, while retaining the historic façades of the 142-150 East Santa Clara Street Landmark building at the corner of East Santa Clara and South Fourth Streets. The project would construct a four and six-story mixed-use, U-shaped building (approximately 72,600 square feet). The building would be six stories at the corner of the South Fourth Street and East Santa Clara Street intersection and four stories at the portion of the building facing East Santa Clara Street, west of the existing building to remain (see Figure 3, *Conceptual Site Plan – Ground Floor*, and Figure 4, *Conceptual Elevations*, below), and the maximum height to the top of the roof parapet would be 85 feet, not including proposed rooftop amenities and mechanical equipment.

The building would consist of ground floor retail/restaurant space and one level of below-grade retail (totaling approximately 9,900 square feet), while the remaining floors would consist of office space (totaling approximately 56,000 square feet). Additionally, the project proposes up to three surface parking spaces. Vehicular access to the site is proposed along South Fourth Street.

The site is designated *Downtown* under the City’s General Plan and has a zoning designation of *Downtown Primary Commercial*.

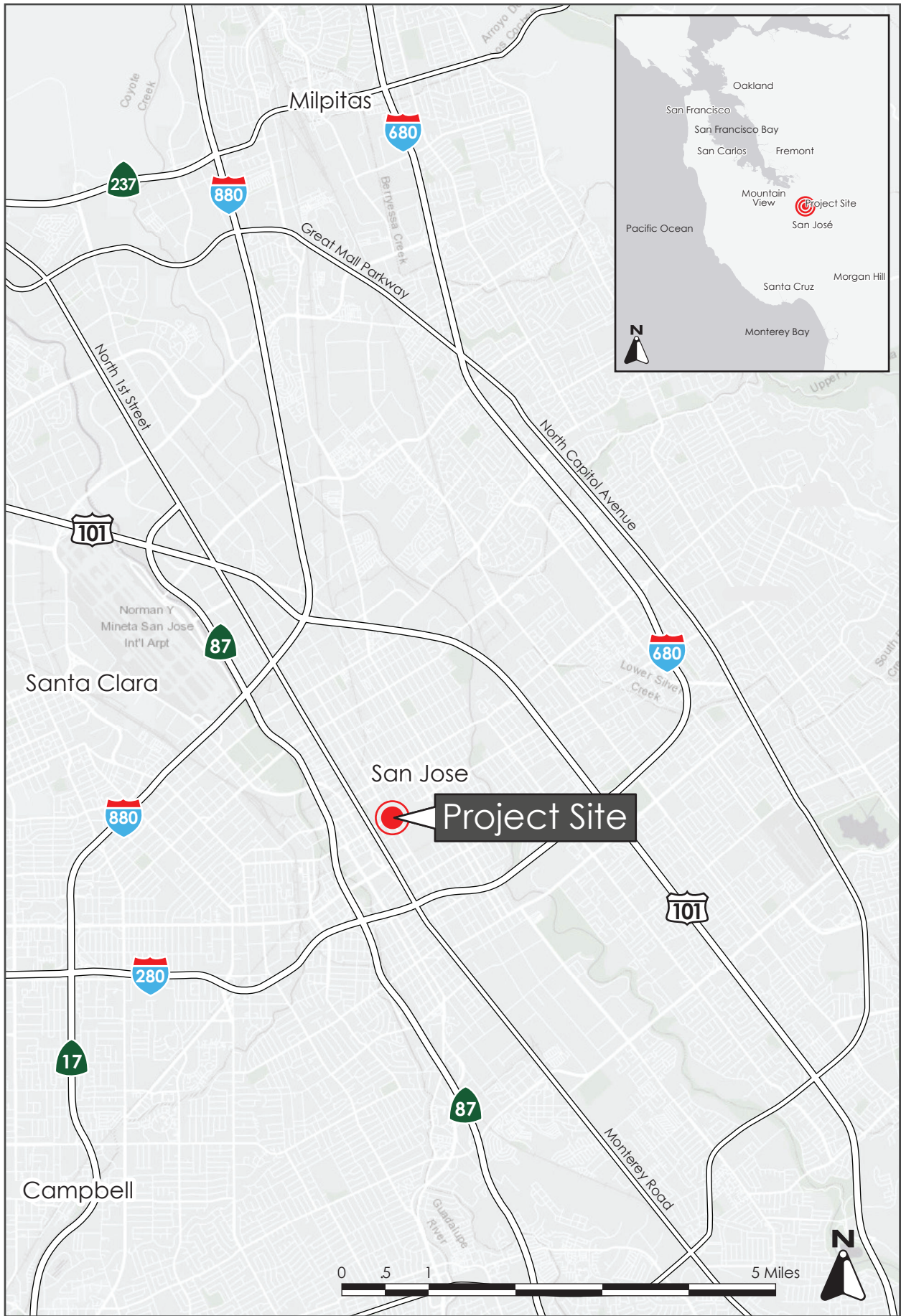
Required Project Approvals

1. Historic Preservation Permit
2. Site Development Permit
3. Lot Line Adjustment
4. Demolition, Building, and Grading Permit(s)
5. Department of Public Works Clearances

Potential Environmental Impacts of the Project

The SEIR will describe the existing environmental conditions on the project site and will identify the significant environmental effects anticipated to result from development of the project as proposed in comparison to impacts previously identified in the Downtown Strategy 2040 EIR. Mitigation measures will be identified for potentially 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 three existing buildings (except for part of the historic facade of 142-150 East Santa Clara Street) and construct a six-story mixed-use building (up to 85 feet to the top of the roof parapet) in downtown San José. The SEIR will describe the existing visual setting and character 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.



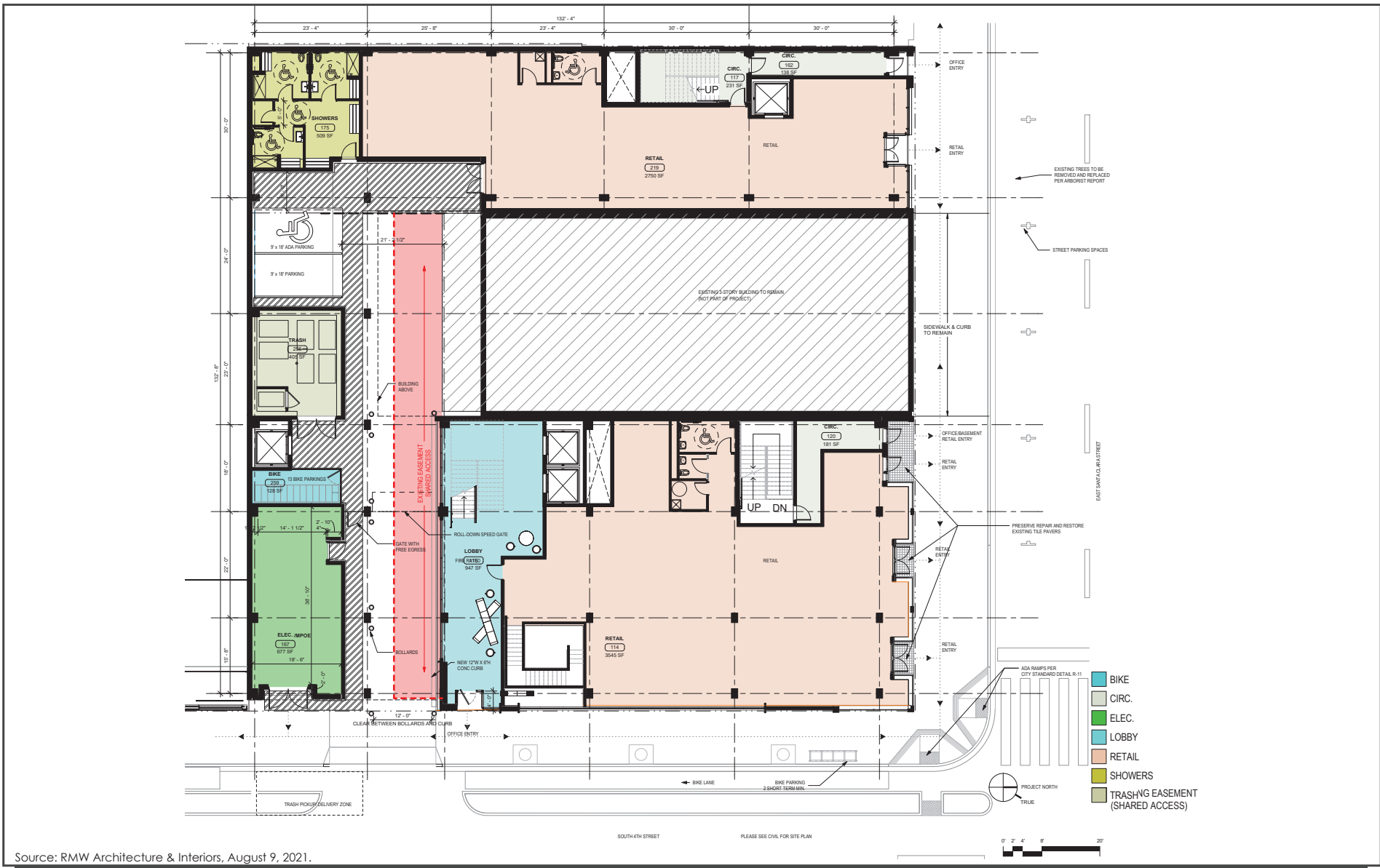
REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2



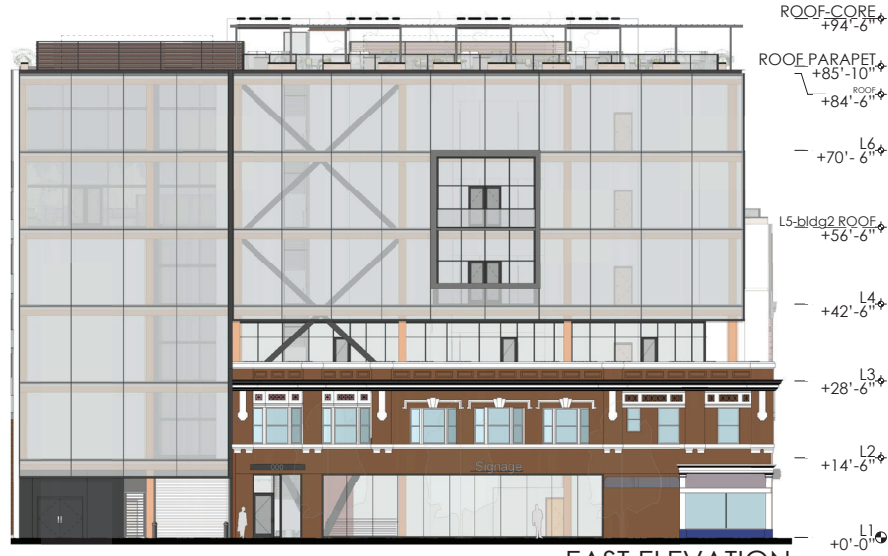
Source: RMW Architecture & Interiors, August 9, 2021.

CONCEPTUAL SITE PLAN - GROUND FLOOR

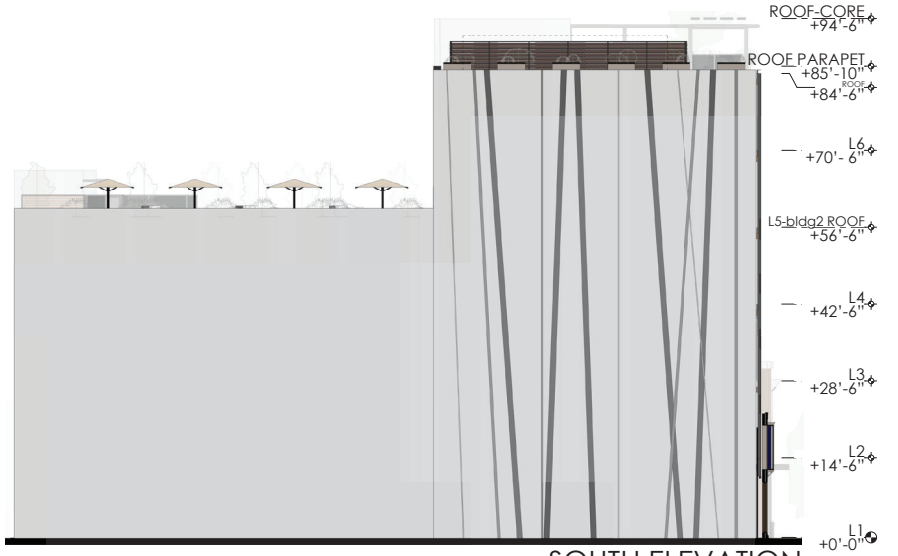
FIGURE 3



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION

Source: RMW Architecture & Interiors, August 9, 2021.

- **Air Quality** – The SEIR will address the regional air quality conditions in the Bay Area and discuss project construction (including health risk from toxic air contaminants) 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 street trees. Additionally, the SEIR will identify and discuss potential biological impacts resulting from construction and operation of the project and the project’s consistency with the Santa Clara Valley Habitat Plan.
- **Cultural Resources** – The project site is largely located within the San José Downtown Commercial Historic District which is comprised of 45 properties (27 contributing structures and 18 non-contributing properties) and is bounded by South First Street to the west, East Santa Clara Street to the north, South Third Street to the east, and East San Fernando Street to the south. The project proposes to demolish 142-150 East Santa Clara Street listed on the San José Historic Resources Inventory as a Contributing Structure in the National Register Historic District and an individually listed City Landmark (HL92-70). The project proposes to demolish 130-134 East Clara Street listed in the Historic Resources Inventory as an Identified Structure in the National Register Historic District. The SEIR will address impacts from demolition and new construction to the San José Downtown Commercial District and historical resources on and adjacent to the site, as well as impacts to potential subsurface archaeological resources. The project also proposes to demolish 17 South Fourth Street located outside the San José Downtown Commercial Historic District and not currently listed on the National Register of Historic Places, California Register of Historical Resources, or the San José Historic Resources Inventory.
- **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 consistency with the City’s 2030 Greenhouse Gas Reduction Strategy (GHGRS).
- **Hazards and Hazardous Materials** – The SEIR will discuss the property history, results of the site inspection and regulatory database search, and identification of any hazardous materials conditions on the site, in addition for the potential to encounter hazardous materials during demolition of the existing buildings. The potential for hazardous materials impacts which may result from implementation of the proposed project will also be addressed.

- **Hydrology and Water Quality** – The SEIR will discuss the project’s potential impacts to the storm drainage system. In addition, the SEIR will address the possible flooding issues (the site is not within a 100-year flood zone) and the project’s effect on stormwater runoff quality consistent with the requirements of the Regional Water Quality Control Board (RWQCB).
- **Land Use** – The project site is located within downtown San José and is surrounded by residential and commercial/retail 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, and regulations.
- **Noise and Vibration** – Noise levels in the project area are primarily influenced by vehicular noise on surrounding roadways, primarily South Fourth Street and East Santa Clara Street and aircraft flyovers from the Norman Y. Mineta San José International Airport. 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 and adjacent historic buildings and adjacent buildings of conventional construction.
- **Population and Housing** – No residential uses are proposed as part of the project. The SEIR will discuss the displacement of current residents on-site. Mitigation measures will be identified for significant impacts, as warranted.
- **Public Services** – The proposed project would increase the employee population of the City which could result in an increased demand on public services, including police and fire protection 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 public 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, including impacts to potential subsurface tribal cultural resources, from project construction, and the project’s compliance with 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 due to the

increase in development density. 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 in downtown 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 to the resource sections noted above, the SEIR will address the project’s impacts on Agricultural Resources, Mineral Resources, and Recreation consistent with the CEQA checklist.
- **Alternatives** – The SEIR will examine alternatives to the proposed project, including a “No Project” alternative, as required by CEQA. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the proposed project while achieving most of the identified objectives of the project.
- **Significant Unavoidable Impacts** – The SEIR will identify any significant impacts that cannot be reduced to a less than significant after incorporation of feasible mitigation measures.
- **Cumulative Impacts** – Section 15130 of the CEQA Guidelines requires an EIR to discuss the cumulative impacts resulting from the project when combined with other past, present, and reasonably foreseeable development in the project vicinity.

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, 7) SEIR author and consultants, and 8) appendices.



NATIVE AMERICAN HERITAGE COMMISSION

September 10, 2021

Shannon Hill
City of San Jose
200 E. Santa Clara St., Tower 3rd Floor
San Jose, CA 95113

**Re: 2021080463, SuZaco Mixed-Use Project, Santa Clara County**

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NAHC HEADQUARTERS
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(916) 373-3710
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Dear Mr. Hill:

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:
Katy.Sanchez@nahc.ca.gov.

Sincerely,



Katy Sanchez
Associate Environmental Planner

cc: State Clearinghouse



**PRESERVATION ACTION
COUNCIL OF SAN JOSE**
History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105
www.preservation.org

September 23, 2021

Shannon Hill
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

VIA EMAIL (Shannon.Hill@sanjoseca.gov)

RE: SUZACO MIXED USE (H21-026) DSEIR SCOPING COMMENTS

Dear Ms. Hill,

The Preservation Action Council of San Jose (PAC* SJ) appreciates the opportunity to provide DSEIR scoping comments for the proposed SuZaCo Mixed Use Project at the Southwest Corner of S. 4th and E. Santa Clara.

As currently proposed, this up to 6-story, ~72,600 sq. ft. U-Shaped Mixed Use Commercial Office Building project seeks to demolish three buildings representing a very significant period of San Jose's History. In addition, the proposed project physically impacts the integrity of building located between and around the project's East and West portions. For example the building at 136-140 E. Santa Clara will be enveloped on 3-sides by the SuZaCo project. It is no small matter that two of the buildings owned by the developer are located wholly within the eastern panhandle portion of San Jose's only National Landmarked Downtown Historic Commercial District with the third located just south of the Historic District's boundary. Currently, the developer is offering to retain only the East and North public facing façades of one of the three buildings, the circa 1913 State Meat Market building which is located at 142-150 E. Santa Clara Street.

PAC* SJ strongly opposes the project as currently described as it proposes to demolish culturally and architecturally significant structures in a National Registered Historic District at its Northeast corner and in the immediate shadow of lead agency charged with protecting the integrity of its historic districts. PAC* SJ opposes this project not only for the considerable extent of proposed demolition, but also for its glassy design, height and massing differential to closely located historic building within the Historic District. This project is inconsistent with the typical 1- to 3-story streetwall facing E. Santa Clara Street between 3rd and 4th Streets. When combined with other nearby projects within and just outside the Historic District, the cumulative impact of this and other projects seeking entitlements adjacent to or fully within San Jose's Commercial Historic District should be reviewed in detail. Quite frankly, it is hard to imagine that San Jose's Downtown Strategy 2040 Integrated Program EIR envisioned

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projects that would seemingly ignore the lead agency's General Plan Policies such as LU-13.1 to preserve the integrity and fabric of designated historic districts and LU-13.2 to preserving and rehabilitating with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use or third for rehabilitation and relocation on-site.

This project DSEIR should include a detailed analysis of the physical impact of the proposed development on other historic structures and the Historic District as a whole, along with a detailed analysis of multiple alternatives that eliminate or substantially reduce the demolition of existing historic fabric, as well as project alternatives that retain the existing buildings in situ, either as freestanding structures or incorporated in the the proposed project. Related to this, PAC* SJ requests a Good Faith review of a project of reduced and massing on this project site. Project alternatives should include (but not be limited to):

- Adaptive reuse of the proposed project site's existing historic structures without demolition with a program that fits existing total space and constraints.
- Adaptive reuse of the existing historic structure with a contemporary addition that does not require extensive demolition of the existing historic building.
- Partial demolition with new construction set back at least 25 feet from the historic East Santa Clara Street façade, with a smaller set back along Fourth Street in order to preserve the appearance of a freestanding two-story historic structure from the public

In addition, the developer has shared with the PAC* SJ one of the objectives for the SuZaCo project is to help address social issues such drug use, homelessness, mental illness, prostitution, etc. that they believe are affecting the confidence of prospective residents of their massive 630-unit Mixed Use Miro project located across the street at 167 E. Santa Clara Street. While PAC* SJ concurs that there are highly visible social issues in and around Fourth and Santa Clara Street (and across all of San Jose), the applicant's request to demolish irreplaceable historic assets in order to provide a new building that they envision will create a safer environment for "the influx of (1,000+) new residents" they envision for their Miro project, seems to ignore other more direct options for addressing the applicants concerns. Given that the applicant for the SuZaCo project views their connection between this and their Miro project as important, it seems reasonable that any alternatives analysis should include a no-project alternative that directly addresses concerns about the social and safety of its future Miro residents. This analysis should include an evaluation of additional policing, code enforcement, lighting, private security and enhanced programming. It is unclear how the social issues near the Miro project will be remedied by replacing the existing historic mixed use businesses and affordable housing units will be remedied via the building of a new mixed use commercial project. Perhaps the Miro project should be considered part of the project area for the purpose of analyzing feasible project alternatives for additional office and retail space, an alternative site configurations, and



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alternative project locations such that potential adverse impacts can be satisfactorily mitigated.

PAC* SJ also requests that this SEIR address/explain the City of San Jose's policies and code that have thus far prevented/disincentivized the preservation of historic affordable housing at this location, and in particular, what alternatives to these policies might be available to this developer as they seek to invest in historic areas with prevailing affordable housing units. PAC* SJ wonders if there might be equity issues that should be examined given the loss of affordable housing that is proposed here.

Finally, the EIR should provide a robust summary of financial and physical mitigation measures applicable to this project should the City decide to approve this project and provide a statement of overriding consideration to justify the granting of demolition permits. PAC* SJ is particularly interested as to how the historic fabric will be preserved and how San Jose will be able to fund the protection of its historic fabric as it simultaneously seeks to meet its Envision 2040 Program Goals on a project by project basis.

Sincerely,

J. Michael Sodergren
Vice President & Advocacy Committee Chair
Preservation Action Council of San Jose (PAC* SJ)

mike@preservation.org
mikesodergren@yahoo.com

408-930-2561



September 23, 2021

City of San José Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St., 3rd Floor
San José, CA 95113

Attn: Shannon Hill

By Email: Shannon.Hill@sanjoseca.gov

Dear Shannon,

VTA appreciates the opportunity to comment on the Notice of Preparation for the SuZaCo Mixed-Use Project. VTA has reviewed the document and has the following comments:

VTA's BART Silicon Valley (BSV) Phase II Extension Project

In 2018, FTA and VTA released the Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (SEIS/SEIR) for VTA's BART Silicon Valley Phase II Extension Project (BSV Phase II Project). VTA's Board of Directors certified the SEIR and approved the BSV Phase II Project in April 2018, and FTA issued the Record of Decision in June 2018. The SEIS/SEIR identified the tunnel, to be constructed as part of the BSV Phase II Project, would be adjacent to this proposed development (See Page 38,

https://www.vta.org/sites/default/files/documents/VolumellI_Appendix%2520B_Project%2520Plans%2520and%2520Profiles_feb20_2018.pdf). A tunnel easement, in which temporary or permanent structures would not be allowed, is required for BSV Phase II Project.

VTA is currently in the process of advancing the design for the BSV Phase II project with procurement documents under development and Requests for Proposals scheduled through Quarter 1, 2022. At this time, VTA has not been provided any foundation/excavation drawings prepared for the proposed development therefore has not reviewed and cannot comment on those.

VTA's BART Phase II Extension Project is also implementing a Historic Building Investigation and Monitoring Program to monitor potential impacts to historic structures during construction of the Project. This site includes resources that were deemed eligible for or listed in the National Register of Historic Places (NRHP) and California Register of Historic Resources (CRHR) – shown on page 10 of Volume III Appendix D in the Final SEIS/SEIR

(https://www.vta.org/sites/default/files/documents/VolumellI_Appendix%2520D_Cultural%2520Resources_feb20_2018.pdf).

Because of the proximity between this proposed development and the BSV Phase II project and the possibility of concurrent construction, VTA requests the development's design (including but not limited to the building's foundation system, shoring, and support of excavation plans), as well as construction activities (including but not limited to haul routes, times, logistics, etc.) be shared/discussed with VTA.

VTA's review of these documents as they advance and become available will be critical in ensuring that the structures within the tunnel easement are not compromised, potentially causing damages, and/or other safety concerns. Additionally, as projects may be built concurrently, construction activities such as haul routes, times, logistics, etc. should be further discussed as design and construction progress.

VTA looks forward to coordination between VTA, the City of San José, and the developer from the initial planning and design phases through construction.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-321-5830 or lola.torney@vta.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lola Torney', written over a light blue horizontal line.

Lola Torney
Transportation Planner III

From: [Hill, Shannon](#)
To: [Fiona Phung](#); [Kelly, Patrick \(PBCE\)](#)
Cc: [Shah, Rina](#); [Le, Thai-Chau](#)
Subject: FW: NOP for the SuZaCo Mixed-Use Project SEIR (H21-026/HP21-005/ER21-085)
Date: Thursday, September 23, 2021 10:53:33 AM
Attachments: [image001.png](#)

Hello Fiona and Patrick,

Please refer to Valley Water's comments provided in response to the NOP below.

Thanks!

Shannon Hill
Planner, Environmental Review
Planning, Building & Code Enforcement
City of San José | 200 East Santa Clara Street
Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

From: Lisa Brancatelli <LBrancatelli@valleywater.org>
Sent: Thursday, September 23, 2021 10:05 AM
To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Cc: Colleen Haggerty <chaggerty@valleywater.org>
Subject: RE: NOP for the SuZaCo Mixed-Use Project SEIR (H21-026/HP21-005/ER21-085)

You don't often get email from lbrancatelli@valleywater.org. [Learn why this is important](#)

[External Email]

Hello Shannon,

Valley Water has reviewed the Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report (DSEIR) for the SuZaCo Mixed-Use Project located at 130 to 134 East Santa Clara Street (APN:467-23-037); 142 to 150 East Santa Clara Street (APN:467-23-035); and 17 South 4th Street (APN: 467-23-034) in the City of San Jose, received by Valley Water on August 24, 2021.

The proposal is not large enough to trigger the preparation of a Water Supply Assessment (WSA); however, the City should still determine if the additional growth is accounted for in the City's General Plan and San Jose Water Company's Urban Water Management Plan.

Re-development of the site provides opportunities to minimize water and associated energy use by using recycled water, incorporating on-site reuse for both storm and graywater, and requiring water conservation measures above State standards (i.e., CALGreen). To reduce or avoid adverse impacts to water supply, the City and applicant

should consider the following:

- Require landscaping that exceeds the requirements of the City's water-efficient landscape regulations;
- Weather- or soil-based irrigation controllers;
- Dedicated landscape meters;
- The installation of dual plumbing to facilitate and maximize the use of alternative water sources for irrigation, toilet flushing, cooling towers, and other non-potable water uses should recycled water lines be extended in the future to serve the site. In addition, onsite reuse of water may be appropriate now or in the future.
- Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater.
- Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.
- Be consistent with the City's Green Vision to reduce water use and associated greenhouse gas emissions.

Valley Water records do not show any wells on the project site; however, it is always possible that a well exists that is not in Valley Water records. To avoid impacts to groundwater quality, any wells found on-site that will not be used must be properly destroyed in accordance with Ordinance 90-1, which requires the issuance of a well destruction permit. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

According to the Federal Emergency Management Agency Flood Insurance Rate Map (FIRM) 06085C0234H, effective May 18, 2009, the entire site is located within Zone D, an area in which flood hazards are undetermined but possible.

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

We appreciate the opportunity to comment on the NOP and would also appreciate the opportunity to review the draft SEIR document when it becomes available. If you have any questions or need further information, you can reach me at (408) 630-2479, or by e-mail at LBrancatelli@valleywater.org. Please reference Valley Water File No. 34527 on future correspondence regarding this project.

Thank you,

LISA BRANCATELLI

ASSISTANT ENGINEER II (CIVIL)

Community Projects Review Unit

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

From: Hill, Shannon <Shannon.Hill@sanjoseca.gov>

Sent: Tuesday, August 24, 2021 2:58 PM

To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>

Subject: Notice of Preparation for the SuZaCo Mixed-Use Project Supplemental Environmental Impact Report (H21-026/HP21-005/ER21-085)

*In Response to COVID-19 Pandemic, at this time, the City is utilizing alternative forms of noticing when necessary to reduce in-person contacts and still meet the California Environmental Quality Act (CEQA) noticing mandates. This email notifications contains "Request a Delivery Receipt" and "Request a Read Receipt" to replace the normal certified mailing for CEQA notices such as Notice of Preparation, Notice of Availability, and Notice of Intent. We ask all email recipients to respond to the "Request of Delivery Receipt" or send a follow up email acknowledging the receipt of these notices.

-
Project Description: The project proposes to demolish three existing, two-story buildings on-site, while retaining the historic façades of the 142-150 East Santa Clara Street Landmark building at the corner of East Santa Clara and South Fourth Streets. The project would construct a four and six-story mixed-use, U-shaped building (approximately 72,600 square feet) with ground floor retail/restaurant space and one level of below-grade retail (totaling approximately 9,900 square feet), and the remaining floors would consist of office space (totaling approximately 56,000 square feet). The building would be six stories at the corner of the South Fourth Street and East Santa Clara Street intersection and four stories at the portion of the building facing East Santa Clara Street, west of the existing building to remain, and the maximum height to the top of the roof parapet would be 85 feet, not including proposed rooftop amenities and mechanical equipment. Additionally, the project proposes up to three surface parking spaces. Vehicular access to the site is proposed along South Fourth Street.

Location: The approximately 0.34-gross acre project site is located at the southwest corner of East Santa Clara and South Fourth Streets at 130 to 134 East Santa Clara Street (APN: 467-23-037); 142 to 150 East Santa Clara Street (APN: 467-23-035); and 17 South 4th Street (APN: 467-23-034). The site is currently developed with one- and two-story commercial/residential buildings, and two of the three parcels are located within the San José Downtown Commercial National Register Historic District.

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report

(SEIR) for the project summarized 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 **joint community and environmental public scoping meeting** for this project will be held:

- **When:** Wednesday, September 15, 2021 from 6:00 to 7:30 p.m.
- **Where:** Via Zoom (see instructions below and on www.sanjoseca.gov/activeeirs)

The project description, location, and probable environmental effects to be analyzed in the SEIR for the project can be found on the City's Active EIRs website at 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, and responses provided before the 30-day deadline are always welcome. The City will accept comments on the scope of the SEIR until **5:00 p.m. on Thursday, September 23, 2021**. If you have comments on this Notice of Preparation (NOP), please identify a contact person from your organization, and send your response via mail or email to:

City of San José, Department of Planning, Building and Code Enforcement
Attn: Shannon Hill, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905
E-mail: Shannon.Hill@sanjoseca.gov

Best regards,

Shannon Hill
Planner, Environmental Review
Planning, Building & Code Enforcement
City of San José | 200 East Santa Clara Street
Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

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