

First Amendment to the Draft SEIR
SuZaCo Mixed-Use

File Nos.: H21-026, ER21-085 & HP21-005
SCH No.: 2021080463



Prepared by
CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with
50 YEARS
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DAVID J. POWERS
& ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

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Attachment A: Draft SEIR Comment Letters

SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Supplemental Environmental Impact Report (SEIR), constitute the Final SEIR for the SuZaCo Mixed-Use project.

1.1 PURPOSE OF THE FINAL SEIR

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

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

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

1.2 CONTENTS OF THE FINAL EIR

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

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

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final SEIR and all documents referenced in the Final SEIR are available for review on the City's website: <https://www.sanjoseca.gov/active-eirs/>.

SECTION 2.0 DRAFT SEIR PUBLIC REVIEW SUMMARY

The Draft SEIR for the SuZaCo Mixed-Use project, dated June 2022, was circulated to affected public agencies and interested parties for a 45-day review period from June 27, 2022 through August 11, 2022. The City undertook the following actions to inform the public of the availability of the Draft SEIR:

- The Notice of Availability (NOA) of Draft SEIR was published on the City's [website](#) and in the San José Mercury News and Post Record;
- The NOA of the Draft SEIR was mailed and/or emailed to neighboring cities, tribal contacts, environmental protection organizations, and individual members of the public who indicated interest in the project or requested notice of projects in the City;
- The Notice of Availability was sent to members of the public who signed up for City notices via *Newsflash*;
- The Draft SEIR was delivered to the State Clearinghouse on June 27, 2022, which forwarded the Draft SEIR to various governmental agencies and organizations, (see *Section 3.0* for a list of agencies and organizations that received the Draft SEIR); and
- Copies of the Draft SEIR were made available on the City's [website](#).

SECTION 3.0 DRAFT SEIR RECIPIENTS

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

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

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

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

- Valley Transportation Authority, Plan Review
- Santa Clara County, Roads and Airports Department
- Jack Broadbent, Bay Area Air Quality Management District (BAAQMD)
- Wally Charles, Association of Bay Area Governments
- Kristin Garrison, California Department of Fish and Wildlife
- San Francisco Bay National Wildlife Refuge, US Fish and Wildlife Service
- California Energy Commission, Media Office
- Kalin Kipling-Mojadeddi, California Environmental Protection Agency
- California Air Resources Board
- Henry Hilken, Director, Planning & Climate Protection, BAAQMD

- Ellen Talbo, Santa Clara County Roads and Airports Department
- Elizabeth Bugarin, Metro Transportation Commission
- California Department of Transportation, District 4
- Philip Crimmins, Senior Transportation Planner, California Department of Transportation
- Colleen Haggerty, Valley Water
- Lisa Brancatelli, Valley Water
- Ben Aghegnehu, Santa Clara County Roads and Airports
- Pacific Gas and Electric (PG&E), Plan Review
- Jake Walsh, San José Water Company
- Bill Tuttle, San José Water Company
- Nate LeBlanc, San José Downtown Association
- Chairman Valentin Lopez, Amah Mutsun Tribal Council
- Timothy Perez, North Valley Yokuts Tribe
- Chairperson Irene Zwierlein, Amah Mutsun Tribal Band of Mission San Juan Bautista
- Chairperson Katherine Perez, North Valley Yokuts Tribe
- Kanyon Sayers-Roods, MLD Contact, Indian Canyon Mutsun Band of Costanoan
- Andrew Galvan, The Ohlone Indian Tribe
- Chairperson Ann Marie Sayers, Indian Canyon Mutsun Band of Costanoan
- Kenneth Woodrow, Tribal Chair. Wuksache Indian Tribe/Eshom Valley Band
- Charlene Nijmeh, Tribal Chairwoman, Muwekma Ohlone Tribe
- Confederated Villages of Lisjan
- Vice Chairwoman Monica Arellano, Muwekma Ohlone Indian Tribe of the SF Bay Area
- Chairwoman Quirina Geary, Tamien Nation
- Ada Marquez, San José State University, School of Social Sciences, Department of Environmental Studies
- Santa Clara Valley Audubon Society
- Shani Kleinhaus, Santa Clara Valley Audubon Society
- Law Office of Joann Broderick Harms, Chicago, IL
- Kathy Sutherland
- Scott Knies, San José Downtown Association
- William T. Brooks, Brooks & Hess
- Erik Schoennauer, The Schoennauer Company
- Sierra Club, Loma Prieta Chapter
- Jean Dresden
- Larry Ames
- Laura Tolkoff, San Francisco Bay Area Planning and Urban Research Association (SPUR)
- Amanda Brown-Stevens, Greenbelt Alliance
- Santa Clara Valley Open Space Authority, Clerk
- Anne Christie, SPUR
- Preservation Action Council of San José (PAC*SJ)
- Andre Luthard, PAC*SJ
- California Native Plant Society, Santa Clara Valley Chapter
- Janet Laurain, Adams Broadwell Joseph & Cardozo
- Richard Drury, Lozeau Drury, LLP

- Michael Lozeau, Lozeau Drury, LLP
- Hannah Hughes, Lozeau Drury, LLP
- Sophie Roberts, Lozeau Drury, LLP
- Molly Greene, Lozeau Drury, LLP
- City of Campbell, Planning
- City of Cupertino, Planning
- City of Fremont, Planning
- Ned Thomas, City of Milpitas
- City of Palo Alto, Planning Division
- City of Santa Clara, Planning
- Reena Brilliot, Planning Manager, City of Santa Clara
- John Davidson, Principal Planner, City of Santa Clara
- Andrew Crabtree, Director of Community Development, City of Santa Clara
- Debbie Pedro, City of Saratoga Community Development Department
- Frances Reed, City of Saratoga Community Development Department
- Amber Blizinski, City of Sunnyvale Community Development
- Trudi Ryan, City of Sunnyvale Community Development Department
- Mark Connolly, Santa Clara County, Planning
- Leza Mikhail, County of Santa Clara Department of Planning and Development
- Rob Eastwood, City of Campbell Community Development Department
- Town of Los Gatos, Planning
- City of Morgan Hill, Planning Division
- Terry Linder, City of Morgan Hill, Community Development Department
- City of Mountain View, Community Development Department
- Michael Fossati, City of Milpitas
- Richard Daly
- Lola Torney, Valley Transportation Authority
- Mike Sodergren, PAC*SJ

SECTION 4.0 RESPONSES TO DRAFT SEIR COMMENTS

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

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

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REGIONAL AND LOCAL AGENCIES

A. Valley Water (July 26, 2022)

Comment A.1: Valley Water Valley Water has reviewed the Draft Supplemental Environmental Impact Report (DSEIR) and Initial Study (IS) 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 June 27, 2022. Valley Water has the following comments on the DSEIR/IS documents:

1. Section 4.10.1.1- Municipal Regional Permit Provision C.3 in Appendix A should note that the Regional Water Quality Control Board (RWQCB) has renewed the Municipal Regional Stormwater NPDES Permit on May 11, 2022 (Order No. R2-2022-0018, NPDES Permit No. CAS612008).
2. Section 4.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the text in Appendix A should also include: “Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program.”
3. Section 4.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the language under this section in Appendix A should be revised to clarify that well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water’s Well Ordinance 90-1. Under Valley Water’s Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.
4. Section 4.10.1.2- Dam Failure and Section 4.10.2 (d) - Impact Discussion, Appendix A describes the project as within both the Lenihan (Lexington) Dam and Anderson Dam failure inundation zones; however, the project site is only located within the Anderson Dam failure inundation zone. Lenihan (Lexington) Dam should be removed from the discussion.
5. Section 4.10.2 (b)- 2016 Groundwater Management Plan, Appendix A includes a footnote referencing Valley Water’s 2016 Groundwater Management Plan. The footnote should be updated to reference Valley Water’s updated 2021 Groundwater Management Plan which was adopted by the Board of Directors on November 21, 2021. The updated plan can be found at https://s3.uswest2.amazonaws.com/assets.valleywater.org/2021_GWMP_web_version.pdf.

Response A.1: As mentioned on page 174 of the Downtown Strategy Integrated Final Environmental Impact Report (FEIR) and page 62 of Appendix A, the downtown area (including the project site) is located within a dam failure inundation zone for Lenihan Dam and Anderson Dam. Regarding comment 4, the City reviewed the Lenihan Dam inundation map for the project site and while the entire site is not within the inundation zone, a portion of the site is. Therefore, based on the Downtown Strategy FEIR and the current map, the commenter’s recommended text edit for bullet four has not been incorporated into Section 5.0 of this document.

The commenter's suggested text edits for bullets one, two, three, and five have been made (see Section 5.0 for the text revision).

Comment A.2:

6. The EIR concludes that the project is consistent with the Downtown Strategy which determined that there are adequate water supplies to support development through 2040. The Downtown Strategy makes assumptions regarding the expansion of water conservation efforts throughout Santa Clara County to ensure there are adequate water supplies. To ensure that water conservation goals are met in the future, the City needs to require all available water conservation and demand management measures for the project. Potential opportunities to minimize water and associated energy use include requiring water conservation measures from the Model Water Efficient New Development Ordinance, which include:

- Hot water recirculation systems.
- Require installation of separate submeters to each unit to encourage efficient water use - studies have shown that adding submeters can reduce water use by 15 to 30 percent.
- Encourage non-potable reuse of water like recycled water, graywater, and rainwater/stormwater through the installation of dual plumbing for irrigation, toilet flushing, cooling towers, and other non-potable water uses.
- Require dedicated landscape meters where applicable.
- Weather- or soil-based irrigation controllers.

If you have any questions, you may reach me at (408) 630-2479, or by e-mail at LBrancatelli@valleywater.org. Please reference Valley Water File No. 34527 in future correspondence regarding this project.

Response A.2: The proposed project is not a water-demand project per Section 15155 of the CEQA Guidelines; therefore, a water supply assessment (WSA) was not required for this project (refer to page 102 of the Draft SEIR). As mentioned on pages 8 and 12 of Appendix A and the Draft SEIR, respectively, the project would be built in accordance with the California Green Building Standards Code (CALGreen) requirements. In addition, the project would use water efficient landscaping/drought tolerant landscaping, efficient irrigation systems and regular maintenance in conformance with General Plan Policy MS-3.1. Furthermore, Public Works has adopted the State's Water Efficient Landscape Ordinance making compliance mandatory as outlined in Chapter 15.11 of the San José Municipal Code. In addition, the project proposes the use of a Variable Refrigerant Flow (VRF) cooling system to minimize water usage. VRF uses no water while other, more traditional, water-side heating, ventilation, and air-conditioning (HVAC) systems consume water upon installation and occasionally throughout their operation.¹

This comment does not raise any issues about the adequacy of the Draft SEIR; therefore, no further response is required.

¹ VanderMaas, Eric. Director of Operations, Bayview Development Group. Personal Communication. October 10, 2022.

B. Santa Clara Valley Transportation Authority (August 10, 2022)

Comment B.1: VTA appreciates the opportunity to comment on the Draft Supplemental Environmental Impact Report 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/VolumeIII_Appendix%2520B_Project%2520Plans%2520and%2520Profiles_feb20_2018.pdf). Tunnel easements, in which temporary or permanent structures would not be allowed, are required for the BSV Phase II Project.

VTA is currently in the process of advancing the design for the BSV Phase II Project with the tunnel and trackwork contractor, and procurement documents for the stations are under development. Utility relocations and site preparations are expected to begin in 2023, while heavy construction in this area is expected to follow in 2024.

The Draft Supplemental EIR for the SuZaCo Mixed-Use Project (June 2022, City of San Jose File Numbers H21-026, ER21-085 & HP21-005, and State Clearinghouse Number 2021080463) does not include foundation/excavation or non-preliminary off-site utility drawings prepared for the proposed development; therefore, VTA cannot comment on those.

Response B.1: The foundation/excavation and non-preliminary off-site utilities drawings can be provided by the City upon request. Please contact Michelle Kimball, Department of Public Works Senior Civil Engineer, at michelle.kimball@sanjoseca.gov.

Comment B.2: 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/VolumeIII_Appendix%2520D_Cultural%2520Resources_feb20_2018.pdf). VTA looks forward to continuing coordination as the SuZaCo Project moves forward. If the SuZaCo Project results in a change in the status of any historic resources, VTA will coordinate with FTA and the property owner/developer to address any necessary changes to VTA's Historic Building Investigation and Monitoring Program as appropriate.

Response B.2: As mentioned on pages 56-57 of the Draft SEIR, the existing two-story buildings at 130-134 East Santa Clara Street and 142-150 East Santa Clara Street are located within the San José Downtown Commercial National Register Historic District (San José Commercial District). The buildings located at 130-134

East Santa Clara Street and 17-19 South Fourth Street are not considered to be historical resources under the California Environmental Quality Act (CEQA). The building located at 142-150 East Santa Clara Street is, however, a designated City Landmark and is listed in the City’s Historic Resources Inventory (HRI) as a “City Landmark Structure” and a “Contributing Site/Structure.” In addition, the building is listed in the National Register of Historic Places (NRHP) as a contributing building to the San José Commercial District and was determined to be eligible for individual listing in the NRHP and is also listed in the California Register of Historical Resources (CRHR) as an individual resource and a district contributor. Therefore, the building located 142-150 East Santa Clara Street is considered to be a historical resource under CEQA. As discussed on page 75 of the Draft SEIR, the demolition of the interior, roof, and west and south walls of the building located at 142-150 East Santa Clara Street would result in the loss of the historical resource as a building and loss of its significance and eligibility as a City Landmark. Therefore, the Draft SEIR concluded that the proposed project would cause substantial adverse change in the significance of the historical resource located at 142-150 East Santa Clara Street. The applicant and City will coordinate with VTA and FTA to address any necessary changes to VTA's Historic Building Investigation and Monitoring Program should the project be approved.

Comment B.3: The Draft SEIR for the SuZaCo Mixed-Use Project mentions on Page 102 that the City of San José’s General Plan states that “Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.” VTA’s BSV Phase II Project has received state and federal environmental clearance and is advancing its design into construction beginning in 2023. Please ensure appropriate mitigation is incorporated into the SuZaCo Mixed-Use Project to address the General Plan requirement stated above.

Response B.3: No residential land uses are proposed as part of the project. The General Plan Policy EC-1.9 referenced in the comment is not applicable to the project because the project proposes commercial land uses, and General Plan Policy EC-1.1² does not include an interior noise standard for commercial uses. Furthermore, per the *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), CEQA does not require lead agencies to consider the effect the environment will have on future users of a project. Therefore, no additional mitigation would be required to reduce interior noise from the BSV Phase II Project.

Comment B.4: 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

² General Plan Policy EC-1.1 states that the City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL.

plans, geotechnical reports, structural drawings, and non-preliminary off-site utilities plans), as well as construction activities (including but not limited to haul routes, construction sequence, schedule, logistics, etc.) be shared/discussed with VTA. VTA's review of these documents as they advance and become available will be critical, including to ensure that the structures within the tunnel easement are not compromised, potentially causing damage 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.

Response B.4: The City and the applicant will coordinate with VTA during the initial planning and design phases through construction to avoid damage and/or other safety concerns due to potential concurrent construction. The project will be required to submit structural and shoring plans to the Santa Clara Valley Transportation Authority (VTA) for coordination with the future BART tunnel to ensure no conflicts or impacts to the proposed BART project. In addition, this project is located within the General Plan Downtown Growth Area and will be required to comply with the Downtown Construction Guidelines (DCG). The DCG is for all work in the public right-of-way to support the safe and orderly movement of people and goods by providing standards. The DCG serves as a guideline related to permits, coordination, and traffic control devices to entities performing work in downtown streets. A copy of the DCG can be found at:

<https://www.sanjoseca.gov/home/showdocument?id=56303>.

No further response is required.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

C. Sally Zarnowitz (August 3, 2022 Meeting Minutes from Historic Landmarks Commission)

Comment C.1: Sally Zarnowitz commented on the EIR and noted it appeared there is no Historic Preservation Permit associated with the project. She noted there are no mitigation measures included for the proposed demolition of the roof and two walls and inquired about the future status of the City Landmark.

Response C.1: The project includes an application for an Historic Preservation Permit (HP Permit) which has been noticed for Historic Landmarks Commission (HLC) review on November 2, 2022. The HP Permit is referenced on pages 13, 72, and 133 of the Draft SEIR. As discussed in Response F.11, the proposed project would be required to implement measures including documentation, salvage and commemoration of the building at 142-150 East Santa Clara since it is a designated City Landmark and is listed in the NRHP and CRHR as a contributor building. Refer

to Section 5.0 of this document for the text amendments which include measures to address documentation, salvage, and commemoration.

D. Paul Boehm (August 5, 2022)

Comment D.1: The Historic Landmarks Commission provided comments on the SuZaCo project at our September 1, 2021, meeting. It should be noted that Page and Turnbull’s Historic Analysis was published in April of 2022, so that the Historic Landmarks Commission was unable to review it at their meeting in 2021. In addition to the comments made at the September 1, 2021, meeting of the Commission, I would like to provide additional information based on the Secretary of the Interior’s Standards, and some concluding remarks that pertain to the project.

My view of the SuZaCo Project’s proposal to demolish City Landmark building (142-150 East Santa Clara Street) at the corner of East Santa Clara and South Fourth Streets is that such a demolition would violate the Secretary of Interior’s Standards for the Treatment of Historic Properties. As noted in the Secretary of the Interior’s Standards, a substantial adverse change means, explicitly, physical demolition, destruction, relocation, or alteration of the resource. The proposal to demolish a City Landmark is, therefore, a significant impact.

Response D.1: The Draft SEIR concluded that the project is partially consistent with the Secretary of the Interior’s Standards for Rehabilitation (Standards) and that by demolishing the interior, roof, and west and south walls of the building at 142-150 East Santa Clara Street, the project would cause a substantial adverse change in the significance of a designated City Landmark (refer to pages 74-75 of the Draft SEIR).

Comment D.2: The Secretary of the Interior’s Standards that relate to the SuZaCo project:

1. “A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.” I concur with Page and Turnbull’s Historic Project Analysis, page 25, which states that as designed, the proposed project would not be in compliance with Rehabilitation Standard 1.

2 “The historic character of a property shall be retained and preserved.” Demolition is contrary to preservation. I concur with the Page and Turnbull assessment that the project would not be in compliance with Standard 2.

5 “Distinctive features, finishes, and construction techniques...shall be preserved.” The staircase is one such feature that should be retained. Page and Turnbull state that the project is not in compliance with Standard 5; I agree.

6 “Deteriorated historic features shall be repaired rather than replaced.” Demolition is replacement that is antithesis to this standard. As noted on page 17 of the Historic Treatment Report, further investigation is needed to determine the condition at the parapet, upper cornice, the storefront cornice, the string course, and the continuous lintel above the store front. These architectural features should be retained if possible.

9 “New additions, exterior alterations, or related new construction shall not destroy historic materials.... The new work shall be differentiated from the old and be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.” I find that the proposed new construction is not compatible with the historic resource. The almost exclusive use of fenestration in the upper stories is not compatible with the brick structures including the first and second floors of the building. More compatible materials to the lower floors’ brick façade are wood, ceramic tile, or stucco.

10 “New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property...would be unimpaired.” Demolition would impair the reversibility of the historic building.

For the reasons stated, I urge the city to reject the proposal in its current form, and seek a restoration of the landmark, with proper attention made to its features, materials, colors and style. I would urge consideration of a reuse of the building, and/or other means to preserve the landmark.

Thank you for your consideration.

Response D.2: As mentioned on pages 64-65 of the Draft SEIR, the project would retain and rehabilitate the ground-floor glazed storefronts with glazed tile bulkhead and glass tile transom, pilasters segmenting the storefront bays, second-story fenestration pattern and window forms, window bay ornamentation, and distinctive cornice and parapet. Additionally, the project would retain original materials wherever possible and replacement would only be used where necessary. Retention and rehabilitation of these features would be required if the City Council elects to approve the HP Permit. The commenter cited the review of the project for conformance with the Secretary of the Interior’s Standards for Rehabilitation by Page & Turnbull’s and asserted that the proposed new construction is compatible with the historic building. As mentioned in Response D.1 and pages 74-75 of the Draft SEIR, the project is partially consistent with the Standards and that by demolishing the interior, roof, and west and south walls of the building at 142-150 East Santa Clara Street, the project would cause a substantial adverse change in the significance of a designated City Landmark. The City’s General Plan identified “Focused Growth” as a major strategy and the downtown area is designated as a Growth Area which promotes intensification of downtown. The General Plan also includes “Destination Downtown” as a major strategy and supports focused growth in the downtown area. Ambitious job and housing growth capacity is planned for the downtown and would support for regional transit systems and the development of downtown as a regional job center. The Downtown Strategy 2040 FEIR concluded that intensification of the downtown area could result in the demolition of historic resources, and build out of the Downtown Strategy 2040 FEIR could result in a significant cumulative impact. The significant impact of the project on the City Landmark is analyzed in the Draft SEIR to disclose project-specific impacts. CEQA requires the decision-makers to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits,

including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" and the City Council may adopt a Statement of Overriding Considerations. The commenter's opinion is noted and the issue will be decided by the City Council. No further response is required.

E. Santa Clara Valley Audubon Society (August 11, 2022)

Comment E.1: The Santa Clara Valley Audubon Society (SCVAS) is one of the largest National Audubon Society chapters in California. Our mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation.

SCVAS provides the following comments on the proposed Draft Supplemental Environmental Impact Report SuZaCo Mixed-Use project (Project) (File Nos.: H21-026, ER21-085 & HP21-005). The project renderings show vast glazed curtain walls and a green roof.

1) The adjacent City Hall is famous for the breeding of a pair of special status Peregrine falcons. Several Peregrine falcons and a red-tailed hawk were documented victims of bird collision with glazed windows in City Hall and nearby buildings. The glazed facades are hazardous to the falcon and to other migratory bird species.

- Please provide bird safety measures (such as reducing glazed surfaces and providing visual cues) to protect birds (including Peregrine falcons) from collision with this structure.

Response E.1: A green roof is defined as a building roof partially or completely covered with vegetation to reduce stormwater run-off and lower cooling costs, typically including soil medium, waterproofing membrane, root barrier, and drainage and irrigation system.³ While the commenter is correct that glazed curtain walls are proposed as part of the project, a green roof is not. Per page 49 of the City's Downtown Design Guidelines and Standards (<https://www.sanjoseca.gov/home/showpublisheddocument/38781/637268875547770000>), bird safety is a vital consideration in downtown given the size and number of buildings and the presence of riparian corridors. The project shall not create areas of glass through which trees, landscape areas, water features or sky is visible from the exterior unless a bird safety treatment is used, upward-facing spotlights on buildings shall be reduced or eliminated, and landscaping tree lines shall not be planted perpendicular to glass façades per the City's Downtown Design guidelines. In addition, the project would be required to comply with all applicable standards related to bird-safety listed in the City's Downtown Design Guidelines and Standards, including but not limited to Section 4.4.2.b Standards a (no mirrored glass shall be used), c (bird-safety treatment on the building façade of any floor within 15 vertical feet of the level of and visible from a green roof), and d (bird safety treatment

³ Green roof is defined in the glossary (page G-5) of the East Santa Clara Street Urban Village Plan. City of San José. *East Santa Clara Street Urban Village Plan*. Accessed August 25, 2022. <https://www.sanjoseca.gov/home/showpublisheddocument/38449/637782053655170000>.

on areas of glass through which sky or foliage is visible on the other side of parallel panes of glass less than 30 feet apart shall be used) and Section 4.4.2.c Standard c (bird-safe pattern on glass railings shall be used).

Comment E.2:

2) MM BIO-1.1 requires nesting bird surveys to occur 30 days prior to the initiation of construction related activities during the late part of the breeding season (May 1st through August 31st, inclusive). This is a biologically irrelevant mitigation for many of the common migratory bird species. Furthermore, this mitigation measure further provides the disclaimer, "unless a shorter preconstruction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers."

- It is not clear who and how this determination will be made. Yellow Warblers are very unlikely to nest here, but many common yet protected migratory species nest in downtown San Jose trees and buildings, and some birds may use their nest more than once in their breeding efforts. Examples include Mourning dove, Chestnut-backed chickadee, House finch, and potentially orioles. Nests of these birds are protected under the Migratory Bird Treaty Act, and surveys for their nests on buildings and trees should be required, and reflect a biologically relevant timeframe of no more than 15 days.

Response E.2: As discussed in Mitigation Measure BIO-1.1 (page 47 of the Draft SEIR), tree removal and construction shall be scheduled to avoid the nesting season. If tree removals and construction cannot be schedule outside of the nesting season, a qualified ornithologist shall complete pre-construction surveys and inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If active nests are found in an area that will be disturbed by construction, the qualified ornithologist will designate a species-specific construction-free buffer zone to be established around the nest. Per Mitigation Measures BIO-1.1, all survey work would be completed by a qualified ornithologist, who would be responsible for all aspects of mitigation compliance for this measure. In addition to Mitigation Measure BIO-1.1, the project would be required to comply with any applicable General Plan policies including General Plan Policies ER-5.1 and ER-5.2 and existing regulations related to nesting and migratory birds including Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife Code (CDFW) Sections 3503, 3503.5, and 3800 (refer to pages 46-47 of the Draft SEIR).

Comment E.3: MM BIO-1.1 also states that during nesting bird surveys “the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.” In addition, the mitigation proposes, “If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest.”

Surveys for nesting raptors should be done to a distance of 150-ft ft of the project boundary, not only the “immediately adjacent to the construction areas” to allow for a 250-ft buffer to be installed around the nest.

Thank you, please do not hesitate to contact SCVAS if you have questions,

Response E.3: The mitigation language is based on current City requirements for all projects in San José that could affect nesting raptors and was developed in consultation with local qualified ornithologists. The qualified ornithologist shall make the determination of appropriate survey distances and ensure that the correct construct-free buffer zone is established around the nest.

F. Preservation Action Council of San José (August 11, 2022)

Comment F.1: The Preservation Action Council of San Jose (PAC*SJ) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the SuZaCo Mixed-Use Project, located within the Downtown Commercial Historic District at the southwest corner of East Santa Clara and North Fourth Streets (142-150 East Santa Clara Street, 130-134 East Santa Clara Street, and 17-19 South Fourth Street).

As currently proposed, the project proposes new construction of an up to 6-story, 85' tall, ~72,600 sq. ft. U-Shaped Mixed Use Class-A Commercial Office Building on three parcels currently developed with three sound buildings that represent a very significant period of San Jose's History. Each of the extant buildings is or has recently been actively occupied and are/were providing affordable housing, restaurant and retail services with a positive economic impact to the City. The buildings on E. Santa Clara Street are wholly located within and are contributing structures to the Downtown Commercial Historic District which is listed on the National Register of Historic Places. The third building faces S. Fourth Street just outside the Historic District, but visually consistent with the historic buildings on E. Santa Clara Street.

Response F.1: As discussed on pages 7 of Appendix A and page 5 of the Draft SEIR, the project would demolish three existing, two-story buildings on-site, while retaining the historic façades of the City Landmark building (142-150 East Santa Clara Street) at the corner of East Santa Clara and South Fourth Streets. The project would construct an 85-foot tall, U-shaped building totaling 75,271 square feet. As discussed on pages five, 57, 69, and 96 and Appendix D of the Draft SEIR, the San José Commercial District is listed in the NRHP, but the building at 130-134 East Santa Clara Street is listed as a non-contributing building to historic district. This was confirmed in the Historic Project Analysis (Appendix D of the Draft SEIR) prepared by Page & Turnbull. The buildings at 130-134 East Santa Clara Street and 17-19 South Fourth Street were also evaluated for potential individual significance. The report concluded that the buildings do not appear to be significant under any eligibility criteria for listing at the national, state or local level as an individual resource.

Comment F.2: The proposed project physically interfaces with and impacts the integrity of a building located between 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.

Response F.2: The "infill" portion of the proposed project located on the 130-134 East Santa Clara Street site was evaluated for conformance with the 2003 San José Downtown Historic District Design Guidelines (2003 Historic District Guidelines) which identifies 13 design guidelines (e.g., building height, corner element, massing,

façades, rear façades, openings, entries, exterior materials, ground floors, setback and stepbacks, parking, pedestrian passageways, and vehicular access) for infill construction. As discussed on page 69 of the Draft SEIR, the non-contributing building at 130-134 East Santa Clara Street would be replaced by a four-story building which is consistent with eight of the 13 adopted guidelines for infill development (building height, massing, openings, entries, exterior materials, ground floors, setbacks and stepbacks, and parking) and partially consistent with two of the adopted guidelines for infill development (façades, rear façades, and pedestrian passageways) within the San José Commercial District. The infill portion of the project would be compatible in form and composition to the adjacent buildings with aligned storefronts and signage at the ground floor and the upper floor consistent with early 20th century buildings. The façade of the building would be slightly set back from the adjacent district contributors, which would allow the historic façades to be visually prominent on the block, and the façade is designed with distinguishable horizontal bays and vertical levels consistent with adjacent district contributors. The project would consist of glass, plaster, and metal elements with interior timber framing and elements typically seen on neighboring district contributors (e.g., rectangular display windows flanking a pedestrian entrance). Therefore, the proposed infill construction would respect the visual importance of the neighboring contributing buildings and link the San José Commercial District to its greater surroundings by providing a transition from early 20th century commercial architecture to more recent development along and across South Fourth Street and East Santa Clara Street. As discussed in Section 3.3.2.1 of the Draft SEIR (page 75), the analysis concluded that the proposed project would not cause a substantial adverse change in the significance of the San José Commercial District. The commenter has provided no evidence or analysis to demonstrate that the integrity of the building at 136-140 East Santa Clara Street would be impacted by the proposed project.

Comment F.3: The DEIR cites “an engineer’s report provided by the project applicant and the concerns expressed by a party not identified within the DEIR with moving the extant historic buildings from the project site to a receiver site due to a brick masonry “party wall.” 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 (home to multiple landmarks) with the third located just south of the Historic District’s boundary to the south. 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 will address its recommendation in the “Alternatives” section of this letter, but will note here that if the project proposes to save two facades, there is no reason why it should not preserve all four walls, not just two.

Response F.3: The engineer’s report referenced by the commenter is related to *Preservation Alternative 1: Relocation of 142-150 East Santa Clara Street Building* found on page 131-132 of the Draft SEIR. The engineer’s report provided by the applicant, states that the gravity frame of the 142-150 East Santa Clara Street building is comprised of wood joists spanning to steel beams supported on interior steel columns and perimeter unreinforced brick walls (URM). The existing URM walls

provide lateral stability on three sides of the building. There is no property line offset between this building and the adjacent building to the south. The shared URM wall would need to be removed and replaced with a new structure that provides the necessary gap between the buildings. The project proposes the retention of the two façades. The significant impact of the project on the City Landmark is analyzed in the Draft SEIR to disclose project-specific impacts. CEQA requires the decision-makers to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable," and the City Council may adopt a Statement of Overriding Consideration. The commenter's recommendation is noted and the issue will be decided by the City Council.

Comment F.4: PAC* SJ largely concurs with the historic analysis of project impacts in the Cultural Resources Section of the document. However, we would be remiss not to point out (again as we have repeated noted) that the 142-150 East Santa Clara Street State Market building, a designated City Landmark and anchoring Contributor to the Downtown Commercial Historic District, is a prime candidate for use of historic preservation incentives, including both Federal and State Tax Credits, the State Historical Building Code, and the Mills Act Historical Property Contract. It is disappointing to see this project leave those incentives on the table, ignoring General Plan and Council policies for the preservation of Historic Landmarks.

Response F.4: This comment states an opinion and does not speak to the adequacy of the Draft SEIR. No response is required.

Comment F.5: *San Jose City Policies*

The City Council Policy on the Preservation of Historic Landmarks states the following: "It is the policy of the City of San Jose that candidate or designated landmark structures, sites, or districts be preserved wherever possible." The Policy further states: "The financial profile and/or preferences of a particular developer should not, by themselves, be considered a sufficient rationale for making irreversible decisions regarding the survival of the City's historic resources." The DEIR clearly discloses that the project would not be consistent with the purpose and intent of this policy.

Response F.5: The project includes an application for a HP Permit which is being evaluated for consistency with Chapter 13.48 of the San José Municipal Code (Historic Preservation Ordinance). The application will be reviewed by the HLC in a public hearing on November 2, 2022 for conformance with the required findings in Section 13.48.240 of the Historic Preservation Ordinance and the HLC will make a recommendation on the application to the City Council, the decision-making body for the project as a whole. The applicant submitted documentation under Section 13.48.260 (Hardship) which will be considered by the HLC and City Council to determine whether rehabilitation in accordance with the chapter is infeasible from a technical, mechanical, or structural standpoint, or if the economics of rehabilitation

in accordance with the chapter would require an unreasonable expenditure in light of the feasible uses of such property.

Comment F.6: As analyzed in the EIR, various General Plan policies have been adopted for the purpose of reducing or avoiding impacts related to cultural resources. As noted in 3.5 Land Use Planning Section of the DEIR, the project would conflict with many of these (LU-13-1, 13-2, 13-3, 13.4, 13.6, 13.7, 13.8, etc.) , most specifically Policy LU: 13-1 Preserve the integrity and fabric of candidate or designated Historic Districts; and Policy LU:13-2: Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. Please note the conflict with LU-13-6 for the portion of the proposed project affecting the City Landmark and Contributing Structure to the National Register of Historic Places listed San Jose Downtown Commercial Historic District, State Meat Market at 142-150 E. Santa Clara Street (Parcel 467-23-35). This Land Use Policy seeks conformance to the Secretary of the Interior Standards.

The Envision San Jose 2040 General Plan acknowledges the importance of historic resources not just in policies, but in Major Strategy #9 - Destination Downtown: “Downtown San José is the cultural heart of San José and it provides employment, entertainment, and cultural activities more intensely than in any other area. The Downtown also consists of valuable historic resources, buildings with distinctive architecture, and unique neighborhoods where residents have convenient access to urban activities and amenities. As San José’s largest and most vibrant urban area, Downtown contributes towards the positive identity of the City to the region, the nation and abroad.”

Response F.6: As discussed on page 75 of the Draft SEIR, the project would retain and preserve most of the character-defining features of the north and east facades of the contributing building at 142-150 East Santa Clara Street and the designated City Landmark. The proposed new building would retain the ground floor storefronts which would continue to be used as ground-floor commercial use consistent with the building’s primary façade since its construction. The four-story portion of the project would demolish and replace the non-contributing building at 130-134 East Santa Clara Street. As designed, this portion of the proposed project would be largely consistent with the adopted guidelines (e.g., 2003 Historic District Guidelines) for infill development within the San José Commercial District. The proposed infill construction would respect the visual importance of the neighboring contributing buildings and link the San José Commercial District to its greater surroundings by providing a transition from early 20th century commercial architecture to more recent development along and across South Fourth Street and East Santa Clara Street. Refer to page 75 of the Draft SEIR for more information. In addition, retention of the building at 142-150 East Santa Clara Street was included as Preservation Alternative 2 discussed on pages 133-134 of the Draft SEIR. This project alternative would avoid the significant unavoidable impact to the City Landmark building because it would not alter the building itself. Under this alternative, there would be substantial reductions to the proposed office and retail space square footages. The alternatives identified in the Draft SEIR will be provided to the decision-makers and City Council must determine whether the alternatives included in the Draft SEIR are feasible, based on the analysis in the Draft SEIR and factors external to the environmental

analysis, such as social or economic concerns.

As discussed on page 98 of the Draft SEIR, the project would conflict with General Plan Policies LU-13.2, LU-13.6, LU-13.7, and LU-13.8 and is partially consistent with the 2003 Historic District Guidelines and Secretary of the Interior's Standards for Rehabilitation. The proposed project would not cause substantial adverse change in the significance of the San José Commercial District to the extent that its eligibility for listing in the NRHP would be compromised; therefore, the project would not conflict with General Plan Policy LU-13.1 to preserve the integrity and fabric of candidate or designated Historic Districts. Refer to page 75 of the Draft SEIR for a full discussion. The proposed project would not conflict with General Plan Policy LU-13.3 as it would retain the north and east historic façades on East Santa Clara Street and South Fourth Street and incorporate the landmark structure within the new development as a means to create a sense of place, contribute to a vibrant economy, and provide a connection to the past.

The site contains a designated City Landmark building, the modification of which requires the issuance of a HP Permit and conformance with Chapter 13.48 of the City's Municipal Code (Historic Preservation Ordinance). As discussed above in Response F.5, the application will be reviewed by the HLC in a public hearing on November 2, 2022 for conformance with the required findings in Section 13.48.240 of the Historic Preservation Ordinance and the HLC will make a recommendation on the application to the City Council, the decision-making body for the project as a whole. The applicant submitted documentation under Section 13.48.260 (Hardship) which will be considered by the HLC and City Council to determine whether rehabilitation in accordance with the Historic Preservation Ordinance is infeasible from a technical, mechanical, or structural standpoint, or if the economics of rehabilitation in accordance with the chapter would require an unreasonable expenditure in light of the feasible uses of such property. If the City Council is unable to make the findings required under [Section 13.48.240](#) for issuance of an HP Permit and finds that the denial of the HP Permit would cause immediate and substantial hardship on the applicant, the City Council may nevertheless issue an HP Permit.

Comment F.7: *Cultural Resource Management*

Historic resource management involves evaluating the significance of buildings within a project's footprint, and as such the 1901 Wolfe & McKenzie designed building (130-134 East Santa Clara Street) no longer retains enough integrity to qualify as a historic resource. The 1939 concrete building (17-19 South Fourth Street) does, however, appear to retain integrity. While the analysis establishes the building would not qualify as a historic resource for the purposes of CEQA, as part of maintaining the City's Historic Resources Inventory, the building should be listed as an Identified Structure potentially eligible as a Structure of Merit, regardless of whether the project goes forward.

Response F.7: A Structure of Merit is defined as an important historic property or feature of lesser significant, which does not qualify as a City Landmark or for the California or National Registers but attempts should be made for preservation to the extent feasible under the 2040 General Plan goals and policies. As discussed on pages

60-62 of the Draft SEIR, the building at 17-19 South Fourth Street was determined to not be eligible for listing in the California Register or in the City's HRI. As stated by the commenter, it is not a resource under CEQA and listing the building as a Structure of Merit would not change the conclusions of the Draft SEIR. The building at 17-19 South Fourth Street would not be listed in the City's HRI as an Identified Structure because it has already been evaluated as being ineligible for listing on the national, state and local levels.

Comment F.8: *Cultural Resource Impacts*

PAC*SJ concurs with the critical conclusion that the “demolition of the City Landmark’s interior, roof, and west and south walls would result in the loss of the historical resource as a building and loss of its significance and eligibility as a City Landmark, Therefore, the proposed project would cause substantial adverse change in the significance of the historical resource located at 142-150 East Santa Clara Street.” The plaster finish on the walls to be retained should also be consistently listed in the character defining features proposed to be removed by the project.

Response F.8: The plaster cladding on the north and east façades are listed as character-defining features of the building (refer to Section 3.3.2.1, page 64 of the Draft SEIR). In addition, pages 64 and 74 of the Draft SEIR states that the project would remove the plaster cladding on the exterior of the building which would remove historic material that is a character-defining feature of the property.

The last paragraph on page 71 of the Draft SEIR states “The character-defining features of the north and east historic facades would be retained, and the proposed rehabilitation and the new construction would be developed to allow these features to be preserved and seismically strengthened and thereby remain as a visually prominent part of the East Santa Clara Street streetscape”. This statement will be revised note that “most” of the character-defining features of the north and east historic facades would be retained to ensure the language in the Draft SEIR is consistent throughout. See Section 5.0 of this document for the text edit. The recommendation by the commenter to retain the exterior plaster finish can be transmitted to the HLC and City Council during the public hearings for the project.

Comment F.9: In its review of Project Impacts in Section 3.3.2.1, Page & Turnbull evaluated “whether the Project would cause a substantial adverse change to this designated City Landmark (the State Meat Market Building).” Please see the summary (below) of Dept. of Interior Standards and Page & Turnbull’s conclusions (highlighted in yellow) relative to the project’s compliance with the Standards:

Standard 1 – A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

.....”a new six-story mixed-use building is proposed to be constructed behind the existing historic façades and the east historic façade is proposed to be altered, which would significantly change the appearance of the historic resource and its environment. Therefore, the proposed project does not comply with Standard 1.”

Standard 2 – The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

.....”The building’s two-story massing is a character-defining feature of the historic building. The proposed new building would be up to six stories tall and would change the historic character of the property. The proposed project would remove the plaster cladding on the exterior of the building, which is original to the design of the building. Removal of the plaster cladding would remove historic material that is a character-defining feature of the property, In addition, removal of the interior, roof, and west and south walls would only leave two of the original walls of the building. As a result, it would no longer exist as a building. Therefore, the proposed project does not comply with Standard 2.”

Standard 5 – Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

...”The proposed project would remove the plaster cladding on the exterior of the building, which is original to the design of the building. Alterations to the east historic façade would include the addition of a new entrance and glazing at the southern portion of the façade which would remove some original masonry wall and two original punched openings. The rear and side building façades, as well as the building’s interior, contribute to its character-defining massing, materials, and historic uses and are proposed to be demolished. Therefore, the proposed project does not comply with Standard 5.”

Standard 9 – New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

...”The contemporary design of the new building does not relate architecturally or materially to the design of the historic building. The construction of four new stories would significantly change the historic integrity of the property and its environment. Therefore, the project does not comply with Standard 9.”

Standard 10 – New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

...”While removal of the new construction would restore the retained north historic façade and rehabilitate with alterations the retained east historic façade, the essential form and integrity of the historic resource would be compromised by the demolition of the building’s interior, roof, and west and south walls. Therefore, the proposed project does not comply with Standard 10.”

The analysis of the project’s impact to the Commercial District, concludes that “The project would retain the character-defining features of the north and east facades of the contributing building to the San José Commercial District at 142-150 East Santa Clara Street. The proposed rehabilitation and the new construction would allow these features to be preserved and thereby remain as a visually prominent part of the East Santa Clara Street streetscape.” The analysis should clarify whether the enough character-defining features will remain, with the removal of the plaster finish and other

changes, to retain the streetscape and “contribute to the overall character” of the Commercial District.

Response F.9: The commenter provides a summary of the project’s compliance with Standards 1, 2, 5, 9, and 10. As mentioned on pages 64 and 71 of the Draft SEIR, the majority of the character-defining features (e.g., storefronts, fenestration patterns, and decorative elements) located on the north and east façades of the building would be retained as part of the proposed project. Based on this information, it was concluded that there would be sufficient character-defining features retained to contribute to the overall character of the Commercial District. See Response F.8.

Comment F.10: Cumulative Impacts

Section 15355 of the State CEQA Guidelines defines a cumulative impact as the condition under which “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts... The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (California Code of Regulations [C.C.R.] Section 15355).

PAC*SJ believes that any project within the Downtown Commercial Historic District and this project in particular contributes to a larger impact/effect if analyzed in the context of other projects in that area. Unfortunately, the DEIR asserts in section 3.5.2.2, without supporting analysis, that the impact of the proposed SuZaCo Project (as currently designed) would NOT be cumulatively considerable (less than significant cumulative impact) .In section 3.3.2.2, the Report asserts that the proposed project would NOT diminish the historic integrity and significance to the extent it would no longer be eligible for listing in the NRHP. While PAC*SJ agrees that any one project with so called “significant but unavoidable” impacts may not result in a loss of a historic district’s eligibility in and of themselves, but respectfully asserts that this is a very narrow view of how to review projects that are proposing the demolition of historic resources, and is not consistent with the letter and spirit of CEQA’s requirements. In the context of looking at the long list of currently entitled and reasonably foreseeable future projects within the Historic District and within 1,200’ of this project, PAC*SJ asserts that the cumulative impact is not accounted for in this project’s DEIR. PAC*SJ believes that a 3D model of the downtown area is needed for the Historic Landmark Commission, Planning Commission, Staff, and elected officials to make informed land use decisions such as this one. Most importantly, the absence for this information makes it extremely difficult for the public to assess the impact of this project, and to weigh in on what should be approved or recommended.

Response F.10: As stated by the commenter, the geographic study area for cumulative impacts on historical resources for the Draft SEIR is the project site, San José Commercial District, and surrounding area which is within 1,200 feet of the project site. As discussed in Section 3.3.2.2, page 78 of the Draft SEIR, besides the proposed project, there is one other pending project (Energy Hub File No. H20- 037) and four recently approved, but not yet constructed projects (82-96 East Santa Clara Street File No. HP21-003, Bank of Italy File No. HP20-003, Knox Goodrich and FAB building File Nos. HP19-007 and H19-041, and Hotel Clariana Expansion Project File No. H17-059) within the San José Commercial District. These four

approved projects were individually analyzed and found to be consistent with applicable design guidelines and standards and the construction of these projects would not significantly diminish the historic integrity and significance of the San José Commercial District. Even with the changes to the district over time, including the four recently approved projects disclosed above, the district has retained its historic significance. Therefore, there would be no cumulative impacts to historical resources in the district associated with those projects. As discussed on page 75 of the Draft SEIR, it was determined that the proposed project would have a less than significant impact on the integrity of the San José Commercial District because it would retain the character-defining features of the north and east facades of the contributing building to the San José Commercial District at 142-150 East Santa Clara Street and the proposed infill construction would respect the visual importance of the neighboring contributing buildings and link the district to its greater surroundings by providing a transition from early 20th century commercial architecture to more recent development along and across South Fourth Street and East Santa Clara Street (refer to page 75 of the Draft SEIR). The other pending project was found to have a significant impact at the project level on the historic integrity of the San José Commercial District and that impact is addressed in the Fountain Alley Mixed Use Draft SEIR.

It should be noted that the Downtown Strategy 2040 FEIR disclosed that the Downtown Strategy 2040 has the potential to contribute to cumulative impacts to historic resources at the Citywide level. The 2040 General Plan EIR concluded that new development allowed under the 2040 General Plan would not result in a substantial adverse change in the significance of historic resources, with implementation of 2040 General Plan policies and existing regulations. The Downtown Strategy 2000 EIR, however, determined that redevelopment of properties within Downtown could result in a significant cumulative impact to historic resources. Build out of the Downtown Strategy 2040 area would also contribute to the on-going demolition and major alteration of historic era buildings within downtown. This Draft SEIR for the project tiers off the FEIR for the Downtown Strategy 2040 which has disclosed a significant cumulative impact to historic resources. Therefore, the proposed project would not have any new cumulative impacts to historical resources.

The commenter's suggestion of the 3D model of the downtown area is noted and will be taken into consideration by the City; however, there is no nexus to require the 3D model for CEQA purposes.

Comment F.11: Mitigation Measures

The standard and potentially specific mitigation measures for addressing significant historic resource impacts should be included. Standard mitigation measures would include documentation, salvage, and creation of an educational exhibit. Should a future project be proposed that were to impact the proposed project's retention of the two walls, we would expect new environmental review for that project.

Section 2.2 Project Description states that the Commercial District is comprised of 45 properties (27 contributing structure and 18 non-contributing properties). Preserving its fragile integrity while allowing for rehabilitation and compatible infill is central to best practices in urban planning. Any measures that can strengthen the survey and rehabilitation work of the Commercial District should be incorporated into Downtown projects. The Summary Project List Within Half-Mile Radius (Table 3.0-1) could highlight projects within the Commercial District and any impacts. Documentation should include the current condition of the Downtown Commercial Historic District in the area of the proposed project. Relevant survey work to address historic resource management Downtown could also be included as a specific mitigation measure.

In EIR Scoping Comments on 9/23/21, PAC*SJ requested the inclusion of a list of “financial and physical mitigations measures” should staff recommend approval of this project via a statement of overriding consideration. That was not addressed within the DEIR

Response F.11: The Draft SEIR concluded that the project would not have a significant impact on the San José Commercial District; therefore, no mitigations measures are required in relation to the district. When imposing mitigation, lead agencies must ensure there is a “nexus” and “rough proportionality” between the measure and the significant impacts of the project. There would be no nexus for imposing mitigation measures that address the totality of the San José Commercial District. However, the project proposes the demolition of the majority of the City Landmark building at 142-150 East Santa Clara Street, so text amendments to the Draft SEIR are proposed (refer to Section 5.0 of this document). Per the Downtown Strategy 2040 FEIR, impacts to historic resources, and as yet unidentified structures, would be avoided through implementation of General Plan policies and incorporation of applicable design measures. If a future project could adversely affect historic resources, supplemental analyses would be required to identify mitigation measures necessary to reduce the impact to a less than significant level.” Therefore, the proposed project would be required to implement measures including documentation, salvage and commemoration of the building at 142-150 East Santa Clara since it is listed in the NRHP and CRHR as a contributor building to the historic district, and is listed on the City’s HRI as a “City Landmark Structure” and a “Contributing Site/Structure” to reduce identified impacts. Relocation of the building at 142-150 East Santa Clara Street would not be feasible due to the proposed retention of the historic facades. Refer to Section 5.0 of this document for the text amendments which include measures to address documentation, salvage, and commemoration. Implementation of these measures would reduce the identified significant and unavoidable impact, but not to a less than significant level. In addition, General Plan Policy LU-16.4 requires development approvals that include demolition of a structure eligible for or listed on the City’s HRI to salvage the resource’s building materials and architectural elements to allow re-use of those elements and materials. As the building located at 130-134 East Santa Clara Street is listed in the City’s HRI as an “Identified Structure,” the building shall be made available for salvage through compliance with permit conditions. Refer to Section 5.0 of this document for the text amendments to include General Plan Policy LU-16.4 and Condition of Approval for salvage. Therefore, these text amendments do not change the findings of the Draft SEIR and recirculation of the Draft SEIR is not required.

Any future project that would impact the two walls to be retained at 142-150 East Santa Clara Street would be subject to environmental review.

Financial contributions to support the preservation and rehabilitation of other buildings within the City is not considered mitigation under CEQA for the significant impact to the historic building at 142-150 East Santa Clara Street because it would not reduce the physical impact to the specific building. Therefore, there is no nexus to require mitigation for the historic district or any other historic resource not specifically impacted by the project.

Comment F.12: Alternatives

The Report notes that the City considered the following alternatives to the proposed project:

- Location Alternative (Considered but rejected)
- No Project – No Development Alternative
- Preservation Alternative 1: Relocation of 142-150 East Santa Clara Street Building (Considered but rejected)
- Preservation Alternative 2: Complete Retention of the City Landmark Building at 142-150 East Santa Clara Street

PAC*SJ offers the following comments relative to each Alternative:

Location Alternative:

The Report asserts the following:”If the project were proposed on an alternate site within the downtown, it is likely that existing building(s) on that site would need to be demolished to accommodate the proposed development because there are limited undeveloped parcels downtown. San José’s downtown core is located within the historical boundary of the City of San José as indicated on the Thomas White 1850 map. Therefore, it would be difficult to avoid impacts to historical resources since the downtown area contains a concentration of older buildings developed in the late 19th and early 20th centuries and downtown contains many designated historic districts and landmarks.”

PAC*SJ Response: The City ignores the possibility of locating the project on any one of the City’s 21 downtown surface parking lots. One such parking lot not mentioned within the EIR is located immediately to the south of the proposed project (Parcel 467-23-33). This parcel is NOT listed within the Report’s Table 3.0-1: Summary Project List Within Half-Mile Radius, so assuming the Table is up-to-date and correct, there is no foreseeable project competing for a better use of that space. Use of that space would presumably enable the Project Applicant to meet all of its project objectives without demolition of any buildings located within and/or immediately adjacent to the Historic Commercial District. PAC*SJ acknowledges that the project’s owners may not be able to acquire this property but would appreciate any information that would evidence a serious effort to identify and secure alternative locations for projects like this that seek to demolish San Jose’s rapidly diminishing and irreplaceable historic fabric.

Response F.12: The parking lot located immediately south of the project site (Assessor’s Parcel Number 467-23-033), is part of the Hotel Clariana Expansion and Clariana Phase II project site which was previously approved by the City of San José

and includes construction of a seven-story condominium building. Refer to footnote 3 on page 16 of the Draft SEIR.

Comment F.13: No Project – No Development Alternative

The Report asserts the following: “this alternative would not meet any of the project objectives, nor would this alternative meet the City’s goal and vision of encouraging job growth in the downtown area.”

PAC*SJ Response: The Report does not include an explanation of how specifically, the proposed addition of this particular project’s Class-A Office Space and Restaurant & Retail space proposed project relates to meeting the City’s Goals. Stated differently, how much Class-A office space has been created against General Plan goals, and is this addition necessary. Given all the other entitled and pending projects noted in Table 3.0-1 of this report, is this project in fact necessary to meet its Mixed Use/Commercial development goals, or should the City apply equal or greater weight to complying with its Historic Preservation Ordinance and General Plan preservation goals and policies?

Response F.13: As stated on page 132 of the Draft SEIR, the *No Project – No Development Alternative* would not meet the City’s goal and vision of encouraging job growth in the downtown area as this alternative would retain the existing buildings on-site with no intensification of uses. Redevelopment of the site would generate more jobs in the downtown area in close proximity to other uses and transit compared to retaining the existing buildings and would help the City achieve a jobs/housing balance. The proposed project is part of planned growth in the Downtown Strategy 2040, which, excluding the 2021 amended Diridon Station Area Plan area, includes up to 14,200,000 square feet of additional office space and 1,400,000 square feet of additional retail space. In addition, the downtown and Diridon Station Plan area are priority growth areas in the City. As mentioned in Response D.2, the City’s General Plan identified “Focused Growth” as a major strategy and the downtown area is designated as a Growth Area which promotes intensification of downtown.

Comment F.14: Preservation Alternative 1: Relocation of 142-150 East Santa Clara Street Building

The Report asserts the following:....”An engineer’s report provided by the applicant states that the brick masonry building is not seismically sound and it is constructed with a party wall related to the adjacent building on East Santa Clara Street. As a result, it may not be feasible to relocate the SuZaCo Mixed-Use Project 132 Draft Supplemental EIR City of San José June 2022 building without causing substantial damage to or collapse of the historic resource. This alternative would continue to conflict with the Historic Preservation Ordinance and General Plan policies adopted for the purpose of avoiding or mitigating impacts to historic resources.

PAC*SJ Response: Although PAC*SJ strongly prefers that the building remain in its current location and context, a plan and budget estimate from a reputable mover (e.g. Kelly Brothers) for moving the State Meats Market building to a receiver site should have been pursued and reported.

PAC*SJ is interested in determining the value of historic properties, and one metric in determining this number is based on the cost of arranging for a receiver site and the moving of the building(s). Note: It is concerning that the Engineering Report (not included in the EIR document set) expresses concern with the stability of the “Party Wall” between a City Landmark and the adjacent building at 136, 138, 140 E. Santa Clara Street, and between the “middle building” and the building at 130-134 E. Santa Clara Street. Please also note that the middle building is also a contributing historic structure of the Historic District that is not a part of the proposed project, but dramatically impacted by the project.

Response F.14: The project proposes to retain and incorporate the historic façades of the City Landmark building (142-150 East Santa Clara Street) at the corner of East Santa Clara and South Fourth Streets which is also a contributing building to the San José Commercial District and visually anchors the east end of the district. Relocation can be a potentially desirable outcome for an individual historical resource; however, as discussed on pages 131-132 of the Draft SEIR, the City Landmark, which also contributes to continuity of the historic character of the streetscape along East Santa Clara Street, would be relocated outside the historic district which could result in a significant impact to the San José Commercial District because the integrity of location, setting, feeling and association could be impaired. The building would no longer be listed in the NRHP as a Contributing Building if it were relocated outside the San José Commercial District, and an alternative location without a compatible historic context would likely result in the delisting of the building in the NRHP and CRHR under this alternative. Therefore, this alternative would not be feasible due to the lack of sites available in the downtown core that could provide an appropriate setting to retain the historic significance and integrity of the contributing building to the historic district. Relocation of the building within the San José Commercial District was also considered, but all potential sites that would avoid demolition have pending or approved development projects and are; therefore, unavailable as receiver sites. In conjunction with the seismic stability of the party walls in the historic district and associated structural issues, relocation was determined to be infeasible and was not further considered.

Comment F.15: Preservation Alternative 2: Complete Retention of the City Landmark Building at 142-150 East Santa Clara Street

The Report asserts the following: “Retention of the entire City Landmark building would preclude inclusion of the below-grade retail space in this alternative and would reduce new office space by approximately 34,560 square feet. Further reductions in the new office space may also be required to accommodate the back of house functions and utilities as noted above. With this alternative, the new office space would be reduced to less than 30,000 square feet. The existing nine residential units and approximately 5,760 square feet of retail space would remain in the City Landmark building. This alternative would not meet project objective 1 to provide commercial development in the Downtown Strategy Plan area on an infill site along transit corridors because the site contains a designated City Landmark and would not be considered suitable for infill development. This alternative would likely not meet project objectives 4 and 5 to construct a commercial development that is marketable and has the potential able to attract investment capital and construction financing and to create a modern Class A office project because the City Landmark could constrain the ability to provide large, open

floor plates and would reduce the size of the interior spaces.”

PAC*SJ Response: Assertions of Alternative 2 negatively impacting the project’s ability to meet project objectives 1, 4 & 5 are not conclusionary without any supporting data. PAC*SJ asserts that the Project Developer should provide information that would provide a financial comparison. If a serious initiative has not taken place to model this, PAC*SJ asks that the assertion in the project goals cannot be met with this alternative be struck from the report before consideration for entitlement. Also, as requested in our 9/23/21 Scoping Comments, derivatives of Alternative 2 or perhaps an Alternative 3 (Partial Retention of the City Landmark Building at 142-150 East Santa Clara Street) should have been included in the DEIR. One derivative option not addressed within the EIR is an overbuild where the existing building(s) are largely retained in situ while substantially meeting all other project objectives regarding form and function. The City has recently authorized an overbuild project for the Montgomery Hotel. Another option is partial demolition of the City Landmark with setbacks (also noted in PAC*SJ’s scoping letter) that preserve the prominence of the historic buildings along E. Santa Clara. Except for the Hotel Clariana at the corner of E. Santa Clara and South 3rd Street, all of the buildings on the block between 4th and 3rd are 1-3 Stories in height. The street-wall is not at ~85-100’

Response F.15: Pursuant to CEQA, an EIR shall describe a reasonable range of alternatives and does not need to consider every conceivable alternative to the project (CEQA Guidelines Section 15126.6(a)). The proposed addition of the San José Tribute Hotel development cantilevers over the existing Montgomery Hotel. As discussed in the San José Tribute Hotel Draft SEIR, construction of the building may result in significant impacts to the Montgomery Hotel. While an overbuild was not specifically studied, proposing an overbuild where the City Landmark building is located could result in new significant impacts that were not previously identified the Draft SEIR. In addition, two other preservation alternatives were studied (refer to Section 7.3 of the Draft SEIR). As discussed in Response F.2, preservation of the four walls could result in substantial damage during a seismic event. If the project were to propose an overbuild, substantial damage to the 142-150 East Santa Clara Street building could occur resulting in a significant impact. The commenter suggests that partial demolition of the City Landmark with setbacks could have been included as an alternative. Note that the project is proposing partial demolition of the City Landmark building with a slight setback from the adjacent district contributors. The substantial reduction in the size of the project under Preservation Alternative 2 is discussed in Section 7.3.1.3, pages 133-134 of the Draft SEIR. In order to comply with the Standards, an addition to the City Landmark building would need to be set back from the two street-facing facades on East Santa Clara Street and South Fourth Street and likely limited to one story. Due these constraints, minimal additional square footage could be achieved by increasing the existing building height without the potential of impacting the integrity of the City Landmark building. In addition, the design of the new construction on-site would still need to conform to applicable design guidelines and standards. Page 134 of the Draft SEIR provides an explanation of why objectives 4 and 5 may not be met. Alternatives must meet most of the project objectives. As discussed in Responses F.5 and F.6, the applicant submitted documentation under Section 13.48.260 (Hardship) which will be considered by the HLC and City Council to determine whether rehabilitation in accordance with the

chapter is infeasible from a technical, mechanical, or structural standpoint, or if the economics of rehabilitation in accordance with the chapter would require an unreasonable expenditure in light of the feasible uses of such property. If the City Council is unable to make the findings required under [Section 13.48.240](#) for issuance of an HP Permit and finds that the denial of the HP Permit would cause immediate and substantial hardship on the applicant, the City Council may nevertheless issue an HP Permit. EIRs should refrain from reaching conclusions regarding actual feasibility and should focus the analysis on whether an alternative is potentially feasible, and then undertake the comparison of the environmental effects of the project and alternatives. At the decision-making stage, the City Council must determine whether the alternatives included in the Draft SEIR are actually feasible, based on the analysis in the Draft SEIR as well as factors external to the environmental analysis, e.g., social or economic concerns.

Comment F.16: Of the “Alternatives” included within the DEIR, PAC*SJ most appreciates and supports the environmentally superior alternative, Preservation Alternative 2: Complete Retention of the City Landmark Building at 142-150 East Santa Clara Street, as it would avoid a significant impact to a City Landmark building while preserving nine housing units. PAC*SJ notes that even the “environmentally superior option” results in the loss of two other historic buildings as a result of this project. In conclusion, the SuZaCo project (as currently proposed) will result in significant, negative environmental impacts to San Jose’s historic fabric including the demolition of a City Landmark, contributing structures to the Downtown Commercial Historic District and beyond.

The project results in a negative impact to the environment cumulatively when added to the list of currently entitled and foreseeable projects as shown in Table 3.0-1 and beyond.

The project’s objectives include the creation of additional square footage of Class-A Commercial Office space versus prevailing affordable housing and promises the return of street level restaurant and retail space (plus below grade retail) that PAC*SJ can only presume will be unaffordable (without financial subsidy) to existing mom & pop tenants. Despite the amount of information included within the DEIR and supporting historic reports, the City asserts that the loss of historic fabric is unavoidable. PAC*SJ does not believe that the loss of a City Landmark and damage to a Historic District should ever be viewed as unavoidable.

PAC*SJ would strongly recommends that the project owner identify and secure another location for the project. Alternatively, PAC*SJ believes the circa 1913 142-150 East Santa Clara Street City Landmark and anchoring Contributor to the Commercial District should be preserved and incorporated into any new development proposal. PAC*SJ notes that this building is a prime candidate for use of historic preservation incentives – in particular Federal and State tax credits that were NOT referenced as a part of Alternative 2. Demolition of the building is a significant impact, and mitigation measures should be included to address that impact while proactively supporting the life of the Commercial District. While PAC*SJ strongly opposes projects which demolish or damage San Jose’s historic resources, any approval of the demolition of a City Landmark and contributing structure should include a significant financial mitigation requirement be paid to the City or an organization commissioned by the City for the funding of future preservation incentive programs.

Response F.16: Refer to Responses F.1 through F.15. As discussed on page 73 of Appendix A (Initial Study) of the Draft SEIR, the existing residential units were constructed prior to 1979; therefore, the property owner would be required to comply with all applicable requirements of the City's Ellis Act Ordinance, including, but not limited to, tenant noticing requirements and relocation benefits. The ultimate determination whether an alternative is actually feasible will be made by City Council as part of its findings rather than in the Draft SEIR itself, which presents the information regarding alternatives in a clear and impartial way. If the City Council elects to approve the project, a Statement of Overriding Considerations would be required to be adopted by City Council with an explanation of the specific reasons why the social, economic, legal, technical, or other beneficial aspects of the proposed project outweigh the unavoidable adverse environmental impacts and why the Lead Agency is willing to accept such impacts. This statement would be based on the Final Draft SEIR and/or other substantial evidence in the record.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the SuZaCo Mixed-Use Project Draft SEIR dated June 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Draft SEIR, Summary,
Page v

A new row is **ADDED** to the table before Impact CUL-1 as follows:

| Cultural Resources | |
|--|--|
| <p><u>Impact CUL-1:</u> <u>The project would demolish the majority of a City Landmark building located at 142-150 East Santa Clara Street, which is a historic resource under the California Environmental Quality Act (CEQA).</u></p> <p><u>[New Significant Unavoidable Impact with Mitigation Incorporated (Less Than Significant Impact)]</u></p> | <p><u>MM CUL-1.1: Documentation:</u> <u>The portions of the building that are proposed for demolition located at 142-150 East Santa Clara Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:</u></p> <ol style="list-style-type: none"> <u>1. Drawings – Prepare sketch floor plans.</u> <u>2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.</u> <u>3. Written Data – HABS written documentation in short form.</u> <p><u>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data.</u></p> <p><u>The City of San José’s Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits, whichever occurs first. All documentation shall be submitted on</u></p> |

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| | <p><u>archival paper.</u></p> <p><u>MM CUL-1.2: Salvage:</u> <u>The portions of the building at 142-150 East Santa Clara Street proposed for demolition, shall be made available for salvage to companies or individuals facilitating the reuse of historic building materials, including local preservation organizations. Noticing for salvage opportunities shall include notification in at least one newspaper of general circulation and online platforms as appropriate including at a minimum the San José Mercury News (print and online), and the City of San José’s Department of Planning, Building, and Code Enforcement’s Environmental Review website. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and include a notice on each building proposed for demolition, that is no smaller than 48 x 72 inches and that is visible from the public right-of-way. The duration of the notice for materials salvage shall be 30 days.</u></p> <p><u>The project applicant shall provide evidence of compliance with the posting requirements and duration to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City Historic Preservation Officer, prior to the issuance of demolition or grading permits, whichever occurs first.</u></p> <p><u>MM CUL-1.3: Commemoration:</u> <u>A qualified architectural historian shall create a permanent interpretive program, exhibit, or display of the history of the property at 142-150 East Santa Street including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative</u></p> |
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| | <p><u>interpretive program, exhibit, or display shall be determined in coordination with the City’s Historic Preservation Officer.</u></p> <p><u>The project applicant shall provide evidence that the commemorative interpretive program, exhibit, or display was created to the Director of Planning, Building and Code Enforcement or the Director’s designee prior to the certificate of occupancy.</u></p> |
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Draft SEIR, Summary,
Page v

The impact and mitigation numbering is **REVISED** as follows:

| Cultural Resources | |
|---|--|
| <p>Impact CUL-12: Construction activities on-site could impact previously undocumented historic-era and Native American archaeological resources, as the site is documented as being highly sensitive for historic-era archaeological resources and low to moderately sensitive for Native American archaeological resources.</p> <p>[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]</p> | <p>MM CUL-12.1: Monitoring. A qualified archaeologist, in collaboration with a Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall be present during ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping. The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) or Director’s designee of any finds during monitoring.</p> <p>MM CUL-12.2: Evaluation. Any historic-era or Native American archaeological resources identified during monitoring required by MM CUL-12.1 shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel</p> |

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| | <p>test units, hand augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the project archaeologist in collaboration with a Native American representative registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and NAHC Sacred Land File (as applicable), and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation and plan for disposition and treatment of historic-era and Native American archaeological resources shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director’s designee.</p> |
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Draft SEIR, Section 3.3.1.1,
Pages 55

A new General Plan policy is **ADDED** to the table as follows:

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| <p><u>LU-16.4</u></p> | <p><u>Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource’s building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials</u></p> |
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Draft SEIR, Section 3.3.2.1,
Page 65

The paragraph under Standard 8 is **REVISED** as follows:

The proposed project would include excavation activities which has the potential to disturb subsurface cultural resources. In accordance with General Plan policy ER-10.3, the project would comply with ~~the identified Standard Permit Condition~~ Mitigation Measures CUL-1.1 and CUL-1.2 (refer

to checklist question b) and the identified Standard Permit Conditions (refer to checklist question c) to reduce or avoid impacts to subsurface cultural resources. Therefore, the project complies with Standard 8.

Draft SEIR, Section 3.3.2.1,
Page 69

The following text and Condition of Approval are **ADDED** after the first paragraph as follows:

As mentioned previously, the building located at 130-134 East Santa Clara Street is listed in the City’s HRI as an “Identified Structure.” Per General Plan Policy LU-16.4, any development that includes demolition of a structure eligible for or listed on the City’s HRI shall be required to salvage the resource’s building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials. The project applicant would be required to implement the identified Condition of Approval below.

Condition of Approval:

The following measure shall be implemented consistent with General Plan Policy LU-16.4.

- **Salvage:** The building at 130-134 East Santa Clara Street proposed for demolition, shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director’s designee, together with the City’s Historic Preservation Officer.

Draft SEIR, Section 3.3.2.1,
Page 71

The first sentence in the paragraph under the bullet list of Rehabilitation and Adaptive Reuse: Design Principles is **REVISED** as follows:

The majority of the character-defining features of the north and east historic façades would be retained, and the proposed rehabilitation and the new construction would be developed to allow these features to be preserved and seismically strengthened and thereby remain as a visually prominent part of the East Santa Clara Street streetscape.

Draft SEIR, Section 3.3.2.1,
Page 75

The first sentence under the Significance Impact to the San José Commercial District subheading is **REVISED** as follows:

The project would retain the majority of the character-defining features of the north and east facades of the contributing building to the San José Commercial District at 142-150 East Santa Clara Street.

Draft SEIR, Section 3.3.2.1,
Page 75

A formal impact statement is **ADDED** after the subheading Significance Impact to 142-150 East Santa Clara Street:

Impact CUL-1: The project would demolish the majority of a City Landmark building located at 142-150 East Santa Clara Street, which is a historic resource under the California Environmental Quality Act (CEQA).

Draft SEIR, Section 3.3.2.1
Page 75

The following mitigation is **ADDED** after the impact statement noted above:

Mitigation Measures

The project shall implement the following mitigation measures.

MM CUL-1.1: **Documentation:** The portions of the building that are proposed for demolition located at 142-150 East Santa Clara Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:

1. Drawings – Prepare sketch floor plans.
2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
3. Written Data – HABS written documentation in short form. An architectural historian meeting the Secretary of the Interior’s Professional

Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data.

The City of San José's Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits, whichever occurs first. All documentation shall be submitted on archival paper.

MM CUL-1.2: **Salvage:** The portions of the building at 142-150 East Santa Clara Street proposed for demolition, shall be made available for salvage to companies or individuals facilitating the reuse of historic building materials, including local preservation organizations. Noticing for salvage opportunities shall include notification in at least one newspaper of general circulation and online platforms as appropriate including at a minimum the San José Mercury News (print and online), and the City of San José's Department of Planning, Building, and Code Enforcement's Environmental Review website. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and include a notice on each building proposed for demolition, that is no smaller than 48 x 72 inches and that is visible from the public right-of-way. The duration of the notice for materials salvage shall be 30 days.

The project applicant shall provide evidence of compliance with the posting requirements and duration to

the Director of Planning, Building and Code Enforcement or the Director's designee and the City Historic Preservation Officer, prior to the issuance of demolition or grading permits, whichever occurs first.

MM CUL-1.3: **Commemoration:** A qualified architectural historian shall create a permanent interpretive program, exhibit, or display of the history of the property at 142-150 East Santa Street including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative interpretive program, exhibit, or display shall be determined in coordination with the City's Historic Preservation Officer.

The project applicant shall provide evidence that the commemorative interpretive program, exhibit, or display was created to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the certificate of occupancy.

With implementation of the identified mitigation measures, the identified significant and unavoidable impact would be reduced but not to a less than significant level.

Draft SEIR, Section 3.3.2.1,
Page 76

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

In conclusion, the proposed project would have a significant, unavoidable impact on a City Landmark, but would have a less than significant impact on the San José Commercial District. With implementation of Mitigation Measures NOI-3.1 to NOI-3.3, the project would have a less than significant construction vibration impact on adjacent historic buildings.

[New Significant Unavoidable Impact with Mitigation Incorporated (Less Than Significant Impact)]

Draft SEIR, Section 3.3.2.1,
Pages 75-76

The impact and mitigation numbering is **REVISED** as follows:

Impact CUL-~~12~~: Construction activities on-site could impact previously undocumented historic-era and Native American archaeological resources, as the site is documented as being highly sensitive for historic-era archaeological resources and low to moderately sensitive for Native American archaeological resources.

Mitigation Measures

Consistent with General Plan policy ER-10.3 and the Downtown Strategy 2040 FEIR, the proposed project would implement the following mitigation measures to reduce or avoid impacts to subsurface archaeological resources.

MM CUL-~~12~~.1: **Monitoring.** A qualified archaeologist, in collaboration with a Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall be present during ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping. The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) or Director's designee of any finds during monitoring.

MM CUL-~~12~~.2: **Evaluation.** Any historic-era or Native American archaeological resources identified during monitoring required by MM CUL-~~12~~.1 shall be evaluated for eligibility for listing in the California Register of Historic

Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the project archaeologist in collaboration with a Native American representative registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and NAHC Sacred Land File (as applicable), and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation and plan for disposition and treatment of historic-era and Native American archaeological resources shall be submitted to the Director of the City of San José PBCE or Director's designee.

With implementation of the identified Mitigation Measures CUL-~~12~~.1 and CUL-~~12~~.2, the proposed project would result in a less than significant impact to subsurface archaeological resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

Draft SEIR, Section 3.6.2,
Page 105

The last sentence of the first paragraph is **REVISED** as follows:

Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed ~~residential~~commercial uses exceed ~~60~~70 dBA DNL (except in the environs of the Norman Y.

Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed ~~45~~50 dBA ~~DNL~~_{Leq(1-hr)} or less during hours of operation (~~General Plan Policy EC 1.4~~CALGreen requirements).

Appendix A, Section 4.10.1.1,
Page 58

A new sentence is **ADDED** to the first paragraph under the Municipal Regional Permit Provision C.3 subheading as follows:

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (copermittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.⁴ The RWQCB renewed the MRP on May 11, 2022 (Order No. R2-2022-0018, NPDES Permit No. CAS612008). Under Provision C.3 of the MRP, new and redevelopment projects that create or replace ~~40,000~~5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

Appendix A, Section 4.10.1.1,
Page 58-59

The paragraph under the Water Resources Protection Ordinance and District Well Ordinance subheading is **REVISED** as follows:

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Permits for well construction and destruction work, including borings 45 feet or deeper ~~most exploratory boring for groundwater exploration, and projects within Valley Water property or easements~~ are required under Valley Water's ~~Water Resources Protection Ordinance and District Well Ordinance 90-1.~~ Water Resources Protection Ordinance 90-1. Under the Valley Water's Water Resources Protection

⁴ MRP Number CAS612008

Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

Appendix A, Section 4.10.2,
Page 66

Footnote 40 is **REVISED** as follows:

⁴⁰ Santa Clara Valley Water District. Groundwater Management Plan. November ~~2016~~2021.

Appendix A, Section 5.0,
Page 111

The following reference is **REVISED** as follows:

Santa Clara Valley Water District. Groundwater Management Plan. November ~~2016~~2021.