

**Attachment A: Draft SEIR Comment Letters**

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**From:** [Hill, Shannon](#)  
**To:** [Fiona Phung](#)  
**Cc:** [Shannon George](#); [Keyon, David](#); [Garg, Tina](#)  
**Subject:** FW: Valley Water Comment on NOA: SuZaCo Mixed-Use Project Supplemental EIR  
**Date:** Thursday, July 28, 2022 10:27:46 PM  
**Attachments:** [image001.png](#)

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See below.

Thanks,

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

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**From:** Lisa Brancatelli <[LBrancatelli@valleywater.org](mailto:LBrancatelli@valleywater.org)>  
**Sent:** Tuesday, July 26, 2022 3:12 PM  
**To:** Hill, Shannon <[Shannon.Hill@sanjoseca.gov](mailto:Shannon.Hill@sanjoseca.gov)>  
**Cc:** Colleen Haggerty <[chaggerty@valleywater.org](mailto:chaggerty@valleywater.org)>  
**Subject:** RE: NOA & Comment Period for the SuZaCo Mixed-Use Project Supplemental EIR

[External Email]

Hello Shannon,

### Comment A.1

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 4<sup>th</sup> 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](https://s3.uswest2.amazonaws.com/assets.valleywater.org/2021_GWMP_web_version.pdf).

#### **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](mailto:LBrancatelli@valleywater.org). Please reference Valley Water File No. 34527 in future correspondence regarding this project.

Thank you,

**LISA BRANCATELLI**

ASSISTANT ENGINEER II (CIVIL)  
Community Projects Review Unit  
[lbrancatelli@valleywater.org](mailto:lbrancatelli@valleywater.org)  
Tel. (408) 630-2479 / Cell. (408) 691-1247  
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Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

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

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**From:** Hill, Shannon <[Shannon.Hill@sanjoseca.gov](mailto:Shannon.Hill@sanjoseca.gov)>  
**Sent:** Sunday, June 26, 2022 11:38 PM  
**To:** Hill, Shannon <[Shannon.Hill@sanjoseca.gov](mailto:Shannon.Hill@sanjoseca.gov)>  
**Subject:** NOA & Comment Period for the SuZaCo Mixed-Use Project Supplemental EIR

**NOTICE OF AVAILABILITY OF  
A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR)  
AND PUBLIC COMMENT PERIOD FOR THE  
SUZACO MIXED-USE PROJECT  
(STATE CLEARINGHOUSE [SCH] NO.: 2021080463)**

The SuZaCo Mixed-Use Project proposes to 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 a four- to six-story mixed-use, U-shaped building (approximately 75,251 square feet). The building would be six stories at the corner of the South Fourth Street and East Santa Clara Street and four stories at the portion of the building facing East Santa Clara Street. The maximum height to the top of the roof parapet would be 85 feet. The building would consist of ground floor retail/restaurant space and one level of below-grade retail (totaling approximately 11,790 square feet), while the remaining floors would consist of office space (totaling approximately 63,461 square feet). Amenity space with seating areas is proposed on the roof. No on-site parking spaces are proposed; however, off-site parking is proposed at the Fourth Street parking garage at 88 South Fourth Street, approximately 400 feet southeast of the project site. The proposed project site has a general plan land use designation of Downtown and is located within the Downtown Primary Commercial (DC) zoning district. The project site is also within the Downtown Employment Priority Area overlay. In addition, two of the three project parcels are located within the San José Downtown Commercial National Register Historic District.

**Location:** 142-150 East Santa Clara Street, 130-134 South Fourth Street, and 17-19 South Fourth Street. The site is bounded by East Santa Clara Street to the north, North Fourth Street to the east, a surface parking lot associated with Hotel Clariana and residential uses to the south, and commercial buildings to the west.

**APNs:** 467-23-034, 467-23-035, and 467-23-037

**Council District:** 3

**File Nos.:** H21-026, ER21-085, and HP21-005

The proposed project will have potentially significant environmental effects with regard to air quality, biological resources, cultural resources (historic and archaeological), hazards and hazardous materials, land use and planning, noise and vibration, and tribal cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether or not the project is proposed on any hazardous waste and substances sites included on the Cortese List developed in compliance with Section 65962.5 of the Government Code. The project location is not contained in the Cortese List of toxic sites.

The Draft SEIR and documents referenced in the Draft SEIR are available for review online at the City of San José's "Active EIRs" website at [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs) and are also available at the following locations:

Department of Planning, Building, and Code Enforcement 200 East Santa Clara St., 3 <sup>rd</sup> Floor San José, CA 95113 (408) 535-3555	Dr. Martin Luther King Jr. Main Library 150 E. San Fernando St. San José, CA 95112 (408) 277-4822
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The public review period for this Draft SEIR begins on **Monday, June 27, 2022 and ends on Thursday, August 11, 2022**. Written comments must be received at the Planning Department by **5:00 p.m. on Thursday, August 11, 2022**, in order to be addressed as part of the formal SEIR review process. Comments and questions should be referred to Shannon Hill, Environmental Project Manager in the Department of Planning, Building and Code Enforcement at 408-535-7872, or via e-mail at [shannon.hill@sanjoseca.gov](mailto:shannon.hill@sanjoseca.gov) or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement above (send to the attention of Shannon Hill). For the official record, **please reference File Nos. H21-026/ER21-085**.

Following the close of the public review period, the Director of Planning, Building, and Code Enforcement will prepare a Final SEIR that will include responses to comments received during the review period. At least ten days prior to the public hearing on the SEIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the SEIR during the public review period.

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

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August 10, 2022

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

Attn: Shannon Hill  
By Email: [Shannon.Hill@sanjoseca.gov](mailto:Shannon.Hill@sanjoseca.gov)

Dear Shannon,

### **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/Volumell\\_Appendix%2520B\\_Project%2520Plans%2520and%2520Profiles\\_feb20\\_2018.pdf](https://www.vta.org/sites/default/files/documents/Volumell_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.

### **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/Volumell\\_Appendix%2520D\\_Cultural%2520Resources\\_feb20\\_2018.pdf](https://www.vta.org/sites/default/files/documents/Volumell_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.

**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.

**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 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](mailto:lola.torney@vta.org).

Sincerely,



Lola Torney  
Transportation Planner III

SJ2116

*Paul Soto, the Horseshoe, asserted that developers use the HLC as a way to legitimize their projects and he expressed a disagreement about that. He noted the importance and legitimacy of citizen work and input. Mr. Soto discussed redlining and the need to refer to the 1939 map. He asserted there were many maps produced by the City of San Jose and those redlined areas experienced exponential wealth as a result.*

**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. Ms. Peak Edwards clarified that the project includes an application for a Pistoric Preservation Permit which will be agendized for HLC review probably before the end of the year.*

*Mike Sodergren, PAC\*SJ, commented that PAC\*SJ would provide written comments within the comment period, but he encouraged the HLC to provide comments because the project involves integral elements of the historic district. He asserted there is insufficient consideration of cumulative impacts and there are no mitigation measures for the demolition.*

*Chairman Boehm closed the public comment and called for Commissioner questions.*

*Vice Chairman Raynsford asked for clarification that only two walls of the building are proposed to remain. Ms. Peak Edwards confirmed this is the case and clarified that two additional buildings are proposed for demolition - one being a non-contributing building within the historic district and a building outside the historic district that was determined to be ineligible as a historical resource under CEQA.*

*Ms. Peak Edwards noted if the HLC elected to comment on the EIR, HLC comments should address whether the EIR sufficiently identifies and analyzes the possible impacts of the project and ways which the significant effects of the project might be avoided or mitigated, and the sufficiency and appropriateness of mitigation measures and alternatives described.*

*Commissioner Ayala inquired about the possibility to extend the comment period since there are two new commissioners. David Keyon, Principal Planner of the City's environmental review team responded that a written request (typically via email) could be submitted to the Director of Planning, Building and Code Enforcement for consideration. He noted the 45-day review period is a standard requirement under CEQA and added that the EIR is available on the City's website. Chairman Boehm noted that an extension could impact other agencies, commissions and the project schedule. Daniel Zazueta clarified that an extension would need to be based on serious concerns, rather than new commissioners on the HLC that have not previously had the opportunity to review the project. Ms. Peak Edwards noted any commissioner could prepare and submit a comment letter as a community member.*

*Commissioner Ayala commented that she did not want to be included in a letter because she had not been involved in prior project review and would not have time to review the EIR prior to the end of the comment period.*

*Vice Chairman Raynsford commented that preservation alternative 2 (7.3.13) in the EIR appears to be dismissed too easily because the building could be reused as an office building and the reasoning presented is not clear.*

*The HLC elected not to formally comment as a commission on the EIR.*



August 5, 2022

Department of Planning, Building and Code Enforcement  
Attention: Shannon Hill, Environmental Officer  
408-535-7872

[Shannon.Hill@sanjoseca.gov](mailto:Shannon.Hill@sanjoseca.gov)

200 E. Santa Clara Street, 3<sup>rd</sup> Floor

San José, CA 95113

*Sent via email*

RE: Draft Environmental Impact Report

APNs: 467-23-034, 467-23-035, and 467-23-037

SuZaCo Mixed-Use Project

**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.

**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.

Paul Boehm  
Historic Landmarks Commission, Chair

**FW: SCVAS comments on DSEIR SuZaCo Mixed-Use**

Hitchens, Cort <Cort.Hitchens@sanjoseca.gov>

Wed 8/10/2022 1:23 PM

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

Hi Shannon,

Just received the below email, forwarding it to you.

Thank you,

**Cort Hitchens | Planner II**

City of San José

Planning, Building & Code Enforcement

200 E. Santa Clara Street, 3rd Floor

San José, CA 95113

Direct: [\(408\) 794-7386](tel:(408)794-7386)

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**From:** Shani Kleinhaus <shani@scvas.org>

**Sent:** Wednesday, August 10, 2022 1:13 PM

**To:** Hitchens, Cort <Cort.Hitchens@sanjoseca.gov>; Environmental Assistant <eac@scvas.org>

**Subject:** SCVAS comments on DSEIR SuZaCo Mixed-Use

[External Email]

Dear Mr. Hitchens,

**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.

**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

**Comment E.3** reflect a biologically relevant timeframe of no more than 15 days.

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,

*Shani Kleinhaus*

-----  
 Shani Kleinhaus, Ph.D.  
 Environmental Advocate  
 Santa Clara Valley Audubon Society  
 22221 McClellan Rd.  
 Cupertino, CA 95014  
 650-868-2114  
[advocate@scvas.org](mailto:advocate@scvas.org)



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**PRESERVATION ACTION  
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History Park  
1650 Senter Road  
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Phone: 408-998-8105  
[www.preservation.org](http://www.preservation.org)

August 11, 2022

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

VIA EMAIL ([Shannon.hill@sanjoseca.gov](mailto:Shannon.hill@sanjoseca.gov))

**RE: SuZaCo Mixed Use (H21-026) DEIR PAC\* SJ COMMENTS**

**Comment F.1**

Dear Ms. Hill,

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.

**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. 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

**Comment E.3**

**PAC\* SJ BOARD**

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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.

#### **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.

#### **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.

#### **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.”

#### **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.

#### **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.

#### **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.

#### **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.

#### **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

#### **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.

### **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?

**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.

**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 3<sup>rd</sup> Street, all of the buildings on the block between 4<sup>th</sup> and 3<sup>rd</sup> are 1-3 Stories in height. The street-wall is not at ~85-100’

#### **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



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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.

Sincerely,

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Cc: Historic Landmarks Commission