

First Amendment to the Draft EIR

1881 West San Carlos Project

File Nos.: BURBANK 44/C20-011/CP20-020/T20-016



Prepared by
CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with
50 YEARS
EST. 1972
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SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Environmental Impact Report (EIR), constitute the Final EIR for the 1881 West San Carlos project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, the Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR 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 EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- 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 EIR and all documents referenced in the Final EIR are available for review on the City's website: <https://www.sanjoseca.gov/active-eirs/>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the 1881 West San Carlos project, dated June 2022, was circulated to affected public agencies and interested parties for a 46-day review period from July 15, 2022 through August 30, 2022. The City undertook the following actions to inform the public of the availability of the Draft EIR:

- The Notice of Availability (NOA) of Draft EIR was published on the City's [website](#) and in the San José Mercury News;
- The NOA of the Draft EIR was mailed to neighboring cities, tribal contacts, organizations, and individual members of the public who had indicated interest in the project or requested notice of projects in the City;
- The NOA was sent to members of the public who signed up for City notices via *Newsflash*;
- The Draft EIR was delivered to the State Clearinghouse on July 15, 2022, which forwarded the Draft EIR to various governmental agencies and organizations, (see *Section 3.0* for a list of agencies and organizations that received the Draft EIR); and
- Copies of the Draft EIR were made available on the City's [website](#).

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR 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 EIR via the State Clearinghouse:

- California Air Resources Board
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Transportation, District 4
- California Native American Heritage Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Department of Toxic Substances Control

Copies of the NOA for the Draft EIR were sent by email to Native American Tribal Contacts, adjacent jurisdictions and organizations, businesses, and individuals who have requested all City notices.

SECTION 4.0 RESPONSES TO DRAFT EIR 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 EIR.

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. County of Santa Clara Roads and Airports Department (August 2, 2022)

Comment A.1: The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020). We submit the following comments:

- The project location has frontage along County maintained roads. It is recommended that the City annex roads within a ½ mile radius of the project site.
- Boston Ave and Brooklyn Ave are narrow streets with an existing 50 ft. ROW. What mitigation measures are recommended to accommodate traffic circulation and queuing of this project in addition to the TDM measure?

Response A.1: All three street frontages are within the existing City boundaries. The annexation boundary, which only includes the private properties, has been certified by the County Surveyor.¹ Non-CEQA transportation issues (e.g., local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues, parking, and recommend needed transportation improvements) are discussed and included for information purposes only under Section 3.17.3 of the Draft EIR. As discussed in Appendix G of the Draft EIR, site access was analyzed to determine the adequacy of the site's access points with regard to the following: traffic volume, delays, vehicle queues, geometric design, and corner sight distance. On-site vehicular circulation was reviewed in accordance with generally accepted traffic engineering standards and transportation planning principles. The traffic report includes site access and on-site circulation improvement recommendations. Mitigation measures were not required. This comment does not identify new or greater environmental impacts under CEQA and, therefore, no further response or recirculation of the EIR is required.

Comment A.2:

- Did the study cover potential speeding and cut-through traffic within the Burbank community?
- It appears the recommended TDM measure to mitigate the identified significant VMT impact will not be sufficient to address project traffic impacts because San Carlos appears to be congested during peak hours without the project.

Response A.2: An analysis of potential speeding and cut-through traffic was not included in the traffic analysis. This analysis is not required as cut-through traffic and speeding are not environmental impacts under CEQA. The Transportation Analysis was prepared in accordance with CEQA requirements and included the project's vehicle miles traveled (VMT) pursuant to the City's adopted Transportation Analysis Policy (City Council Policy 5-1). This Policy

¹ Koenig, Jeremy. Deputy County Surveyor, County of Santa Clara Planning and Development Office of the County Surveyor. Personal Communication. August 27, 2021.

implements California Senate Bill 743, which required Lead Agencies to use VMT or a similar metric to evaluate transportation impacts under CEQA rather than congestion-based metrics such as Level of Service by July 1, 2020. The Transportation Analysis also included a Local Transportation Analysis which showed that all of the study intersections were projected to operate at acceptable levels of service based on the City's intersection operations standard of LOS D, under background conditions and background plus project conditions during both the AM and PM peak hours. As discussed on pages 179-180 of the Draft EIR, the project would exceed the VMT per the employee threshold of 12.21 by 5.2 percent; however, with implementation of Mitigation Measure TRANS-1.1 (preparation of a transportation demand management program), the project VMT would be reduced to 11.79 per employee which is below the threshold of 12.21 per employee resulting in a less than significant impact.

Comment A.3:

- The project would be required to comply with the following measure as a Condition of Approval:
 - Any street trees proposed along the public right-of-way (overseen by the Department of Transportation) shall be required to be maintained so that the vision of drivers exiting project driveways would not be obstructed.
 - Red curb equal to a car length shall be painted on both sides of the driveway to ensure vehicles exiting project driveways have a sight distance of 200 feet along Brooklyn Avenue and Boston Avenue.
- The project should also be required to ensure the SB approach at the stop-controlled intersection of Brooklyn and San Carlos has an adequate sight distance of 250 feet along San Carlos.

Response A.3: The Conditions of Approval, listed on page 180 of the Draft EIR, are correctly identified in this comment. As discussed in Appendix G of the Draft EIR, adequate site distance will be required at the project driveways along Brooklyn Avenue and Boston Avenue. No project driveways are proposed on West San Carlos Street.

B. Department of Toxic Substances Control (August 29, 2022)

Comment B.1: The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for the 1881 West San Carlos Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. The Hazards and Hazardous Materials section of the EIR states that a Phase I Environmental Site Assessment (ESA) was performed for the Project site. The Phase I ESA concluded that

the structure previously located at the rear of the 1881 West San Carlos Street building is listed in the EDR Historic Cleaners database due to its former use as a laundromat in 1950, but available documentation did not identify that space was used for dry cleaning purposes. It was also determined that the site was planted with orchards in 1953, which causes the potential for impacts onsite due to residual agricultural chemicals.

The Phase I ESA indicated that four off-site sites of concern were determined to warrant additional discussion in the Phase I ESA. The first location is an off-site facility located at 32 Brooklyn Avenue that is registered as a non-generator of hazardous waste under the Resource Conservation and Recovery Act Non-Generator database. The second is a site located on the 1886 West San Carlos Street. It is listed in multiple regulatory databases for removal and off-site disposal of hazardous substances, as an auto wrecking/miscellaneous simple facility, and as a hazardous waste generator facility. The third off-site facility is located at 1915 West San Carlos Street and is listed under multiple regulatory databases identifying it as a registered hazardous waste generator and chemical storage facility with reported violations, a hazardous waste generator, and an auto wrecking/miscellaneous simple facility.

The fourth off-site facility is located at 30 Cleveland Avenue and is listed under multiple regulatory databases. It was occupied by dry cleaning tenants from 1966 to 1977. Per the EIR, the Regional Water Quality Control Board's (RWQCB's) GeoTracker records indicate that the northeastern corner of the West San Carlos Street and Cleveland Avenue intersection formerly contained one 2,000-gallon UST that was used for storage of gasoline and one 7,500-gallon UST that was used for storage of perchloroethylene or petroleum distillates. Low concentrations of contaminants were detected in site soils and due to the lack of PCE in samples, the RWQCB determined that the agency did not need to open a case.

The Phase I ESA concluded that based on the prior removal of the USTs, soil and groundwater sampling results, releases relative to groundwater flow, and current regulatory status, the site does not represent a significant environmental concern.

Aside from the RWQCB's involvement pertaining to USTs at the northeastern corner of the West San Carlos Street and Cleveland Avenue, the EIR does not identify an appropriate agency that has provided regulatory oversight and concurrence that the proposed project is protective of human health and the environment. The EIR states that the Project site and four offsite locations do not represent significant environmental concerns. However, it does not identify a qualified agency under which these determinations were made. A regulatory agency such as DTSC or RWQCB, or a qualified local agency that meets the requirements of [Assembly Bill 304 \(AB304\)](#), should provide regulatory concurrence that the site is safe for construction and the proposed use.

Response B.1: The commenter has correctly summarized the on-site and off-site sources of contamination discussion from the Draft EIR. As mentioned in the Phase I Environmental Site Assessment (ESA) prepared for the site, local and State agencies, such as environmental health departments, fire prevention bureaus, and building and planning departments were contacted and a search of publicly available information from federal, State, tribal, and local databases was completed to identify any current or previous reports of

hazardous substance use, storage, and/or unauthorized releases that may have impacted the subject property. The Phase I ESA concluded that none of the sites that warranted further discussion were determined to represent a significant environmental concern. Other than the off-site facility located at 30 Cleveland Avenue, no sites were identified nearby and/or up- to cross-gradient with cases involving contaminated groundwater or soil that may impact the project site. As discussed on pages 109-110 of the Draft EIR, the 30 Cleveland Avenue site does not represent a significant environmental concern because 1) the USTs were removed, 2) soil and groundwater sampling results were below levels of regulatory concern, 3) release relative to groundwater flow, 4) and current regulatory status (case closed). Therefore, the City has determined that regulatory oversight is not required.

Comment B.2: 2. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the project described in the EIR.

Response B.2: The commenter has provided a recommendation for lead soil sampling due to the potential for ADL-contaminated soils. On-site sources of lead contamination have not been identified that represent a significant environmental concern as discussed on page 111 of the Draft EIR. The applicant does not propose construction work along the roadways or the medians.

Comment B.3: 3. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with [*DTSC's 2006 Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.*](#)

Response B.3: As discussed on page 112 of the Draft EIR, the project would be required to implement the identified Standard Permit Conditions consistent with Occupational Safety and Health Administration (OSHA) requirements to reduce impacts to construction workers and neighbors due to the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP). The project shall be screened for the presence of Polychlorinated biphenyls (PCBs) and the project shall also be required to follow federal and State laws if the on-site buildings do contain PCBs that exceed threshold limits (refer to the

Standard Permit Conditions listed on page 113 of the Draft EIR). Consistent with the Standard Permit Conditions, any hazardous materials would be removed from the site during project construction and would be transported and disposed of in accordance with all State and local regulations. The project does not propose a school use; therefore, the DTSC's 2006 Interim Guidance Evaluation of School Sites would not be applicable to the project.

Comment B.4: 4. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [*DTSC's 2001 Information Advisory Clean Imported Fill Material*](#).

5. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [*Interim Guidance for Sampling Agricultural Properties \(Third Revision\)*](#).

Response B.4: As mentioned on page 108 of the Draft EIR, per General Plan Policy EC-7.5, on development and redevelopment sites, all sources of imported fill shall be required to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

While the project area was planted with orchards in 1953, as mentioned on page 108 of the Draft EIR, AEI Consultants, the City's consulting firm that conducted the Phase I Environmental Site Assessment, clarified that the Phase I ESA found no evidence of prior agricultural uses at the site, including in the 1950s.² After review of the aerial photographs from 1950 and 1956, AEI Consultants determined that the site was developed with the same commercial/residential-type buildings and that the potential for residual agricultural contamination, if any, would be minimal. Text revisions have been included in Section 5.0 of this document for further clarification. This comment does not identify new or greater environmental impacts under CEQA and, therefore, no further response or recirculation of the EIR is required.

C. Valley Water (August 29, 2022)

Comment C.1: Valley Water has reviewed the Draft Environmental Impact Report (EIR) for the 1881 West San Carlos Project, received on July 15, 2022. Valley Water has the following comments on the subject Draft EIR document:

² Salcido, Megan. AEI Consultants. Personal communications. October 6, 2022.

1. Section 3.10.1.1- Municipal Regional Permit Provision C.3 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 3.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the text 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 3.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the language under this section 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 3.10.1.4(d) Project Impacts, describes the project as located within the Lexington Dam inundation zone; however, the project site is located just outside of the James J. Lenihan Dam on Lexington Reservoir failure inundation zone. The language in the document should be revised to note the project site is not within an inundation zone of any dam.
5. Section 3.17.1.2- Existing Conditions (Bicycle Facilities), states the Los Gatos Creek Trail is located within the project area; however, the Los Gatos Creek Trail is approximately 2 miles west of the project site. The document should be revised for accuracy.
6. Section 3.19.1.4(a)- Project Impacts (Storm Drainage System), the net reduction of impervious surfaces is listed as 7,340 sq. ft. in the section and as 7,340 sq. ft. in Table 3.10-1 on page 200. Please revise the document for accuracy.

Response C.1: The text in the Draft EIR has been revised with the information provided above (see Section 5.0 of this document for the text revision). As noted in the Transportation Analysis (Appendix G of the Draft EIR), the Los Gatos Creek Trail is located in the project area and a connection to the northern segment of the Los Gatos Creek trail system is located along San Carlos Avenue, approximately 1.4 miles east of the project site. New text has been added to the Draft EIR to provide clarification (refer to Section 5.0 of this document).

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

D. Paul Boehm (August 5, 2022)

Comment D.1: The Historic Landmarks Commission reviewed the proposed project to demolish and develop 1881-1889 West San Carlos at our November 3, 2021 meeting. In addition to the comments made at that meeting, I would like to re-iterate my opinion and provide a clear overview of why the project should be rejected as proposed. It is important to clarify that I write as one member of the Commission; these views are not all held by the other commissioners.

The properties 1881-1889 West San Carlos Street are historic and worthy of preservation. These

properties constitute a substantial portion of the “Antiques Row” that has been in business for many years and continues to be in business. Many of the buildings date from the Agricultural era of the early 20th century, when they flourished as commercial uses such as bakeries, groceries, restaurants, and clothing stores. They are significant because they have not suffered alterations as many of the other historic buildings of the central portion of San Jose. It is important to include 1881 West San Carlos as it is similar to properties in the EIR. The DPR forms list 1891 and 1895 West San Carlos Street as being built in 1925. The properties are deserving of Candidate City Landmark status, and I propose that they be agendized at an upcoming Historic Landmarks Commission meeting.

Response D.1: As evaluated on pages 68 through 72 of the Draft EIR, the City of San José determined that the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José’s Historic Resources Inventory (HRI) as Candidate City Landmarks. The impacts of the project to these resources are discussed on pages 76 through 78 of the Draft EIR. The commenter asserts that 1881 West San Carlos Street (corner of Boston Avenue and West San Carlos Street) should also be considered eligible for listing in the HRI. The historic resource evaluation is discussed on pages 65 through 66 of the Draft EIR. The historic resources consultant determined that the building does not meet the criteria for selection for the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR). The building does not meet the City’s evaluation criteria for a Candidate City Landmark and is therefore, not eligible for listing in the City of San José’s HRI. The City concurs with this conclusion because the 1881 West San Carlos Street building was constructed in 1955 and does not represent the expansion of the retail district along West San Carlos Street after World War I in the 1920s and 1930s and prior to the rapid industrialization of San Jose in the Post World-War II era, which is what sets 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street apart as the few remaining commercial buildings on West San Carlos Street that represent the early twentieth-century development of Burbank. The commenter also proposed listing the eligible properties in the HRI. Properties that have been determined to be eligible as a Candidate City Landmark are treated the same purposes of CEQA as properties that have been listed as eligible in the HRI. Listing the properties in the HRI is an independent action and would not result in a change to the historic resources analysis in the Draft EIR or the adequacy of the DEIR.

Comment D.2: City staff determined that 1883-1887 and 1891-1895 meet the designation for Candidate City Landmarks under Criteria 1, 4 and 5. I concur with this finding. In Section 13.48.110 of San Jose Municipal Code, the criteria for designation of landmarks includes these criteria.

Criteria 1

The character, interest and value are that of a commercial area in the 1920s and beyond. It is an example of the style of architecture built for working people in those early days of the 20th century.

The fact that it was built in conjunction with the interurban trolley line tracks on West San Carlos is of historic consequence in that the interurban was heavily used during the first decades of the 20th century. What was once too far to walk became a quick trolley ride from home for services and household goods. The trolley liberated women in particular who could travel from home without depending on their husbands to drive them. The buildings in the project meet the criteria for designation as landmarks because the buildings are grouped together and maintain a high degree of integrity for use and for style of architecture.

Criteria 4

The properties in question also were of cultural and economic significance to the people who worked in agriculture or canneries and were of moderate economic means. Some of the businesses were owned by Italian immigrants, such as Costantino Maggi and Guseppe and Adele Prandi. The buildings exhibit a high degree of coherence, reflective of the working class neighborhood of Burbank. Other blocks along West San Carlos do not have such coherence; it is important to save the block that contains similar vernacular architecture.

Criteria 5

Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style. These buildings contain some elements of the Art Deco style of the 1920s and 1930s, and the store fronts are typical of the vernacular style of the early 20th century. Burbank is a vestige of old San Jose and Santa Clara Valley, one of the few remaining parts of town that are street frontages, with small shops and quaint buildings. This section of San Carlos can be championed as “old San Jose” and given resources to retain its homespun character as Lincoln Avenue does for Willow Glen.

Re-using the properties in a larger development can be considered if the historic properties are retained. A decision to bolster their foundations and build onto rather than demolish the current properties is what I advocate. Burbank as an incorporated area outside of San Jose will lose one its last remnants of its history if the properties are annexed to the city of San Jose and the buildings are demolished. To this end, I propose the that these properties be annexed and protected as historic resources as designated city landmarks.

Response D.2: The commenter agrees with the City’s determination that the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José’s HRI as Candidate City Landmarks under Criterion 1, 4, and 5. The commenter also provides an assessment, in their opinion, of how the 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street properties comply with the City of San José’s Historic Landmark Designation Criterion 1, 4, and 5. The commenter suggests that the properties should be protected as designated city landmarks and should be reused as part of a larger development. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

E. Preservation Action Council of San José (August 26, 2022)

Comment E.1: The Preservation Action Council of San Jose (PAC*SJ) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 1881 West San Carlos Project, located between Brooklyn Avenue and Boston Avenue north of West San Carlos Street, within the West San Carlos Urban Village Mixed Use Commercial Character Area.

This area is historically recognized as the distinctive community of Burbank, with residential development connected to the downtown after the construction of the San José-Los Gatos Interurban Railroad, and expansion of the distinct retail district occurring after World War I and into the late 1920s. While the Interurban Railroad was removed during the post-WWII period of rapid industrialization, commercial development patterns have continued in Burbank, with many small businesses catering to the families in, and beyond, this unique neighborhood.

Response E.1: This comment provides information about the project area and does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

Comment E.2: 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 project would not be consistent with the purpose and intent of this policy.

West San Carlos Urban Village Plan

The character defining features of West San Carlos Street are discussed in Chapter 5: Urban Design Concept of the West San Carlos Urban Village Plan: “West San Carlos Street has many unique elements that define its character and sense of place. Most noteworthy is a collection of auto-oriented, mid-century signage and key destinations such as the eclectic shops of Antique Row. Recent development also contributes to the evolving character along West San Carlos Street. As future development opportunities arise along the corridor, it will be important to integrate private development and public investment to achieve a vibrant Urban Village that builds on the preferred existing character in keeping with these character defining elements.” New development should avoid demolition and instead seek to adaptively re-use the “unique elements that define its character and sense of place.”

Response E.2: . Creating urban villages is the fifth of 12 major strategies outlined in the [Envision San José 2040 General Plan](#), which establishes specific employment and residential growth capacities for all urban villages. The urban village concept concentrates density with a mix of employment, retail, and residential uses to support transit use, bicycling, and walking. To meet this planned growth, the San José City Council must balance many goals, policies and guidelines. The project-specific impacts on

the Candidate City Landmarks are analyzed and disclosed in the Draft EIR. Four preservation alternatives were discussed on pages 212 through 220 of the Draft EIR. Preservation Alternative 2 would preserve both historic buildings on-site and would not result in a significant project-level or cumulative impacts to cultural resources. In addition, this alternative would meet all project objectives, except objectives 1 and 6, but this alternative would result in the development of 20 dwelling units compared to the 61 dwelling units proposed under the project. 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 environmental benefits of the 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.

Any development that includes demolition of a building 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 consistent with General Plan Policy LU-16.4. As discussed under Mitigation Measures CUL-1.1 and CUL-1.2, the documentation and relocation or salvage and commemoration, including the creation of a permanent interpretive program, exhibit, or display of the history, of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street would be required if the City Council approves the project since the City has determined that these buildings are eligible for listing in the City's HRI as Candidate City Landmarks.

Comment E.3: Envision San Jose 2040 General Plan

The Envision San Jose 2040 General Plan acknowledges the importance of historic resources in the Land Use and Transportation chapter: "The preservation of appropriate remnants of a city's past provides multiple benefits important to the health and progress of the city. Historical resources: Are instructive, telling the story of a community's past; Provide a sense of civic identity and unique character; Are typically an interesting and pleasing aesthetic in the urban environment; Can generate economic advantage for a property or neighborhood; Give a community a sense of permanency."

Several policies address the re-use of historic fabric in new development, including LU-13.3: "For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas."

While the DEIR does not reference LU-13.3, it does reference CD-1.8: "Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building

footprints, to promote pedestrian activity through the City.” We would point out that re-use of historic fabric that is pedestrian-scaled, such as antiques row, would promote pedestrian activity in an attractive street presence.

Response E.3: Note that General Plan Policy LU-13.3 is listed on page 62 of the Draft EIR under the General Plan policies. This General Plan Policy speaks to landmark structures and does not specify its application to designated or candidate landmark buildings. As outlined in Response E.2, the San José City Council must balance many goals, policies and guidelines. It can be difficult for a project to conform with every City goal and policy and such consistency is not required of the decision-maker. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1510-1511.) 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 environmental benefits of the 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.

Comment E.4: Cultural Resource Evaluations

PAC*SJ appreciates the City’s independent evaluation and conclusion that of the four buildings on the project site, the circa 1925 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street commercial street front buildings are Historical Resources, eligible for listing in the City’s Historic Resources Inventory (HRI) as Candidate City Landmarks. These are two of a few remaining commercial buildings on West San Carlos Street that represent the early 20th century development of Burbank, prior to the rapid industrialization of San José in the Post World-War II era. PAC*SJ concurs that their architecture retains enough integrity to represent the era of history and the people that lived in the Burbank community in the early 20th century.

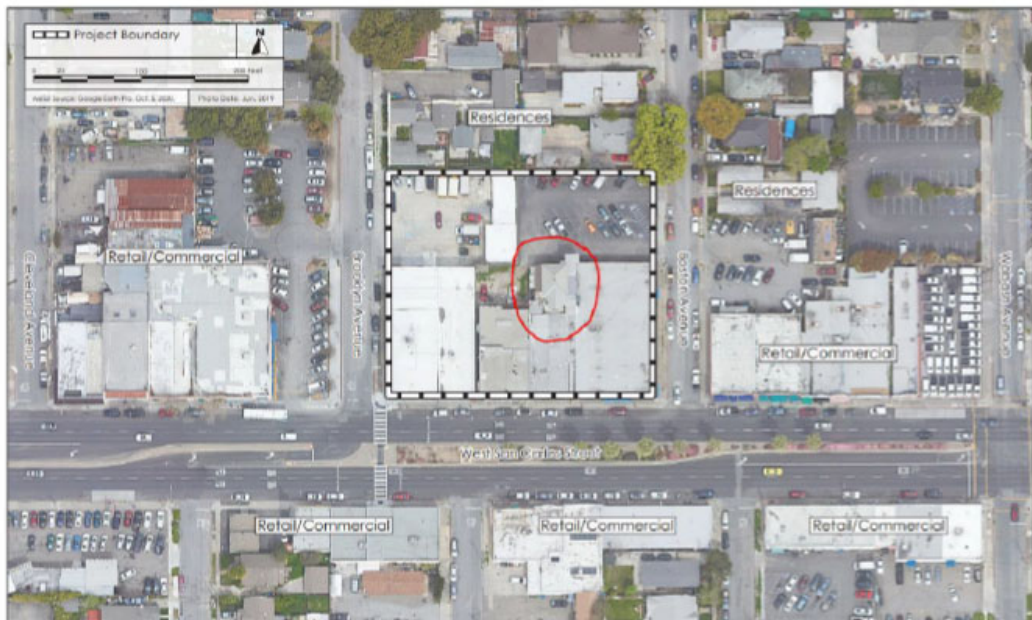
For clarity, the eligibility language (p.68 and p.70) should be revised as follows: “In conclusion, in the opinion of Archeological Resource Management the property is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San José’s HRI as a Candidate City Landmark.

Response E.4: The commenter is correct that the City concluded that the 1883-1887 West San Carlos Street and the 1891-1895 West San Carlos Street buildings are eligible for listing in the City’s HRI as Candidate City Landmarks. As noted on page 76 of the Draft EIR, the Historic Resource Evaluation prepared by Archeological Resource Management concluded that none of the buildings on-site are eligible for listing on the NRHP, CRHR, or in the San José HRI as a Candidate City Landmark. An explanation of the difference in expert opinion between the City of San José and Archeological

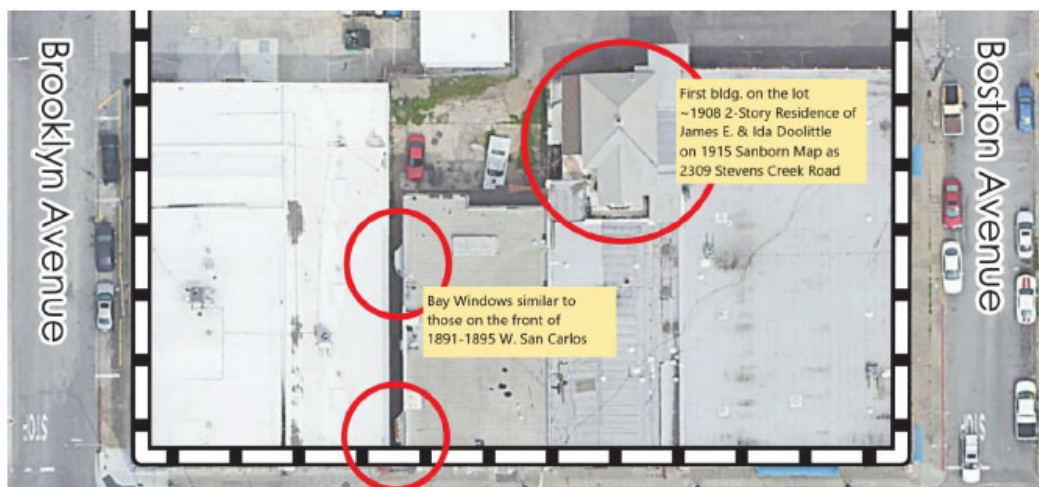
Resource Management is provided on page 76 of the Draft EIR. Therefore, the commenter's suggested text revision was not incorporated.

Comment E.5: Please note the following satellite photos of the project site. The EIR notes that there is a residence to the rear of the commercial property at 1883-1887 W. San Carlos, and asserts that it is connected to the front, "entirely obscuring" it from view. A photo of the building from the rear is provided on page 8 of Archeological Resource Management's 9/7/21 historic report, and the report does note that it was the first building on the lot (preceding the commercial buildings by 17-years). The high resolution Maxar Technologies' view of the building clearly evidences (at 400x magnification) that the front of the building is not in fact connected to the commercial building. Access to the Western side of the building also seems likely. PAC*SJ did not have access to the building but believes that the façade of the front of the building, and perhaps the western side and rear remain largely unaltered and should be properly evaluated for its historic integrity when considering mitigation measures. PAC*SJ requests that the integrity of this building be assessed as a part of an assessment of relocation alternatives described in the EIR's Alternatives Analysis.

Please also note the satellite view of the two bay windows on the western side of 1891-1895 commercial building, appear to be the same shape and size as the bay windows on the front of that building. PAC*SJ respectfully requests that this be recorded within a final EIR and retained should Project Alternative #2 be considered for the Project.



West San Carlos U...pdf



Response E.5: . The house located at the rear of the commercial building at 1883-1887 West San Carlos Street was recorded by Archaeological Resources Management (ARM) in 2021. As noted in the Department of Recreation Forms (DPRs) in Appendix C of the Draft EIR, the construction date of the rear residence was determined by a visual evaluation and by the County of Santa Clara Appraiser’s records. The Historic Resource Evaluation states that “most of the distinguishing features of the front façade of the residence have been entirely obscured by its attachment to the commercial building (1883-1887 West San Carlos Street property), leaving only the roofline visible”.

As shown in the 1932 Sanborn map (Photo 14) and discussed under *B6 of the DPR form, the rear addition appears to be connected to the 1883-1887 West San Carlos Street property. Refer to pages 67-69 of the Draft EIR for an analysis of the property. The Historic Resource Evaluation evaluated the potential significance of the single-family residence on the property

constructed circa 1908 which was occupied by James E. Doolittle and Ida Doolittle by 1911 and in 1920. By 1925, when the commercial building was constructed along West San Carlos Street, the property was owned by John and Cornelia Klitsch and then sold in 1927 to Constantino Maggi and his wife Georgia. Maggi sold the property to Guiseppe and Adele Prandi in 1934 and the family retained ownership until 1968. It was determined that the property does not qualify as potentially eligible for listing under federal, state, or local criteria because it is not associated with any known significant historical events or persons and is not a significant example of the work of an architect or master builder or elements of architectural design, detail, materials or craftsmanship. Because the building was determined not to have any significant associations or attributes, historic integrity is not evaluated as there is no significance to convey. Therefore, it is not relevant whether or not the house is physically connected to the front commercial building.

If the building were to be relocated, the project applicant or third party would hire an historic preservation architect and a structural engineer to provide a written description and visual illustrations which would include the character-defining physical features of the resource that convey its historic significance and must be protected and preserved (refer to Mitigation Measure CUL-1.1 on pages 76-78 of the Draft EIR).

The commenter notes that the satellite view of the two bay windows on the western side of 1891-1895 commercial building show bay windows that appear to be the same shape and size as the bay windows on the front of that building. This comment is duly noted. The project alternatives analyzed in the Draft EIR, including Preservation Alternative 2, will be provided to the decision-makers for consideration. As discussed on page 213 of the Draft EIR, if Preservation Alternative 2 were implemented, the two historic resources that would be preserved on-site (the commercial buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street) would be required to be maintained and reused in an appropriate manner consistent with applicable standards to maintain their historic significance.. However, Preservation Alternative 2 would have far fewer residential units than the proposed project and would not achieve the high-density and mixed-use development ideal for this location.

Comment E.6: Cultural Resource Management

The evaluations establish the buildings are eligible for listing in the City's Historic Resources Inventory (HRI) as Candidate City Landmarks, eligible for preservation incentives. They should be listed on the HRI database, particularly if the project does not move forward.

Cultural Resource Impacts and Mitigation Measures

Adverse Change in the Significance of a Historical Resource

PAC*SJ further concurs that, given the significance of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, demolition of these buildings would result in a significant impact (IMPACT CUL-1).

The standard mitigation measures of documentation, relocation, salvage (MM CUL-1.1), and creation of an educational exhibit (MM CUL-1.2), to reduce the impact to the historical resources are appreciated. It would seem reasonable that the relocation mitigation measure be amended as follows: “The buildings ... shall be advertised for relocation by a third party, with an offer of funding in the amount of the estimated demolition cost for the building(s).”

To allow for the possibility that relocation could be achieved to a compatible site, the conclusive impact language (p. 78) should be revised as follows: “Even with implementation of the identified mitigation measures, demolition or salvage of these buildings would be a significant unavoidable impact because they would be permanently lost. Relocation, while preserving the buildings in a different location, could also result in a loss of connection to its current location in the Burbank community.”

Response E.6: As discussed on page 76 of the Draft EIR, the City has determined that the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José’s HRI as Candidate City Landmarks under Criterion 1, 4, and 5 based on all available information on record. The commenter concurs with the City’s determination. The commenter suggests that these properties should be listed in the HRI. This comment is duly noted. Properties that have been determined to be eligible as a Candidate City Landmark are treated the same purposes of CEQA as properties that have been listed as eligible in the HRI. Listing the properties in the HRI would not change the historic resources analysis in the Draft EIR or the adequacy of the DEIR. .

The commenter suggests that MM CUL-1.1 be revised to require an offer of funding to assist with the potential relocation of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street by a third party. Mitigation measures under CEQA must avoid or substantially reduce the project's significant environmental effects. Funding to facilitate the relocation of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street is not proposed as a mitigation measure in the Draft EIR. 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 environmental benefits of the 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 suggestion is duly noted and will be provided to the City Council. If the City Council elects to approve the project, the decision makers could add a condition of approval to require the

applicant offer the payment of a dollar amount equal to the estimated cost of relocation, and any associated Planning Permit fees for relocation, to any party willing to undertake relocation and rehabilitation of the house after relocation.

Regarding the commenter's suggested edit to the impact conclusion language, the City believes the current language is appropriate and does not preclude the possibility that relocation could be achieved to a compatible site because the loss of connection is specific to the actual project site, not the entire Burbank area.

Comment E.7: *Cumulatively Considerable Impacts to Historical Resources*

PAC*SJ also appreciates the determination that due to the on-going redevelopment of West San Carlos Street within the Burbank area demolition of these buildings would constitute a cumulatively considerable impact to the historical resources associated with the Burbank community.

Relocation, whether on- or off-site, could also address this cumulatively considerable impact, and this should be acknowledged.

In addition, given the incomplete nature of historical resource survey work in the Burbank area, any measures that can strengthen that work should be incorporated into projects with impacts in the area. As such, relevant survey work to address historic resource management in the Burbank area should also be included as a specific mitigation measure to reduce this impact.

Response E.7: The commenter concurs with the cumulative impact conclusion in the Draft EIR.

Relocation and preservation of the historic resources were analyzed as an alternative (refer to Section 7.4 of the Draft EIR). To retain the relationship of the buildings to the neighborhood and West San Carlos Street, the area identified for potential relocation is within the West San Carlos Urban Village. As discussed on page 212 of the Draft EIR, relocation of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street would require acquisition of property which does not contain a historic or potentially historic structure. Demolition of any existing building(s) to facilitate relocation of these buildings would cause displacement of existing land uses. Therefore, relocation of the buildings would not be feasible and a cumulatively considerable impact would remain.

There is no nexus for the City to require any one project to support Citywide or Burbank survey efforts as it does not mitigate specific project impacts on the environment. In 2017, the San José City Council adopted the Historic Survey Strategy and directed staff to proactively identify historic resources and to update the HRI to allow the City to preserve more historic structures. The identified work program includes the Downtown and adjacent areas: Diridon, Urban Villages (including West San Carlos, The Alameda, East Santa Clara Street/Alum Rock/Five Wounds area, and North First Street) and the SOFA area.

Comment E.8: Alternatives

Given the City of San Jose’s policy that candidate or designated landmark structures should be preserved, and the West San Carlos [U]rban Village Plan’s specific mention of Antique Row’s importance in defining its character and sense of place and the Envision 2040’s call for the incorporation of historic structures within new developments as a means to create a sense of place that contributes to a vibrant economy while providing a connection to the past, a serious consideration of alternatives should be pursued by all involved.

Response E.8: Refer to Responses E.2 and E.3, above.

Comment E.9: Preservation Alternative 1 proposes the relocation (and preservation) of 1883-1887 West San Carlos Street (Building 1) and 1891-1895 West San Carlos Street (Building 2) to a receiver site(s) in the West San Carlos Urban Village to retain the relationship of the buildings to the neighborhood and West San Carlos Street. The EIR asserts that there are no vacant parcels of land available while citing the goals for transformation of the Urban Village that will depend on parcels becoming available in the future. A project such as this one, that seeks to combine two very different program types (Senior Assisted Living + Memory Care & at Market Condominiums) is harder to find space for than two mixed-use projects dedicated to their respective programming. As a result of the combination of these two disparate functions, the project requires the demolition of an entire city block. As currently proposed, the project will result in the equivalent of a big box/big brand development that some may consider inconsistent with this Urban Village’s vision for what the street level interface is going to look like.

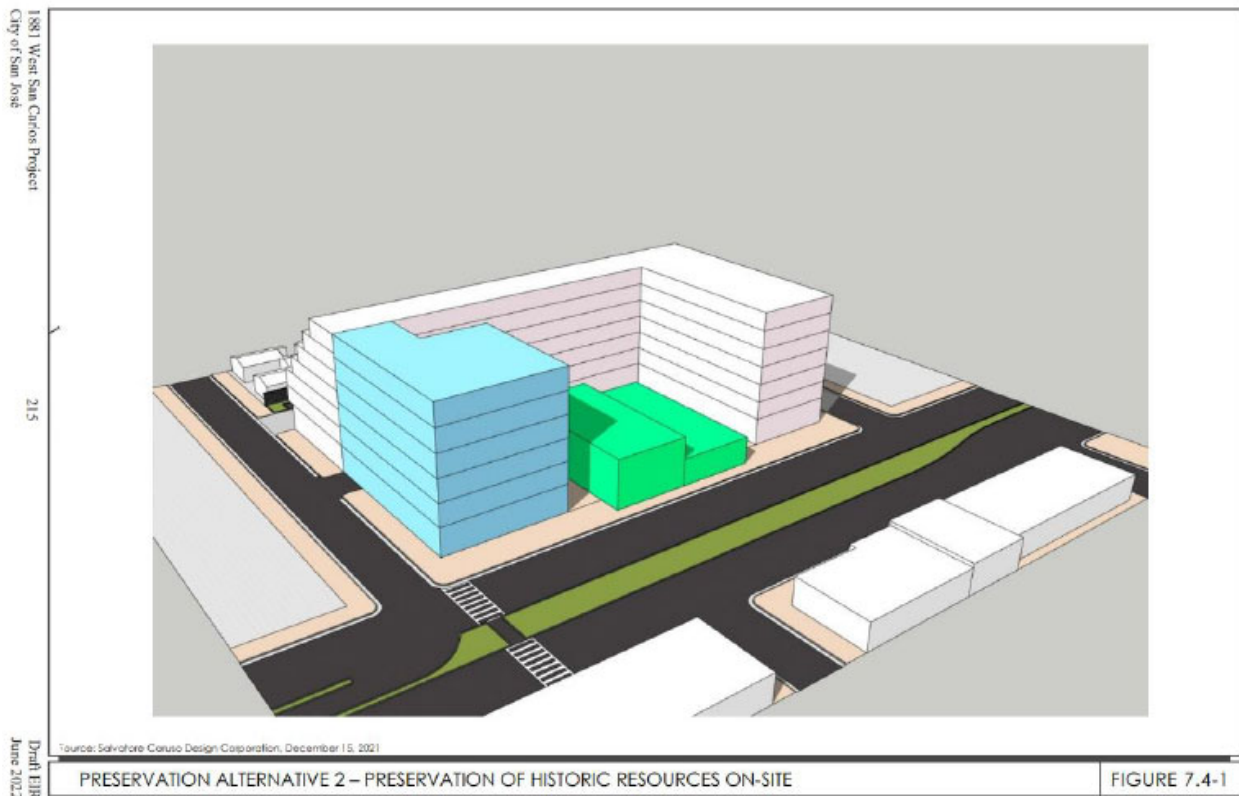
The EIR asserts that the applicant hired a broker to determine the availability of land to relocate the buildings, but the broker was unable to find a viable receiver site for either of the structures within the Urban Village as the final justification for not considering this alternative further. A written report by a broker of properties that might be available to purchase in the future would help better inform public evaluation of the environmental impact of this project and ultimately the City’s entitlement and project conditions decisions. This would also inform City Council of the likelihood of the current Urban Village Plan meeting its stated goals for the benefit of the citizens of San Jose. Given that the West San Carlos Urban Village Plan notes in Chapter 3 that prevailing auto-oriented uses (e.g. auto-repair shops, used car lots, car washes, etc.) should NOT be added and should be considered as “interim” in nature, an analysis of the cost to acquire the numerous properties associated with automobiles along San Carlos would be helpful. Perhaps the developer’s Broker or another broker can provide an estimate of the market value of some of these locations.

Response E.9: As discussed on page 212 of the Draft EIR, there are no available parcels of land of a sufficient size to accommodate the project along West San Carlos Street because a limited number of parcels within the West San Carlos Urban Village have recent construction and many of the parcels contain buildings that are 50 years or older which could contain other potential historic resources. Regardless of any development proposed, relocation of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street would require acquisition of land (within the West San Carlos Urban Village) that does not contain a historic or potentially historic structure to avoid other impacts to historical resources.

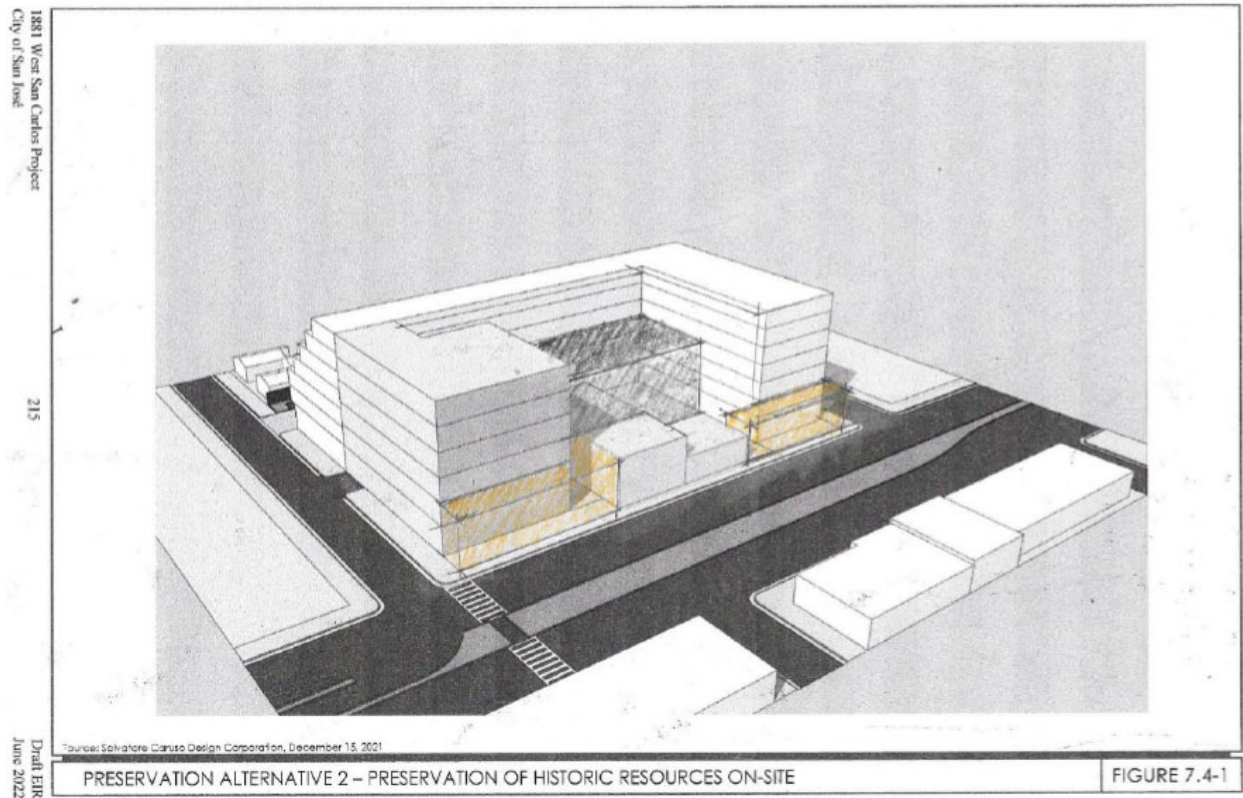
To address Urban Village Plan policies for the street level interface, and consistent with the West San Carlos Urban Village Plan, the sidewalk along West San Carlos Street would be widened to 20 feet and the sidewalks along Brooklyn Ave and Boston Ave would be widened to 12 feet to accommodate tree wells and attached sidewalks. In addition, a 2,000-square-foot plaza is proposed at the corner of West San Carlos Street and Brooklyn Avenue. Active spaces are placed along West San Carlos Street frontage and the plaza to allow for and encourage pedestrian activities. The project would provide ground floor retail and a plaza (as shown in Figure 2.2-1 of the Draft EIR) consistent with the West San Carlos Urban Village Plan ground floor interface guidelines.

It cannot be determined which properties might be available for purchase in the future because the decision to sell will be made by individual property owners. As discussed in the West San Carlos Urban Village Plan, new drive-through uses are not supported and new auto-oriented uses are prohibited. It is unknown when the existing auto-oriented land uses will be redeveloped.

Comment E.10: Of the “Alternatives” considered, PAC*SJ most appreciates and supports the environmentally superior alternative, Preservation Alternative 2: Preservation of Historic Resources On-site, as it would avoid the significant impacts while meeting many of the project objectives (as shown in figure 7.4-1 below)



However, given the nature of the street front, a project alternative not described would hold the street front with a base and stepped back from the historic buildings at a one-to-one ratio, could still retain the historic significance of the resources while meeting most, if not all, of the project objectives for residential units with added street level retail space (as shown below in a modified version of Figure 7.4-1).



Response E.10: The markup provided by the commenter does not take into consideration any new historic impacts that may occur from building over the historic buildings. The commenter has provided no evidence that the historic significance of these resources would be retained with this design. As discussed on page 209 of the Draft EIR, CEQA requires analysis of a reasonable range of alternatives that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the projects. Preservation Alternative 2, Preservation with historic resources on site is discussed in detail starting on page 213 of the Draft EIR. The decision makers will consider the information in the Draft EIR together with all the comments including this comment, before making a decision on the project.

Comment E.11: Other Comments

Salvage of other buildings on the site, including the house located behind the 1883-1887 West San Carlos Street commercial street front building, and older buildings that were not determined to qualify as historic resources, should also be included in development permit conditions. Any donation proceeds should fund preservation.

In conclusion, PAC*SJ does not believe that the loss of Candidate City Landmarks and character defining elements of West San Carlos Street should ever be viewed as unavoidable. PAC*SJ would strongly recommend that the project owner preserve and rehabilitate these buildings within West San Carlos Street – noting that these buildings are also candidates for use of historic preservation incentives. Demolition of the buildings is both a significant and cumulative considerable impact, and mitigation measures should be included to address these impacts while proactively supporting the life of the Burbank community. While PAC*SJ strongly opposes projects which demolish or damage San Jose’s historic resources, any approval of the demolition of a Candidate City Landmark should include a significant financial mitigation requirement be paid to the City’s Preservation Program or an organization commissioned by the City for the funding of future preservation survey and incentive programs. Additional cost information from the alternatives analysis would help inform reasonable financial mitigation.

Finally, PAC*SJ asks that the City consider the impact to the uniquely San Jose mom & pop businesses which are likely to be lost without proactive involvement by the developer, the City and public in providing a landing place for local businesses versus big box/big brand businesses.

Response E.11: The commenter is recommending that the other buildings on-site, that were found not to be historic, be salvaged and included in the development permit conditions. As none of the other buildings have been determined to be eligible for listing in the NRHP or CRHR and/or eligible for listing in the City of San José’s HRI as a Candidate City Landmark, there is no nexus to require the applicant to salvage these non-historical buildings.

The City cannot require a project to provide financial contributions to support preservation of other buildings unrelated to the project within the City as mitigation under CEQA, as the mitigation fees would not be used for a purpose that would avoid or reduce the project’s impacts to less than significant level. Also, refer to Response E.2 to E.10. The decision makers may consider economic, planning, and CEQA considerations when determining whether or not to approve a project alternative or adopt a Statement of Overriding Considerations; and the decision makers may choose to require, as a condition of approval of the project, funding for historic surveys or other historic preservation efforts as a benefit of the project.

The decision makers are required to consider all comments including the commenter’s request to consider the impact to the uniquely San José mom and pop businesses which are likely to be lost without proactive involvement by the developer, the City and public in providing a landing place for local businesses versus big box/big brand businesses, prior to making a decision on the project.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the 1881 West San Carlos Project Draft EIR dated June 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Draft EIR, Summary,
Page iv

The impact statement for air quality in the Summary table will be **REVISED** as follows:

Impact AIR-1: Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess (by 8.87 cases per one million for infants) of the BAAQMD threshold of 10 cases per one million for infants.

Draft EIR, Summary,
Page ix

The fifth bullet under MM NOI-1.1 will be **REVISED** as follows:

- Notify the surrounding neighborhood within 500 feet ~~early and frequently of the~~ prior to and during construction activities.

Draft EIR, Summary,
Pages x-xi

The first paragraph under MM NOI-2.1 will be **REVISED** as follows:

MM NOI-2.1: Prior to the issuance of a demolition, grading, or building permit, whichever occurs earliest, ~~t~~The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions of 24 Brooklyn Avenue, 19 Boston Avenue, and 12 Boston Avenue prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

Draft EIR, Summary,
Pages xii

The first paragraph under MM TRANS-1.1 will be **REVISED** as follows:

MM TRANS-1.1: a) Prior to the issuance of any certificates of occupancy, ~~t~~The project applicant shall identify a transportation demand management (TDM) coordinator who

shall be responsible for implementing a ride-sharing program for at least 15 percent of future employees who have similar commutes. If the TDM coordinator changes, the Director of Planning, Building and Code Enforcement or the Director's designee and tenants of the project shall be notified of the name and contact information of the new designated TDM coordinator.

Draft EIR, Summary,
Pages xiii-xiv

The last bullet under MM TRANS-1.1 will be **REVISED** as follows:

- **Annual Monitoring Report.** The TDM coordinator shall be responsible for preparing and submitting the monitoring reports to the Director of Planning, Building and Code Enforcement or the Director's designee annually for three years, and then upon request of the Zoning Administrator for the life of the project.

Draft EIR, Section 2.1.1,
Page 3

Footnote 2 under the Background Information subheading will be **REVISED** as follows:

² The Mixed Use ~~Residential~~Commercial Character Area ~~is an eastern gateway into~~consists of the middle section of the Urban Village. The area is envisioned with higher density mixed use and residential development drawing energy from nearby Downtown San José and the Diridon Station~~redevelopment of larger opportunity sites in the area that increase commercial square footage and allows for the addition of new residential units. Development is proposed to range between threefour- and seven~~to six-stories with office and/or residential uses above a mix of active ground-floor retailcommercial. Land uses in this area include Mixed Use Commercial, Urban Residential, and Urban Village. (Source: City of San José. West San Carlos Urban Village Plan. Adopted May 8, 2019~~8~~. Page 21.)

Draft EIR, Section 2.1.1,
Pages 3-4

The second paragraph under the Background Information subheading will be **REVISED** as follows:

The site is designated *Mixed Use Commercial* under the City's General Plan and has ~~two~~one zoning districts. The property at 1881 West San Carlos ~~is located within the CP Commercial Pedestrian Zoning District~~ and the property at 17 Boston Street ~~is~~are located within the ~~R-M Multiple Residence~~MUC Mixed Use Commercial Zoning District. The remainder of the site has no designated zoning district as it is

currently unincorporated; therefore, annexation through the Local Agency LAFCO would be required.

Draft EIR, Section 2.1.2,
Page 4

The second bullet under the Proposed Development subheading will be **REVISED** as follows:

- Pre-zoning the five annexed parcels to ~~CP Commercial Pedestrian~~ MUC Mixed Use Commercial Zoning District and rezoning the parcel with APN 274-16-049 from ~~R-M Multiple Residence Zoning District~~ to CP Commercial Pedestrian Zoning District. (File No. C20-011)

Draft EIR, Section 2.1.2,
Page 4

The fourth bullet under the Proposed Development subheading will be **REVISED** as follows:

- Vesting Tentative Map merging seven lots into one lot and allowing one lot subdivision for condominium purpose to include up to 61 residential condominium units, ~~209~~246 senior care units, four commercial condominium units, one ground floor parking garage condominium unit for RCFE and one parking garage condominium unit for retail and residential for a total of 67 condominium units. (File No. T20-016)

Draft EIR, Section 2.1.2,
Page 11

The first paragraph under the General Plan and Zoning Designations subheading will be **REVISED** as follows:

The site is designated *Mixed Use Commercial* under the City's General Plan and has ~~two~~one zoning designations. The property at 1881 West San Carlos Street ~~is located within the CP Commercial Pedestrian Zoning District~~ and the property at 17 Boston Street ~~is~~are located within the ~~R-M Multiple Residence~~ MUC Mixed Use Commercial Zoning District. The remainder of the site has no designated zoning as it is currently unincorporated. While portions of the site are currently unincorporated, it is within the City's Sphere of Influence, so annexation through LAFCO would be required along with rezoning of all the parcels.

Draft EIR, Section 2.1.2,
Page 11

The third paragraph under the General Plan and Zoning Designations subheading will be **REVISED** as follows:

As mentioned above, the property at 1881 West San Carlos Street ~~is zoned CP Commercial Pedestrian~~ and the property at 17 Boston Street ~~is~~are zoned ~~R-M Multiple Residence~~ MUC Mixed Use Commercial Zoning District. ~~The CP Commercial~~

~~*Pedestrian Zoning District* is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The *CP Commercial Pedestrian Zoning District* also encourages mixed residential/commercial development where appropriate and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies. The *MUC Mixed Use Commercial Zoning District* is intended to implement the Mixed Use Commercial General Plan land use designation.~~

Draft EIR, Section 2.1.2,
Page 11

The fourth paragraph under the General Plan and Zoning Designations subheading will be **DELETED** as follows:

~~The *R-M Multiple Residence Zoning District* is intended to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed use development. All parcels on-site would be rezoned to the *CP Commercial Pedestrian Zoning District*.~~

Draft EIR, Section 3.3.2.2,
Page 41

The impact statement for Impact AIR-1 will be **REVISED** as follows:

Impact AIR-1: Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess (by 8.87 cases per one million for infants) of the BAAQMD threshold of 10 cases per one million for infants.

Draft EIR, Section 3.9.1.4,
Page 108

The last paragraph under the On-Site Sources of Contamination subheading will be **REVISED** as follows:

Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs, LBP, and PCBs may be present in the buildings. As mentioned in Section 3.5.1.2, the project area was planted with orchards in 1953.³ ~~Since the~~

³ Holman & Associates. Results of a CEQA Archaeological Literature Search. November 2020. While the Literature Search prepared for the project mentioned that the project area was planted with orchards, AEI Consultants clarified

~~project area was previously used for agricultural purposes; there is potential for impacts on site due to residual agricultural chemicals.~~

Draft EIR, Section 3.10.1.1,
Page 117

The first paragraph under the Municipal Regional Permit Provision C.3 subheading will be **REVISED** as follows:

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in ~~2015~~May 2022 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 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.

Draft EIR, Section 3.10.1.1,
Page 117

The second paragraph under the Municipal Regional Permit Provision C.3 subheading will be **REVISED** as follows:

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements ~~if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious. (1) the~~

that the Phase I ESA found no evidence of prior agricultural uses on-site, including in the 1950s. Based on review of the aerial photographs from 1950 and 1956, the project site was developed with the same commercial/residential-type buildings; therefore, the potential for residential agricultural contamination would be minimal. Salcido, Megan. AEI Consultants. Personal communications. October 6, 2022.

⁴ MRP Number CAS612008 California Regional Water Quality Control Board San Francisco Region. *Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008.* May 11, 2022.

post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flow controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).⁵

Draft EIR, Section 3.10.1.1,
Pages 117-118

The following paragraph under the Water Resources Protection Ordinance and District Well Ordinance subheading will be **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. Permits for well construction and destruction work, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. ~~most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required u~~Under Valley Water's Water Resources Protection Ordinance and District Well Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

Draft EIR, Section 3.10.1.1,
Pages 117-118

The following sentence will be **ADDED** under the Water Resources Protection Ordinance and District Well Ordinance subheading 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. Permits for well construction and destruction work, 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. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program.

⁵ The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

The square footage under pervious surfaces will be
REVISED as follows:

Table 1.3-1: Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sq ft)	%	Project/Post-Construction (sq ft)	%	Difference (sq ft)	%
Impervious Surfaces						
Total	53,782	100	46,442	86	-7,340	-14
Pervious Surfaces						
Total	0	0	7,340	14	+7,390 +7,340	+14
Total:	53,782	100	53,782	100		

The second paragraph under checklist question d will be
REVISED as follows:

As mentioned previously, the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. As previously mentioned, the project site is not located within the Lexington Dam failure inundation zone. Furthermore, ~~the~~ California Division of Safety of Dams (DSOD) inspects dam on an annual basis and Valley Water routinely monitors the 10 dams, ~~including the Lexington dam~~. Therefore, the likelihood of flooding from dam failure is low and the project would not release pollutants due to dam inundation. **(Less than Significant Impact)**

The discussion under the Existing Land Uses subheading will be **REVISED** as follows:

The project site is approximately 1.23 acres and is comprised of seven parcels (APNs 274-16-049, -050, -051, -052, -053, -069, and -070) located between Brooklyn Avenue and Boston Avenue and north of West San Carlos Street in the City of San José. The site is bounded by residential uses to the north, West San Carlos Street to the south, and commercial uses to the east and west. The project site is currently developed with four commercial buildings. The site is designated as Urban Village within the Mixed Use Commercial Character Area in the West San Carlos Urban Village Plan.

The site is designated *Mixed Use Commercial* under the City's General Plan and has ~~two~~ one zoning districts designation. The property at 1881 West San Carlos ~~is~~

~~located in the CP Commercial Pedestrian Zoning District and the property at 17 Boston Street is~~ are located in the R-M Multiple Residence MUC Mixed Use Commercial Zoning District. The remainder of the site has no designated zoning district as it is currently unincorporated. While a portion of the site is unincorporated, it is within the City's Sphere of Influence, so annexation through coordination with LAFCO will be required along with rezoning of all the parcels. The Mixed Use Commercial General Plan designation is intended to accommodate a mix of commercial and residential uses. The MUC Mixed Use Commercial Zoning District is intended to implement the Mixed Use Commercial General Plan land use designation.

~~The 1881 West San Carlos Street site is located in the CP Commercial Pedestrian and the property at 17 Boston Street is located in the R-M Multiple Residence Zoning District. The CP Commercial Pedestrian Zoning District is intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The Commercial Pedestrian Zoning District also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.~~

~~The R-M Multiple Residence Zoning District is intended to reserve land for the construction, use and occupancy of higher density residential development and higher density residential commercial mixed use development.~~

Draft EIR, Section 3.11.2.1,
Page 132

The first paragraph under checklist question b will be **REVISED** as follows:

The proposed project would construct a mixed-use building on-site, consistent with the West San Carlos Urban Village Plan. As mentioned previously, portions of the site are currently unincorporated (APN 274-16-050, -052, -053, -069, and -70) and would require annexation through coordination with LAFCO. ~~In addition, all~~ These parcels on site would be ~~prezoned to the CP Commercial Pedestrian~~ MUC Mixed Use Commercial Zoning District. The senior care component would require a CUP while the residential/retail component of

the project and the alternative parking arrangement and commercial condominiums would require a SUP. The CUP and SUP would be reviewed through a unified process under the CUP permit pursuant to Section 20.100.140. With approval of the annexation, rezoning, CUP (which would include SUP findings), and tentative map the project would be consistent with the zoning designation

Draft EIR, Section 3.13.2.1,
Page 146

The fifth bullet under MM NOI-1.1 will be **REVISED** as follows:

- Notify the surrounding neighborhood within 500 feet early and frequently of the prior to and during construction activities.

Draft EIR, Section 3.13.2.1,
Pages 148-149

The first paragraph under MM NOI-2.1 will be **REVISED** as follows:

MM NOI-2.1: Prior to the issuance of a demolition, grading, or building permit, whichever occurs earliest, ~~t~~The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions of 24 Brooklyn Avenue, 19 Boston Avenue, and 12 Boston Avenue prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

Draft EIR, Section 3.17.1.2,
Page 170

The following text will be **ADDED** under the Bicycle Facilities subheading as follows:

Additionally, the Los Gatos Creek Trail is located in the project area and begins at Vasona Lake County Park to West San Carlos Street. A connection to the northern segment of the Los Gatos Creek trail system is located along San Carlos Avenue, approximately 1.4 miles east of the project site. Existing bicycle facilities are shown in Figure 3.17-1.

Draft EIR, Section 3.17.2.1,
Pages 179

The first paragraph under MM TRANS-1.1 will be **REVISED** as follows:

MM TRANS-1.1: a) Prior to the issuance of any certificates of occupancy, ~~t~~The project applicant shall identify a transportation demand management (TDM) coordinator who shall be responsible for implementing a ride-sharing program for at least 15 percent of future employees who have similar commutes. If the TDM coordinator changes, the Director of Planning, Building and Code Enforcement or the Director's designee and tenants of the project shall be notified of the name and contact information of the new designated TDM coordinator.

Draft EIR, Section 3.17.2.1,
Page 179

The last bullet under MM TRANS-1.1 will be **REVISED** as follows:

- **Annual Monitoring Report.** The TDM coordinator shall be responsible for preparing and submitting the monitoring reports to the Director of Planning, Building and Code Enforcement or the Director's designee annually for three years, and then upon request of the Zoning Administrator for the life of the project.

Draft EIR, Section 7.3,
Page 210

The first bullet under Significant Impacts From the Project will be **REVISED** as follows:

- **Air Quality:** Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess (by 8.87 cases per one million for infants) of the BAAQMD threshold of 10 cases per one million for infants.

Draft EIR, Section 7.4.2.2,
Page 213

The third paragraph under the No Project subheading will be **REVISED** as follows:

The project site is designated *Mixed Use Commercial* under the City's General Plan which is intended to accommodate a mix of commercial and residential uses and has ~~two~~one zoning designations. The property at 1881 West San Carlos ~~is located in the CP Commercial Pedestrian Zoning District~~ and the property at 17 Boston Street ~~is~~are zoned ~~R-M Multiple Residence~~MUC Mixed Use Commercial Zoning District. The remainder of the site has no designated zoning as it is currently unincorporated. ~~The CP Commercial Pedestrian~~

~~Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The *CP Commercial Pedestrian Zoning* District also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. The *MUC Mixed Use Commercial Zoning* District is intended to implement the Mixed Use Commercial General Plan land use designation.~~

Draft EIR, Section 7.4.3,
Page 218

The impact statement for the first row under Significant Project Impacts will be **REVISED** as follows:

Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess (by 8.87 cases per one million for infants) of the BAAQMD threshold of 10 cases per one million for infants.

APPENDIX A

Draft EIR Comment Letters

County of Santa Clara

Roads and Airports Department

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



August 2, 2022

Reema Mahamood

Planner III, Environmental Review
City of San José
Planning, Building & Code Enforcement
200 E. Santa Clara St., T-3
San José, CA 95113
reema.mahamood@sanjoseca.gov

SUBJECT: Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020)

Comment A.1

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020). We submit the following comments:

- The project location has frontage along County maintained roads. It is recommended that the City annex roads within a ½ mile radius of the project site.
- Boston Ave and Brooklyn Ave are narrow streets with an existing 50 ft. ROW. What mitigation measures are recommended to accommodate traffic circulation and queuing of this project in addition to the TDM measure?

Comment A.2

- Did the study cover potential speeding and cut-through traffic within the Burbank community?
- It appears the recommended TDM measure to mitigate the identified significant VMT impact will not be sufficient to address project traffic impacts because San Carlos appears to be congested during peak hours without the project.

Comment A.3

- The project would be required to comply with the following measure as a Condition of Approval:
 - Any street trees proposed along the public right-of-way (overseen by the Department of Transportation) shall be required to be maintained so that the vision of drivers exiting project driveways would not be obstructed.
 - Red curb equal to a car length shall be painted on both sides of the driveway to ensure vehicles exiting project driveways have a sight distance of 200 feet along Brooklyn Avenue and Boston Avenue.
- The project should also be required to ensure the SB approach at the stop-controlled intersection of Brooklyn and San Carlos has an adequate sight distance of 250 feet along San Carlos.

Thank you again for your continued outreach and coordination with the County. If you have any questions or concerns about these comments, please feel free to contact me at

ben.aghegnehu@rda.sccgov.org



Thank you,



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

August 29, 2022

Ms. Reema Mahamood
Planner III
City of San Jose
200 E. Santa Clara Street, T-3
San Jose, CA 95113
Reema.Mahamood@sanjoseca.gov

DRAFT ENVIRONMENTAL IMPACT REPORT FOR 1881 WEST SAN CARLOS
PROJECT – DATED JUNE 2022 (STATE CLEARINGHOUSE NUMBER: 2020120059)

Dear Ms. Mahamood:

Comment B.1

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for the 1881 West San Carlos Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. The Hazards and Hazardous Materials section of the EIR states that a Phase I Environmental Site Assessment (ESA) was performed for the Project site. The Phase I ESA concluded that the structure previously located at the rear of the 1881 West San Carlos Street building is listed in the EDR Historic Cleaners database due to its former use as a laundromat in 1950, but available documentation did not identify that space was used for dry cleaning purposes. It was also determined that the site was planted with orchards in 1953, which causes the potential for impacts onsite due to residual agricultural chemicals.

The Phase I ESA indicated that four off-site sites of concern were determined to warrant additional discussion in the Phase I ESA. The first location is an off-site

facility located at 32 Brooklyn Avenue that is registered as a non-generator of hazardous waste under the Resource Conservation and Recovery Act Non-Generator database. The second is a site located on the 1886 West San Carlos Street. It is listed in multiple regulatory databases for removal and off-site disposal of hazardous substances, as an auto wrecking/miscellaneous simple facility, and as a hazardous waste generator facility. The third off-site facility is located at 1915 West San Carlos Street and is listed under multiple regulatory databases identifying it as a registered hazardous waste generator and chemical storage facility with reported violations, a hazardous waste generator, and an auto wrecking/miscellaneous simple facility.

The fourth off-site facility is located at 30 Cleveland Avenue and is listed under multiple regulatory databases. It was occupied by dry cleaning tenants from 1966 to 1977. Per the EIR, the Regional Water Quality Control Board's (RWQCB's) GeoTracker records indicate that the northeastern corner of the West San Carlos Street and Cleveland Avenue intersection formerly contained one 2,000-gallon UST that was used for storage of gasoline and one 7,500-gallon UST that was used for storage of perchloroethylene or petroleum distillates. Low concentrations of contaminants were detected in site soils and due to the lack of PCE in samples, the RWQCB determined that the agency did not need to open a case.

The Phase I ESA concluded that based on the prior removal of the USTs, soil and groundwater sampling results, releases relative to groundwater flow, and current regulatory status, the site does not represent a significant environmental concern.

Aside from the RWQCB's involvement pertaining to USTs at the northeastern corner of the West San Carlos Street and Cleveland Avenue, the EIR does not identify an appropriate agency that has provided regulatory oversight and concurrence that the proposed project is protective of human health and the environment. The EIR states that the Project site and four offsite locations do not represent significant environmental concerns. However, it does not identify a qualified agency under which these determinations were made. A regulatory agency such as DTSC or RWQCB, or a qualified local agency that meets the requirements of [Assembly Bill 304 \(AB304\)](#), should provide regulatory concurrence that the site is safe for construction and the proposed use.

Comment B.2

2. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel

additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aurally deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the project described in the EIR.

Comment B.3

3. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with [DTSC's 2006 Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.](#)

Comment B.4

4. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material.](#)
5. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\).](#)

DTSC appreciates the opportunity to comment on the EIR. Should you choose DTSC to provide oversight for any environmental investigations, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website.](#)

Ms. Reema Mahamood
August 29, 2022
Page 4

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Gavin McCreary". The signature is fluid and cursive, with the first name "Gavin" being more prominent than the last name "McCreary".

Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Mahamood, Reema

From: Lisa Brancatelli <LBrancatelli@valleywater.org>
Sent: Monday, August 29, 2022 8:08 AM
To: Mahamood, Reema
Cc: Colleen Haggerty
Subject: RE: Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020)

[External Email]

Hello Reema,

Comment C.1

Valley Water has reviewed the Draft Environmental Impact Report (EIR) for the 1881 West San Carlos Project, received on July 15, 2022. Valley Water has the following comments on the subject Draft EIR document:

1. Section 3.10.1.1- Municipal Regional Permit Provision C.3 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 3.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the text 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 3.10.1.1- Water Resources Protection Ordinance and Well Ordinance, the language under this section 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 3.10.1.4(d) Project Impacts, describes the project as located within the Lexington Dam inundation zone; however, the project site is located just outside of the James J. Lenihan Dam on Lexington Reservoir failure inundation zone. The language in the document should be revised to note the project site is not within an inundation zone of any dam.
5. Section 3.17.1.2- Existing Conditions (Bicycle Facilities), states the Los Gatos Creek Trail is located within the project area; however, the Los Gatos Creek Trail is approximately 2 miles west of the project site. The document should be revised for accuracy.
6. Section 3.19.1.4(a)- Project Impacts (Storm Drainage System), the net reduction of impervious surfaces is listed as 7,340 sq. ft. in the section and as 7,340 sq. ft. in Table 3.10-1 on page 200. Please revise the document for accuracy.

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. 34314 in future correspondence regarding this project.

Thank you,

LISA BRANCATELLI

ASSISTANT ENGINEER II (CIVIL)
Community Projects Review Unit

lbrancatelli@valleywater.org

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

CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118

www.valleywater.org

From: CPRU-Dropbox <CPRU@valleywater.org>

Sent: Tuesday, July 19, 2022 7:29 AM

To: Lisa Brancatelli <LBrancatelli@valleywater.org>

Subject: FW: Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020)

LISA BRANCATELLI

ASSISTANT ENGINEER II (CIVIL)
Community Projects Review Unit

lbrancatelli@valleywater.org

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

CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118

www.valleywater.org

From: Mahamood, Reema <reema.mahamood@sanjoseca.gov>

Sent: Friday, July 15, 2022 4:08 PM

To: Mahamood, Reema <reema.mahamood@sanjoseca.gov>

Subject: Notice of Availability of the Draft EIR for 1881 West San Carlos Project (File No. CP20-020)

**NOTICE OF AVAILABILITY OF
A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)
AND PUBLIC COMMENT PERIOD**

A Draft Environmental Impact Report (DEIR) for the 1881 West San Carlos Project is available for review. The applicant seeks four planning approvals on a 1.23-gross acre site as follows:

- Annexing five parcels: APNs 274-16-050, -052, -053, -069 and -070, from the County of Santa Clara to City of San José. (File No. Burbank 44)
- Pre-zoning the five annexed parcels to *CP Commercial Pedestrian* Zoning District and rezoning the parcel with APN 274-16-049 from *R-M Multiple Residence* Zoning District to *CP Commercial Pedestrian* Zoning District. (File No. C20-011)
- Conditional Use Permit (CUP) allowing the demolition of all existing structures on-site and constructing a seven-story, 209,522 square-foot mixed-use development consisting of a 246-bed, 125,451 square-foot residential care facility for the elderly (RCFE), 61 multi-family residential units and 6,000 square-foot ground floor retail space with alternative parking(stackers) on the ground floor and basement on a 1.23-gross acre site. (File No. CP20-020)
- Vesting Tentative Map merging seven lots into one lot and allowing one lot subdivision for condominium purpose to include up to 61 residential condominium units, 209 senior care units, four commercial condominium units, one ground floor parking garage condominium unit for RCFE and one parking garage condominium unit for retail and residential for a total of 67 condominium units. (File No. T20-016)

Location: 1881 West San Carlos Street between Brooklyn Avenue and Boston Avenue

APNs: 274-16-050, -052, -053, -069, and -070

Council District: 6

Planning File Nos.: Burbank 44, C20-011, CP20-020, and T20-016

The proposed project will have potentially significant environmental effects with regard to construction air quality, biological resources, cultural resources, construction noise and vibration, and transportation. All significant effects can be mitigated to less than significant levels. The project site is not located on any of the lists of hazardous sites under Section 65962.5 of the Government Code.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José’s “Active EIRs” website at www.sanjoseca.gov/activeeirs and are also available at the following locations:

- Department of Planning, Building & Code Enforcement, 200 E. Santa Clara Street, 3rd Floor, San José, CA 95113, (408) 535-3555
- Dr. MLK, Jr., Main Library, 150 E. San Fernando Street, San José, CA 95112, (408) 277-4822
- Rose Garden Branch Library, 1580 Naglee Avenue, San José, CA 95126, (408) 808-3070

The public review period for this Draft EIR begins on July 15, 2022 and ends on August 30, 2022. Written comments must be received at the Planning Department by **5:00 p.m. on August 30, 2022**, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to:

Department of Planning, Building and Code Enforcement
Attention: Reema Mahamood, Planner III (File No. CP20-020)
200 E. Santa Clara Street, 3rd Floor
San José, CA 95113
reema.mahamood@sanjoseca.gov

Following the close of the public review period, the Director of Planning, Building and Code Enforcement will prepare a First Amendment to the Draft EIR that will include responses to comments received during the review period. The First Amendment and the Draft EIR will constitute the Final EIR. At least 10 days prior to the public hearing on the EIR, 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 EIR during the public review period.

Reema Mahamood
Planner III, Environmental Review

City of San José | Planning, Building & Code Enforcement
200 E. Santa Clara St., T-3
San José, CA 95113
d - 408.535.6872
reema.mahamood@sanjoseca.gov

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

August 5, 2022

Department of Planning, Building and Code Enforcement
 Attention: Reema Mahamood, Planner III (File No. CP20-020)
 200 E. Santa Clara Street, 3rd Floor
 San José, CA 95113
 reema.mahamood@sanjoseca.gov

RE: Draft Environmental Impact Report
 APNs: 274-16-050, -052, -053, -069 and 070
 Location: 1881 West San Carlos Street between Brooklyn Avenue and Boston Avenue
 Planning File Nos.: Burbank 44, C20-011, CP20-020, and T20-016

Dear Ms. Mahamood,

Comment D.1

The Historic Landmarks Commission reviewed the proposed project to demolish and develop 1881-1889 West San Carlos at our November 3, 2021 meeting. In addition to the comments made at that meeting, I would like to re-iterate my opinion and provide a clear overview of why the project should be rejected as proposed. It is important to clarify that I write as one member of the Commission; these views are not all held by the other commissioners.

The properties 1881-1889 West San Carlos Street are historic and worthy of preservation. These properties constitute a substantial portion of the “Antiques Row” that has been in business for many years and continues to be in business. Many of the buildings date from the Agricultural era of the early 20th century, when they flourished as commercial uses such as bakeries, groceries, restaurants, and clothing stores. They are significant because they have not suffered alterations as many of the other historic buildings of the central portion of San Jose. It is important to include 1881 West San Carlos as it is similar to properties in the EIR. The DPR forms list 1891 and 1895 West San Carlos Street as being built in 1925. The properties are deserving of Candidate City Landmark status, and I propose that they be agendized at an upcoming Historic Landmarks Commission meeting.

Comment D.2

City staff determined that 1883-1887 and 1891-1895 meet the designation for Candidate City Landmarks under Criteria 1, 4 and 5. I concur with this finding. In Section 13.48.110 of San Jose Municipal Code, the criteria for designation of landmarks includes these criteria.

Criteria 1

The character, interest and value are that of a commercial area in the 1920s and beyond. It is an example of the style of architecture built for working people in those early days of the 20th century. The fact that it was built in conjunction with the interurban trolley line tracks on West San Carlos is of historic consequence in that the interurban was heavily used during the first decades of the 20th century. What was once too far to walk became a quick trolley ride from home for services and household goods. The trolley liberated women in particular who could travel from home without depending on their husbands to drive them. The buildings in the project meet the criteria for designation as landmarks because the buildings are grouped together and maintain a high degree of integrity for use and for style of architecture.

Criteria 4

The properties in question also were of cultural and economic significance to the people who worked in agriculture or canneries and were of moderate economic means. Some of the businesses were owned by Italian immigrants, such as Costantino Maggi and Guseppe and Adele Prandi. The buildings exhibit a high degree of coherence, reflective of the working class neighborhood of Burbank. Other blocks along West San Carlos do not have such coherence; it is important to save the block that contains similar vernacular architecture.

Criteria 5

Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style. These buildings contain some elements of the Art Deco style of the 1920s and 1930s, and the store fronts are typical of the vernacular style of the early 20th century. Burbank is a vestige of old San Jose and Santa Clara Valley, one of the few remaining parts of town that are street frontages, with small shops and quaint buildings. This section of San Carlos can be championed as “old San Jose” and given resources to retain its homespun character as Lincoln Avenue does for Willow Glen.

Re-using the properties in a larger development can be considered if the historic properties are retained. A decision to bolster their foundations and build onto rather than demolish the current properties is what I advocate. Burbank as an incorporated area outside of San Jose will lose one its last remnants of its history if the properties are annexed to the city of San Jose and the buildings are demolished. To this end, I propose the that these properties be annexed and protected as historic resources as designated city landmarks.

Thank you for your consideration of my assessment.

Paul Boehm
Historic Landmarks Commission, Chair



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August 26, 2022

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95112

VIA EMAIL (Reema.Mahamood@sanjoseca.gov)

RE: EIR COMMENTS - 1881 West San Carlos Project
File Nos.: BURBANK 44/C20-011/CP20-020/T20-016

Dear Ms. Mahamood:

Comment E.1

The Preservation Action Council of San Jose (PAC* SJ) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 1881 West San Carlos Project, located between Brooklyn Avenue and Boston Avenue north of West San Carlos Street, within the West San Carlos Urban Village Mixed Use Commercial Character Area.

This area is historically recognized as the distinctive community of Burbank, with residential development connected to the downtown after the construction of the San José-Los Gatos Interurban Railroad, and expansion of the distinct retail district occurring after World War I and into the late 1920s. While the Interurban Railroad was removed during the post-WWII period of rapid industrialization, commercial development patterns have continued in Burbank, with many small businesses catering to the families in, and beyond, this unique neighborhood.

Comment E.2

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 project would not be consistent with the purpose and intent of this policy.

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West San Carlos Urban Village Plan

The character defining features of West San Carlos Street are discussed in Chapter 5: Urban Design Concept of the West San Carlos Urban Village Plan: “West San Carlos Street has many unique elements that define its character and sense of place. Most noteworthy is a collection of auto-oriented, mid-century signage and key destinations such as the eclectic shops of Antique Row. Recent development also contributes to the evolving character along West San Carlos Street. As future development opportunities arise along the corridor, it will be important to integrate private development and public investment to achieve a vibrant Urban Village that builds on the preferred existing character in keeping with these character defining elements.” New development should avoid demolition and instead seek to adaptively re-use the “unique elements that define its character and sense of place.”

Comment E.3

Envision San Jose 2040 General Plan

The Envision San Jose 2040 General Plan acknowledges the importance of historic resources in the Land Use and Transportation chapter: “The preservation of appropriate remnants of a city’s past provides multiple benefits important to the health and progress of the city. Historical resources: Are instructive, telling the story of a community’s past; Provide a sense of civic identity and unique character; Are typically an interesting and pleasing aesthetic in the urban environment; Can generate economic advantage for a property or neighborhood; Give a community a sense of permanency.”

Several policies address the re-use of historic fabric in new development, including LU-13.3: “For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.”

While the DEIR does not reference LU-13.3, it does reference CD-1.8: “Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.” We would point out that re-use of historic fabric that is pedestrian-scaled, such as antiques row, would promote pedestrian activity in an attractive street presence.

Comment E.4

Cultural Resource Evaluations

PAC*SJ appreciates the City's independent evaluation and conclusion that of the four buildings on the project site, the circa 1925 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street commercial street front buildings are Historical Resources, eligible for listing in the City's Historic Resources Inventory (HRI) as Candidate City Landmarks. These are two of a few remaining commercial buildings on West San Carlos Street that represent the early 20th century development of Burbank, prior to the rapid industrialization of San José in the Post World-War II era. PAC*SJ concurs that their architecture retains enough integrity to represent the era of history and the people that lived in the Burbank community in the early 20th century.

For clarity, the eligibility language (p.68 and p.70) should be revised as follows: "In conclusion, in the opinion of Archaeological Resource Management the property is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San José's HRI as a Candidate City Landmark.

Comment E.5

Please note the following satellite photos of the project site. The EIR notes that there is a residence to the rear of the commercial property at 1883-1887 W. San Carlos, and asserts that it is connected to the front, "entirely obscuring" it from view. A photo of the building from the rear is provided on page 8 of Archeological Resource Management's 9/7/21 historic report, and the report does note that it was the first building on the lot (preceding the commercial buildings by 17-years). The high resolution Maxar Technologies' view of the building clearly evidences (at 400x magnification) that the front of the building is not in fact connected to the commercial building. Access to the Western side of the building also seems likely. PAC*SJ did not have access to the building but believes that the façade of the front of the building, and perhaps the western side and rear remain largely unaltered and should be properly evaluated for its historic integrity when considering mitigation measures. PAC*SJ requests that the integrity of this building be assessed as a part of an assessment of relocation alternatives described in the EIR's Alternatives Analysis.

Please also note the satellite view of the two bay windows on the western side of 1891-1895 commercial building, appear to be the same shape and size as the bay windows on the front of that building. PAC*SJ respectfully requests that this be recorded within a final EIR and retained should Project Alternative #2 be considered for the Project.



PAC* SJ

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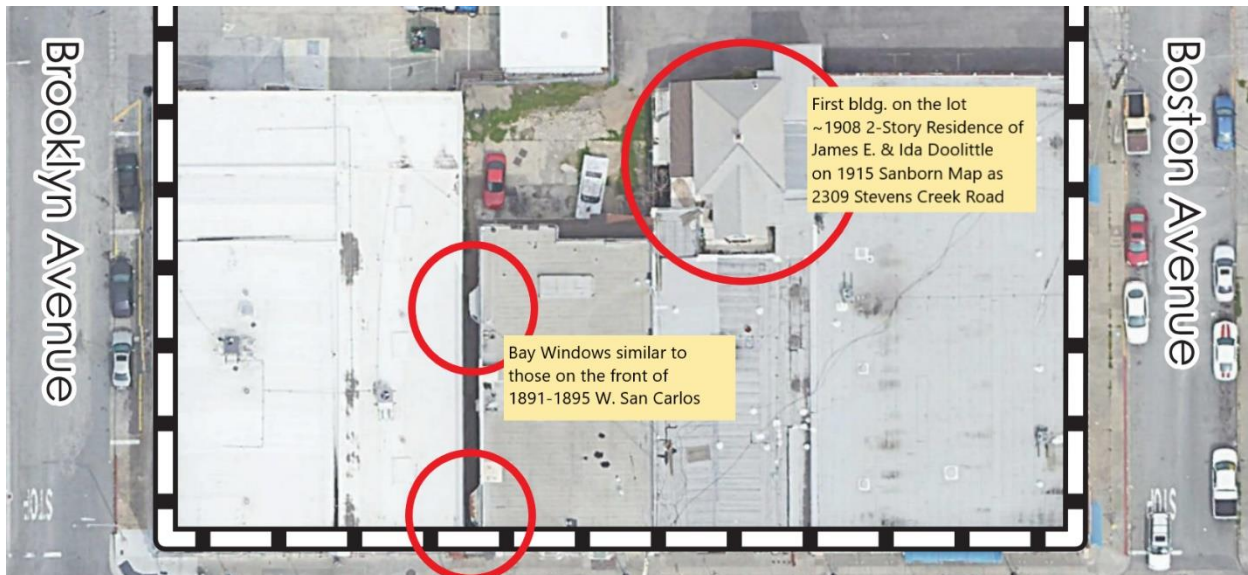
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Comment E.6

Cultural Resource Management

The evaluations establish the buildings are eligible for listing in the City's Historic Resources Inventory (HRI) as Candidate City Landmarks, eligible for preservation incentives. They should be listed on the HRI database, particularly if the project does not move forward.

Cultural Resource Impacts and Mitigation Measures

Adverse Change in the Significance of a Historical Resource

GPAC* SJ further concurs that, given the significance of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, demolition of these buildings would result in a significant impact (IMPACT CUL-1).

The standard mitigation measures of documentation, relocation, salvage (MM CUL-1.1), and creation of an educational exhibit (MM CUL-1.2), to reduce the impact to the historical resources are appreciated. It would seem reasonable that the relocation mitigation measure be amended as follows: "The buildings ... shall be advertised for relocation by a third party, with an offer of funding in the amount of the estimated demolition cost for the building(s)."

To allow for the possibility that relocation could be achieved to a compatible site, the conclusive impact language (p. 78) should be revised as follows: "Even with implementation of the identified mitigation measures, demolition or salvage of these buildings would be a significant unavoidable impact because they would be permanently lost. Relocation, while preserving the buildings in a different location, could also result in a loss of connection to its current location in the Burbank community."

Comment E.7

Cumulatively Considerable Impacts to Historical Resources

PAC* SJ also appreciates the determination that due to the on-going redevelopment of West San Carlos Street within the Burbank area demolition of these buildings would constitute a cumulatively considerable impact to the historical resources associated with the Burbank community.

Relocation, whether on- or off-site, could also address this cumulatively considerable impact, and this should be acknowledged.

In addition, given the incomplete nature of historical resource survey work in the Burbank area, any measures that can strengthen that work should be incorporated into projects with impacts in the area. As such, relevant survey work to address

historic resource management in the Burbank area should also be included as a specific mitigation measure to reduce this impact.

Comment E.8

Alternatives

Given the City of San Jose's policy that candidate or designated landmark structures should be preserved, and the West San Carlos Urban Village Plan's specific mention of Antique Row's importance in defining its character and sense of place and the Envision 2040's call for the incorporation of historic structures within new developments as a means to create a sense of place that contributes to a vibrant economy while providing a connection to the past, a serious consideration of alternatives should be pursued by all involved.

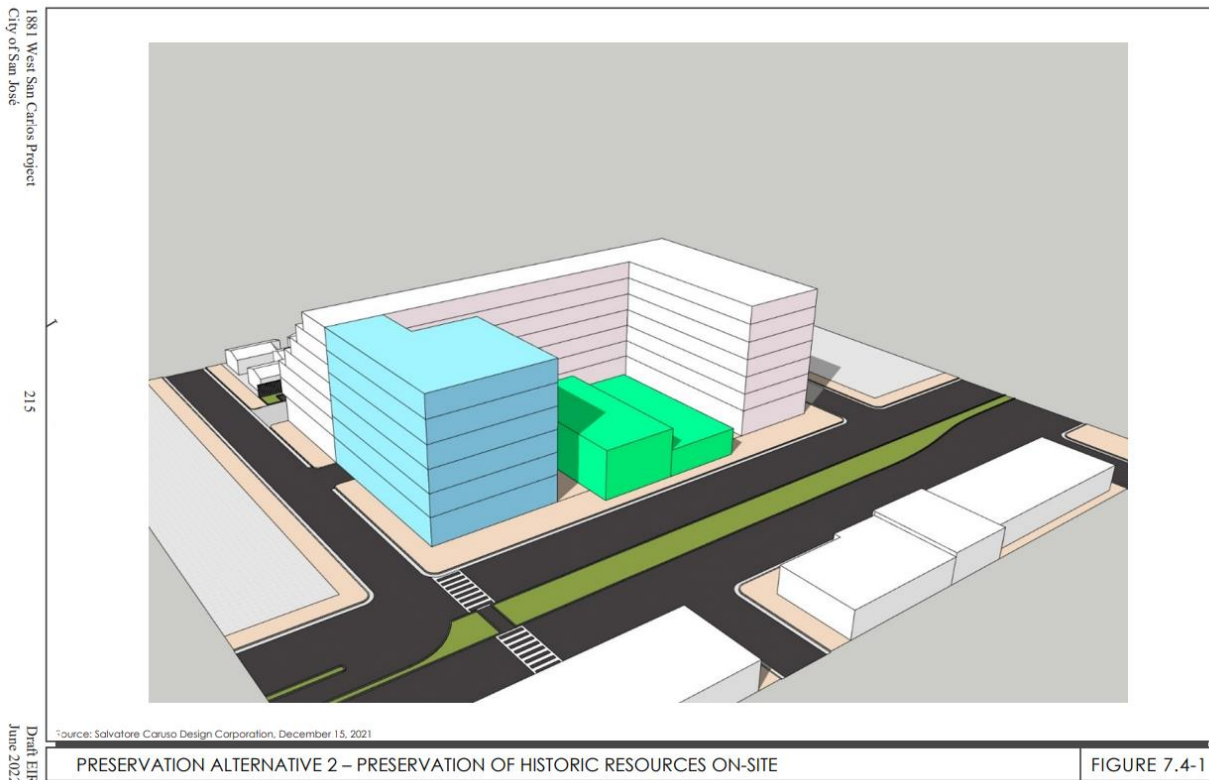
Comment E.9

Preservation Alternative 1 proposes the relocation (and preservation) of 1883-1887 West San Carlos Street (Building 1) and 1891-1895 West San Carlos Street (Building 2) to a receiver site(s) in the West San Carlos Urban Village to retain the relationship of the buildings to the neighborhood and West San Carlos Street. The EIR asserts that there are no vacant parcels of land available while citing the goals for transformation of the Urban Village that will depend on parcels becoming available in the future. A project such as this one, that seeks to combine two very different program types (Senior Assisted Living + Memory Care & at Market Condominiums) is harder to find space for than two mixed-use projects dedicated to their respective programming. As a result of the combination of these two disparate functions, the project requires the demolition of an entire city block. As currently proposed, the project will result in the equivalent of a big box/big brand development that some may consider inconsistent with this Urban Village's vision for what the street level interface is going to look like.

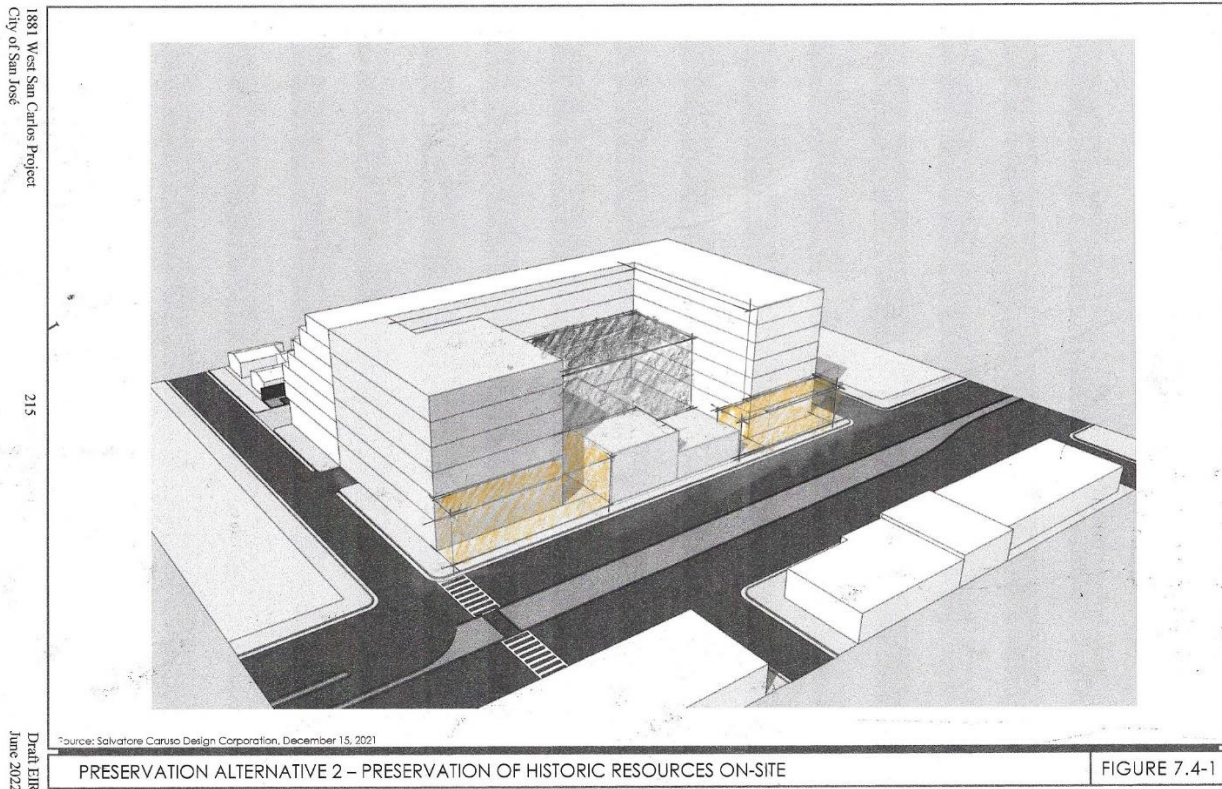
The EIR asserts that the applicant hired a broker to determine the availability of land to relocate the buildings, but the broker was unable to find a viable receiver site for either of the structures within the Urban Village as the final justification for not considering this alternative further. A written report by a broker of properties that might be available to purchase in the future would help better inform public evaluation of the environmental impact of this project and ultimately the City's entitlement and project conditions decisions. This would also inform City Council of the likelihood of the current Urban Village Plan meeting its stated goals for the benefit of the citizens of San Jose. Given that the West San Carlos Urban Village Plan notes in Chapter 3 that prevailing auto-oriented uses (e.g. auto-repair shops, used car lots, car washes, etc.) should NOT be added and should be considered as "interim" in nature, an analysis of the cost to acquire the numerous properties associated with automobiles along San Carlos would be helpful. Perhaps the developer's Broker or another broker can provide an estimate of the market value of some of these locations.

Comment E.10

Of the “Alternatives” considered, PAC* SJ most appreciates and supports the environmentally superior alternative, Preservation Alternative 2: Preservation of Historic Resources On-site, as it would avoid the significant impacts while meeting many of the project objectives (as shown in figure 7.4-1 below)



However, given the nature of the street front, a project alternative not described would hold the street front with a base and stepped back from the historic buildings at a one-to-one ratio, could still retain the historic significance of the resources while meeting most, if not all, of the project objectives for residential units with added street level retail space (as shown below in a modified version of Figure 7.4-1).



Comment E.11

Other Comments

Salvage of other buildings on the site, including the house located behind the 1883-1887 West San Carlos Street commercial street front building, and older buildings that were not determined to qualify as historic resources, should also be included in development permit conditions. Any donation proceeds should fund preservation.

In conclusion, PAC* SJ does not believe that the loss of Candidate City Landmarks and character defining elements of West San Carlos Street should ever be viewed as unavoidable. PAC* SJ would strongly recommend that the project owner preserve and rehabilitate these buildings within West San Carlos Street – noting that these buildings are also candidates for use of historic preservation incentives. Demolition of the buildings is both a significant and cumulative considerable impact, and mitigation measures should be included to address these impacts while proactively supporting the life of the Burbank community. While PAC* SJ



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strongly opposes projects which demolish or damage San Jose's historic resources, any approval of the demolition of a Candidate City Landmark should include a significant financial mitigation requirement be paid to the City's Preservation Program or an organization commissioned by the City for the funding of future preservation survey and incentive programs. Additional cost information from the alternatives analysis would help inform reasonable financial mitigation.

Finally, PAC* SJ asks that the City consider the impact to the uniquely San Jose mom & pop businesses which are likely to be lost without proactive involvement by the developer, the City and public in providing a landing place for local businesses versus big box/big brand businesses.

Sincerely,

J. Michael Sodergren
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Cc: Historic Landmarks Commission