



Final Supplemental Environmental Impact Report
(SCH# 2021070529)

19 North Second Street Mixed-Use

File Nos. SP21-044 & HP21-001

February 2023

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- A. Draft EIR Comment Letters

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1.0 INTRODUCTION

This First Amendment, together with the Draft Supplemental Environmental Impact Report (SEIR), constitutes the Final SEIR for the 19 North Second Street Mixed-Use Project (File Nos. SP21-044, HP21-001, and ER20-249).

1.1 PURPOSE OF THE FINAL EIR

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

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

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

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specifies 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 public review at the office of the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, Third Floor, San José, California, on weekdays during normal business hours. The Final EIR is also available for review on the City's website at <http://www.sanjoseca.gov/activeeirs>.

2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft SEIR for the 19 North Second Street Mixed-Use project, dated August 2022, was circulated to affected public agencies and interested parties for a 45-day review period from August 29, 2022 to October 13, 2022. The City undertook the following actions to collect public input on the scope of the SEIR and to inform the public of the availability of the Draft SEIR:

- The City held a Public Scoping meeting to receive public input on the scope of the Draft SEIR on August 9, 2022. Comments received at the public scoping meeting were addressed in the Draft SEIR.
- The Notice of Availability of the Draft SEIR (NOA) and the Draft SEIR were published on the City's Active EIR website (www.sanjoseca.gov/activeeirs).
- The NOA was sent to members of the public who signed up for City notices via Newsflash.
- The City published the NOA of the Draft SEIR in the San José Mercury News on August 29, 2022 and filed it with the County of Santa Clara County Clerk-Recorder on the same day.
- The NOA was also mailed and emailed on August 29, 2022 to local neighboring jurisdictions, local agencies, and members of the public who had indicated interest in the project and in general notification of City documents (see *Section 3.0* for a list those that received the Draft SEIR).
- The Draft SEIR was electronically transmitted to the State Clearinghouse on August 29, 2022.

3.0 DRAFT EIR RECIPIENTS

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

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

- California Air Resources Board (ARB)
- California Department of Conservation (DOC) California Department of Fish and Wildlife, Region 3
- Bay Delta Region 3 (CDFW)
- California Department of Forestry and Fire Protection (CAL Fire)
- California Department of Housing and Community Development (HCD)
- California Department of Parks and Recreation
- California Department of Transportation, District 4
- California Department of Transportation, Division of Transportation Planning (DOT)
- California Department of Water Resources (DWR)
- California Highway Patrol (CHP)
- California Natural Resources Agency
- California Department of Toxic Substances Control
- California Public Utilities Commission (CPUC)
- California Native American Heritage Commission
- California Regional Water Quality Control Board

The NOA was sent by mail and/or email to the following organizations, businesses, and individuals who expressed interest in the project:

- Association of Bay Area Governments
- Bay Area Air Quality Management District
- Metro Transportation Commission
- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Region 3
- San Francisco Bay National Wildlife Refuge, US Fish and Wildlife Service
- California Department of Transportation, District 4
- California Energy Commission
- California Environmental Protection Agency
- Greenbelt Alliance
- Pacific Gas and Electric (PG&E), Plan Review
- San Jose Water Company
- Santa Clara County Planning Department
- Santa Clara County, Roads & Airports Transportation Planning Department
- Santa Clara Valley Audubon Society
- Valley Transportation Authority, Plan Review

- Valley Water
- City of Palo Alto, Planning & Development Services
- City of Cupertino, Community Development
- City of Fremont, Community Development
- City of Milpitas
- City of Morgan Hill, Planning Division
- City of Santa Clara, Planning & Inspection
- City of Mountain View, Planning Division
- City of Saratoga, Community Development
- City of Sunnyvale, Planning Division
- Town of Los Gatos, Community Development Department
- Sierra Club-Loma Prieta Chapter
- Matt LeBlanc, San Jose Downtown Association
- Chairman Valentin Lopez, Amah Mutsin Tribal Council
- Timothy Perez, North Valley Yokuts Tribe
- Chairperson Irene Zwierlein, Amah Mutsun Tribal Band of Mission San Juan Bautista
- Chairperson Katherine Perez, North Valley Yokuts Tribe,
- Kanyon Sayers-Roods, MLD Contact, Indian Canyon Band of Costanoan Ohlone People
- Andrew Galvan, The Ohlone Indian Tribe
- Chairperson Ann Marie Sayers, Indian Canyon Band of Costanoan Ohlone People
- Kenneth Woodrow, Tribal Chair, Wuksache Indian Tribe/Eshom Valley Band
- Charlene Nijmeh, Tribal Chairwoman, Muwekma Ohlone Tribe
- Confederated Villages of Lisjan
- Vice Chairwoman Monica Arellano, Muwekma Ohlone Indian Tribe of the SF Bay Area
- Chairwoman Quirina Geary, Tamien Nation
- San Jose Unified School District
- Ada Marquez, San Jose State University, School of Social Sciences, Department of Environmental Studies
- Law Office of Joann Broderick Harms
- Kathy Sutherland
- Scott Knies, San Jose Downtown Association
- William T. Brooks, Brooks & Hess
- Erik Schoennauer, The Schoennauer Company
- Sierra Club, Loma Prieta Chapter
- Jean Dresden
- Larry Ames
- Laura Tolhoff, San Francisco Bay Area Planning and Urban Research Association (SPUR)
- Santa Clara Valley Open Space Authority
- Andre Luthard, PAC*SJ
- California Native Plant Society, Santa Clara Valley Chapter
- Janet Laurain, Adams Broadwell Joseph & Cardozo
- Richard Drury, Lozeau Drury, LLP
- Michael Lozeau, Lozeau Drury, LLP
- Hannah Hughes, Lozeau Drury, LLP
- Sophie Roberts, Lozeau Drury, LLP
- Molly Greene, Lozeau Drury, LLP

- Kevin Johnston
- Larry Johmann
- Robert Masciola
- Mariana Alvarez Parga
- Bradley Cleveland
- Michael Athanas
- Sheri Kerr
- Thomas Zabaleta

During the public review of the Draft SEIR, the City received four comment letters as listed below. Responses to the comment letters are provided in *Section 4.0* below.

1. Kanyon Consulting, LLC (August 29, 2022)
2. Pacific Gas & Electric Co. (October 13, 2022)
3. Preservation Action Council of San Jose (October 13, 2022)
4. Santa Clara Valley Transportation Authority (October 27, 2022)
5. Valley Water (Santa Clara Valley Water District) (October 4, 2022)

The City did not receive any comments from state agencies on the Draft SEIR.

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 SEIR are listed below.

Comment Letter and Commenter Page of Response

A.	Kanyon Consulting, LLC. (August 29, 2022).....	7
B.	Pacific Gas & Electric Co. (October 13, 2022)	10
C.	Preservation Action Council of San Jose (October 13, 2022).....	11
D.	Santa Clara Valley Transportation Authority (October 27, 2022)	19
E.	Valley Water (October 4, 2022)	22

LETTER A: Canyon Consulting, LLC.

Comment A.1: miSmin Tuuhis [Good Day]

Kan rakat Canyon Sayers-Roods. I am writing this on behalf of the Indian Canyon Band of Costanoan Ohlone People as requested, responding to your letter. As this project's Area of Potential Effect (APE) overlaps or is near the management boundary of a potentially eligible cultural site, I am interested in consulting and voicing our concerns. With some instances like this, usually we recommend that a Native American Monitor and an Archaeologist be present on-site at all times during any/all ground disturbing activities. The presence of a Native monitor and archaeologist will help the project minimize potential effects on the cultural site and mitigate inadvertent issues.

Canyon Consulting, LLC. has numerous Native Monitors available for projects such as this, if applicable, we recommend a Cultural Sensitivity Training at the beginning of each project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on.

Response A.1: The commenter is recommending a Native American monitor and an archaeologist be present on-site during all ground disturbing activities, and cultural sensitivity training be held at the beginning of the project. Tribal Cultural Resources is discussed in Section 3.18 of the Draft SEIR. Mitigation Measure CR-2 is identified on page 100 of the Draft SEIR and requires sensitivity training prior to construction activities and monitoring during construction due to the project site's high possibility for historic-era buried and pre-contact archaeological deposits. Through the AB 52 consultation process, the identified mitigation was accepted and considered adequate by the Tamien Nation tribe representative. Onsite monitoring, as described in Mitigation Measure CR-2, states "in areas where ground disturbing activities are expected to occur, archaeological monitoring shall be conducted by a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission (NAHC) and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Monitoring is intended to ensure that appropriate cultural protective measures are effective prior to initiation of construction activities and to document and protect cultural resources from inadvertent damage. During ground-disturbing activities that may impact cultural resources such as demolition activities, at least one archaeological monitor and one Native American monitor shall be on-site. Monitoring shall continue until the monitor has determined that excavation has reached the maximum depth at which archeological remains could be expected to occur. As stated in MM CR-2, the cultural sensitivity training would take place prior to the issuance of any demolition, grading, or building permits (whichever occurs first), and would include at least one meeting between a qualified archaeologist and a qualified Native American monitor/representative registered with NAHC for the City of San José and that is traditionally affiliated with the geographic area and all construction personnel. The mitigation measure language does not specify a tribe the project applicant must contract with; however, the measure does specify that the Native American tribe be registered with the NAHC for the City of San José and traditionally affiliated with the geographic area, which includes Indian Canyon Band of Costanoan Ohlone People, among others. Therefore, the project does include on-site monitoring during earthmoving activities and cultural sensitivity training prior to construction as mitigation for potential impacts to cultural resources.

The comment does not present new information that has not been previously analyzed or provided substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts. Therefore, no further analysis or response is required.

Comment A.2: Kanyon Konsulting is a strong proponent of honoring truth in history, when it comes to impacting Cultural Resources and potential ancestral remains, we need to recognise the history of the territory we are impacting. We have seen that projects like these tend to come into an area to consult/mitigate and move on shortly after - barely acknowledging the Cultural Representatives of the territory they steward and are responsible for. Because of these possibilities, we highly recommend that you receive a specialized consultation provided by our company as the project commences, bringing in considerations about the Indigenous peoples and environment of this territory that you work, have settled upon and benefit from. As previously stated, our goal is to Honor Truth in History. And as such we want to ensure that there is an effort from the project organizer to take strategic steps in ways that #HonorTruthinHistory. This will make all involved aware of the history of the Indigenous communities whom we acknowledge as the first stewards and land managers of these territories.

Potential Approaches to Indigenous Cultural Awareness/History:

➤ Signs or messages to the audience or community of the territory being developed. (ex. A commerable plaque, page on the website, mural, display, or an Educational/Cultural Center with information about the history/ecology/resources of the land)

➤ Commitment to consultation with the Native Peoples of the territory in regards to presenting and messaging about the Indigenous history/community of the land (Land Acknowledgement on website, written material about the space/org/building/business/etc, Cultural display of cultural resources/botanical knowledge or Culture sharing of Traditional Ecological Knowledge – Indigenous Science and Technology)

➤ Advocation of supporting indigenous lead movements and efforts. (informing one's audience and/or community about local present Indigenous community)

We look forward to working with you.

Tumsan-ak kannis [Thank You]

Response A.2: As described on page 205 of the Draft SEIR, any subsurface artifacts found on-site would be addressed consistent with the measures identified in the Downtown Strategy 2040 FEIR, as well as Mitigation Measure CR-3, *corrected to MM CR-2 in Section 5.0 of this Amendment*. MM CR-2 calls for the following actions (fully described on page 100 of the Draft SEIR):

- **Cultural Sensitivity Training.** Cultural sensitivity training in coordination with a Native American representative registered with the Native American Heritage Commission and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 prior to any construction activities.
- **On-site Monitoring.** Monitoring during ground-disturbing activities with at least one archaeological monitor and one Native American monitor on-site. Archaeological monitors have the authority to halt construction with the finding of an archaeological discovery and to authorize construction to resume. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, and the on-site archaeologist and Native American representative shall 1)

evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include reinterment of artifacts and materials, recordation, and analysis of any significant cultural materials.

MM CR-2 provides direction on handling any historic archaeological finds and allows the monitors to make recommendations regarding the disposition of such finds. As stated above, the measures above were deemed adequate by the Tamien Nation tribe through the AB 52 consultation process. The comment does not present new information that has not been previously analyzed or provided substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts. Therefore, no further analysis or response is required.

LETTER B: Pacific Gas & Electric Co.

Comment B.1: Thank you for giving us the opportunity to review the subject plans. The proposed Second Street Mixed-Use Project is within the same vicinity of PG&E's existing facilities that impact this property.

PG&E operates underground gas and electric distribution facilities currently serving this property. Please contact PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require prior to any proposed demolition or construction.

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782.

Response B.1: The comment letter was shared with the project applicant. The project applicant will contact PG&E's Service Planning department for any modification or relocation requests, or for any additional services prior to any proposed demolition or construction. This comment does not raise any issues regarding the CEQA analysis; therefore, no further response is required

Comment B.2: As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

Response B.2: The comment letter was shared with the project applicant. The project applicant will contact Underground Service Alert before grading or excavation. This comment does not raise any issues regarding the CEQA analysis; therefore, no further response is required.

LETTER C: Preservation Action Council of San Jose

Comment C.1: The Preservation Action Council of San Jose (PAC*SJ) appreciates the opportunity to provide comments on the August 2022 for the 19 North Second Street Mixed Use Project, a proposed 146,458 sq. ft. 22-story mixed use residential tower with one below-grade basement. The applicant proposes the demolition of the individually designated City Landmark and eligible National and State Landmark 1925 Realty Building to make way for its proposed project. All but the front façade, exterior walls and a portion of the interior core including the central entry vestibule and corridor of the first floor, the stairs and the second-floor central lobby would be irreversibly lost. It is unclear from the report how the new project can be built without destroying the elements chosen for preservation.

Response C.1: The commenter’s description of the project is accurate. The applicant has coordinated with the City to demonstrate that the project can be built without harm to the elements proposed for preservation. As part of the Historic Preservation Permit application and review process, the applicant provided, and the City staff accepted, documentation for a hardship request under Section 13.48.260 of the San José Municipal Code (Historic Preservation Ordinance) that included structural plans prepared by DCI Engineers illustrating the feasibility of the preferred option (Option C), a Preservation Plan prepared by M. Sandoval Architects, Inc., outlining the condition of the Realty Building and corrective measures necessary to restore/maintain the historic elements, and the financial overview and statement of economic infeasibility for preserving portions of the Realty Building in situ. As disclosed in the SEIR’s project description, the project includes demolition of the majority of the roof and interior (except for stairway core) and the construction of a 22-story, 240-foot-high building within the walls of the Realty Building/City Landmark that would integrate and restore the historic street-facing façade and a portion of the existing roof. Mitigation measure CR-1 (a-d), which includes protection, documentation, commemoration and public interpretation, and salvage of interior architectural features, is part of the Mitigation Monitoring and Reporting Program and its adherence is a permit condition of approval. As stated in MM CR-1a, the project applicant will retain a qualified historic architect and structural engineer to prepare an on-site Historical Resource Protection Plan consisting of protection measures for the front facade, exterior walls, and a portion of the interior core, including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby of the City Landmark building. The comment does not present new information that has not been previously analyzed or disclosed. Therefore, no further analysis is required.

Comment C.2: Because the Realty Building is a designated San José City Landmark and is individually eligible for listing in the NRHP and CRHR, the project must comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Standards) in order it to avoid a significant impact to a historical resource under CEQA.

The TreanorHL historic evaluation of the project found that the proposed design would not comply with all of the Standards for Rehabilitation, and that the proposed demolition of the majority of the City Landmark building “would not retain its historic integrity. For this and other reasons, PAC*SJ recommends that the City exercise its judgement to fully protect this beautiful City Landmark.

Response C.2: The project includes partial demolition of a designated City Landmark building and construction of a 22-story tower and therefore, as stated by the commenter and in the CEQA document, would not fully comply with the Secretary of the Interior’s Standards for

Rehabilitation . The significant and unavoidable impact to this historical resource is disclosed in the Cultural Resources (Section 3.5) and Land Use and Planning (Section 3.11) sections of the Draft SEIR. As discussed in Section 3.5 of the Draft SEIR, the project proposes to implement a Preservation Plan prepared by M. Sandoval Architects, Inc. (January 25, 2022), which identifies strategies for corrective repairs and intervention measures consistent with recommendations outlined in the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In addition, the Draft SEIR identifies mitigation measures CR-1a through CR-1d to reduce potential impacts. MM-CR1a consists of protection measures for the front façade, exterior walls, and a portion of the interior core of the building, including operations guidelines for construction equipment adjacent to historic resources, requirements for monitoring and implementing an Onsite Historical Resource Protection Plan (HRPP). MM-CR1b consists of the preparation of Historic American Buildings Survey (HABS) documentation of the historic structure, including drawings of the floor plans and site plan for the existing structure, digital photographs meeting the National Register Photo Policy Factsheet, and a written historical report or DPR 523 form. MM-CR1c consists of the applicant retaining a qualified historic resources consultant to develop and design a commemorative interpretive program, exhibit, or display in a publicly accessible location on the developed site. MM-CR1d consists of identification and salvage of architectural features of the existing building for use in the design of the proposed project, to be used as part of the interpretive program identified in MM CR-1c, or otherwise made available to museums, archives, curation facilities, the public, or nonprofit organizations. However, even with the incorporation of identified mitigation measures (MM CR 1a-d), the project impacts would not be reduced to less than significant. If the City Council issues a Statement of Overriding Considerations, it would accept the significant and unavoidable impacts to the City Landmark to move the project forward. The City has prepared a Draft SEIR in compliance with CEQA and has disclosed the project's significant impacts. No further analysis is required as no new significant impacts have been identified compared to those described in the Draft SEIR.

Comment C.3: As required, the report includes a summary of four alternatives to lessen the impact of the project: 1) No Project Alternative; 2) Preservation/Adaptive Reuse Alternative; 3) Reduced Alternative; and, 4) Decreased Alternative. All of these alternatives deliver less of the proposed project's objectives and were ultimately not given serious consideration by the applicant.

As would be expected, PAC*SJ believes the Environmentally Superior Preservation/Adaptive Reuse Alternative, seeks to activate the site while preventing the permanent loss of a historic resource. Given the immense level of high intensity development all around this proposed project this building seems like the very kind of street level architectural variety future workers, residents and visitors to downtown will long for.

PAC*SJ recognizes that the applicant has responded to PAC*SJ's 8/27/21 request that an alternative design be considered which includes a set-back from the historic front façade in order to preserve the appearance of a freestanding two-story historic structure from the public right-of-way. PAC*SJ had noted a set-back requirement of at least 25'. The applicant has responded with a set-back of ~18' that PAC*SJ would like expanded to at least 25.'

Response C.3: Section 15126.6 of the CEQA Guidelines 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. As discussed on page 239 in the Draft SEIR, the environmentally superior alternative is the No Project

Alternative as this alternative would not result in any redevelopment of the project site and therefore, preserve the historic building intact; however, it would not meet any of the project objectives. In the course of analyzing and considering the project alternatives, the applicant changed the project description from retaining only the façade of the City Landmark building with no setback of the new construction on the third and fourth floors to also retaining the exterior walls and a portion of the roof and interior core of the building and setting back the new construction approximately 19 feet from the historic façade of the City Landmark building above the second floor to lessen the significant impact on the historical resource. The significant and unavoidable impact to this historical resource is disclosed in the Cultural Resources (Section 3.5) and Land Use and Planning (Section 3.11) sections of the Draft SEIR. An intent of any EIR is to refrain from reaching conclusions regarding full feasibility and to focus the analysis on whether an alternative is potentially feasible, and then undertake the comparison of the environmental effects of the project and alternatives. The ultimate determination whether an alternative is feasible is made by City Council as part of its findings rather than in the Draft SEIR itself, which presents the information regarding alternatives in a clear and impartial way. 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 included in the administrative record and the City Council will consider the information in the Draft SEIR together with all the comments, before making a decision on the project. Therefore, no recirculation of the SEIR is required.

Comment C.4: PAC*SJ notes that San Jose's General Plan Policies were adopted for the purpose of avoiding or mitigating land use impacts from development projects. PAC*SJ believes that the project's current design is largely inconsistent with the following Envision San José 2040 Land Use and Planning Policies:

Policy CD1.1 Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD6.8 Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development

Policy LU-1.6 With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.

Policy LU-3.8 Leverage Downtown's urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

Policy LU-13.2 Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City

concur that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

Policy 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.

Policy LU-13.4 Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy LU-13.6 Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

Policy LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Policy LU-13.22 Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.

Policy LU-16.4 Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.

Response C.4: Pages 149-151 of the Draft SEIR identifies all of the commenter's listed General Plan policies. The Draft SEIR incorporated a historic evaluation that included a design assessment and compliance analysis to determine project conformance with the Secretary of the Interior's Standards for the Rehabilitation (SOI Standards) as well as the City's historic regulations to analyze potential on-site impacts. The project was also evaluated for conformance with the San José Downtown Design Guidelines and Standards (DDGS) (see pages 89 to 99 of the SEIR). The Draft SEIR concluded that the project would not fully comply with the applicable 2019 DDGS or with the SOI Standards. Therefore, the Draft SEIR disclosed that the project would have a significant and unavoidable impact on cultural resources, specifically the historic Realty Building, a designated City Landmark.

In addition, the Draft SEIR concluded that the project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources, as described on page 153 of the Draft SEIR. This land use impact was also identified in the Draft SEIR as significant and unavoidable.

The City's General Plan identified "Focused Growth" as a major strategy and the downtown area is designated as a Growth Area which promotes intensification of downtown. The 2040 General Plan EIR concluded that new development allowed under the 2040 General Plan would

not result in a substantial adverse change in the significance of historic resources, with implementation of 2040 General Plan policies and existing regulations. The Downtown Strategy 2000 EIR, however, determined that redevelopment of properties within Downtown could result in a significant cumulative impact to historic resources. Build-out of the Downtown Strategy 2040 area would also contribute to the on-going demolition and major alteration of historic era buildings within downtown. This Draft SEIR for the project tiers off the FEIR for the Downtown Strategy 2040. To meet this planned growth, the San José City Council must balance many goals, policies and guidelines. If the City Council elects to approve the project, a Statement of Overriding Considerations would be required to be adopted by City Council with an explanation of the specific reasons why the social, economic, legal, technical, or other beneficial aspects of the proposed project outweigh the unavoidable adverse environmental impacts and why the Lead Agency is willing to accept such impacts. This statement would be based on the Final Draft SEIR and/or other substantial evidence in the record. Therefore, no recirculation of the SEIR is required.

Comment C.5: PAC*SJ believes the question as to whether this project will cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect is easily answered in the affirmative.

The project includes an application for a Special Use Permit and Historic Preservation Permit to partially demolish the Realty Building, a City Landmark, and construct a 22-story building with one below-grade basement level. Approximately 18,643 square feet of commercial uses would be located on the first and second floors, and a total of 220 affordable senior housing units would be located on the third through 22nd floors.

The Historic Preservation Permit is required pursuant to Section 13.48 of the San José Municipal Code which requires the approval of a HP Permit for any work performed on a City Landmark. The project would partially demolish the existing building by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. The project would incorporate the existing North Second Street façade into the new building. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay through the center of the front façade. As a designated City Landmark, the site is subject to the review of a Historic Preservation Permit in accordance with the Historic Preservation Chapter (13.48) of the San José Municipal Code, which promotes the preservation of landmark districts to protect and enhance the City's cultural aesthetic character.

In Section 3.5 Cultural Resources, the proposed project notes that it would result in the demolition of the historic structure on-site (Realty Building) and would only partially meet the principles and guidelines for rehabilitation. The report notes that the project proponent's submitted hardship information for non-compliance with the Historic Preservation Ordinance proposed for the project will be accepted by the City; however, the proposed project would still conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental impact. PAC*SJ believes this project has created the hardship for which it seeks relief.

Response C.5: The Draft SEIR concludes that the project would have a significant unavoidable impact on the historically significant Realty Building (see Section 3.5 in the Draft SEIR). In addition, the Draft SEIR concludes that the project would conflict with existing land use

policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources. See Response C.4. As noted by the commenter, the project includes an application for a Historic Preservation Permit which was evaluated for consistency with Chapter 13.48 of the San José Municipal Code (Historic Preservation Ordinance). The application was reviewed by the Historic Landmarks Commission in a public hearing on February 1, 2023 for conformance with the required findings in Section 13.48.240 of the Historic Preservation Ordinance. The Commission ultimately rejected the hardship findings, but approved the Historic Preservation Permit with recommendations to the City Council, the decision-making body for the project as a whole. In doing so, the Commission denied the applicant's submitted documentation under Section 13.48.260 (Hardship) and determined that rehabilitation in accordance with the chapter was not infeasible from a technical, mechanical, or structural standpoint. In denying the hardship request, the Commission also determined that the economics of rehabilitation in accordance with the chapter would not require an unreasonable expenditure in light of the feasible uses of such property and that the project applicant was aware of the building's standing as a registered City Landmark. If the City Council is also unable to make the findings required under Section 13.48.260 for issuance of an HP Permit due to hardship, the City Council may nevertheless issue an Historic Preservation Permit per Section 13.48.240 and find that the work will not be detrimental to a structure of significant architectural, cultural, historical, aesthetic, or engineering interest or value and is consistent with the spirit and purposes of the Historic Preservation Ordinance. Therefore, no recirculation of the SEIR is required.

Comment C.6: Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant, effects taking place over a period of time. CEQA Guidelines Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR. The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project’s contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all the pending development listed result in a cumulatively significant impact on the resources in question; and if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts. Section 15130(B) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. The project would primarily contribute to the cumulative effects of development in the area surrounding the Downtown core; therefore, the cumulative discussion is focused on the area defined within the Downtown Strategy 2040, except where otherwise indicated. A list of the cumulative development in the project area used for this analysis is presented in Table 20 (taken in part from the City’s website⁵⁸ for planned or approved projects are located within 1,000 feet of the project site.

PAC*SJ notes that while the SEIR provides a list of projects with a range of status from “Pending” to “Approved by not yet constructed” to “Partially Completed” Unfortunately, the list describes what is to be or actively planned to be built, while completely omitting a summary of on-site and adjacent buildings for each of these projects. For example, the City View Project at 150 North Almaden Boulevard summarizes the projects plan to build three 19-story buildings with up to 3.8 million sq. ft. of office and commercial space without even summarizing the Historic Landmark eligible mid-century historic buildings that are to be demolished to make way for the new project. PAC*SJ believes that the number of historic buildings from a range of periods of significance are only being considered individually, not in aggregate.

Response C.6: As described on pages 222-223 of the Draft SEIR, the geographic area for cultural resources is the surrounding area within approximately 1,200 feet of the project site. The study area has been determined based on the potential to uncover archaeological resources and impact historical resources , especially historic resources abutting the site, including 28 North First Street (City Landmark, HL01-140) and 34 North First Street (City Landmark, HL01-135). The San José Historic Commercial District is south of the project site but is included in the project’s study area. In addition, St. James Square City Landmark District is located north of the project site. The City View Project (File No. H19-016) at 150 North Almaden Boulevard is approximately 1.1 miles southwest of the project site or approximately 2,700 feet from the project site, which is outside of the 1,200-foot radius used for the cumulative impact analysis. The project would result in significant impacts to historic cultural resources. Specifically, the historic integrity of the Realty Building, a City Landmark at 19 North Second Street, would be significantly impacted by proposed demolition and construction activities. Although mitigation measures are identified in this SEIR (see MMs CR-1a through CR-1d), this impact would remain significant and unavoidable. In addition, potentially significant impacts from project construction may occur on adjacent historic resources. Mitigation is presented in the SEIR to lessen and avoid construction impacts in *Section 3.11 Noise and Vibration* (see MM NSE-2). With this mitigation, the project’s construction impacts to the adjacent historic buildings would be reduced to less than significant.

In addition to the proposed project, there are four recently approved projects in the area (82-96 East Santa Clara Street File No. HP21-003, Bank of Italy File No. HP20-003, Knox Goodrich and FAB building File Nos. HP19-007 and H19-041, and Hotel Clariana Expansion Project File No. H17-059). The four approved projects were individually analyzed and found to be consistent with applicable design guidelines and standards. While the development/redevelopment of the parcels within the San José Commercial District could cumulatively change the visual character of the area, with applicable design guidelines and standards ensure that the combined effect of these projects would not significantly impact its historic integrity and significance.

The Downtown Strategy 2040 FEIR disclosed that the Downtown Strategy 2040 has the potential to contribute to cumulative impacts to historic resources at the citywide level. Build out of the Downtown Strategy 2040 area would contribute to the on-going demolition and major alteration of historic era buildings within downtown. The FEIR identified mitigation for these impacts that requires evaluation of development sites by a qualified cultural resources consultant and adherence to specific recommendations of the consultant based on site-specific review. This Draft SEIR for the project tiers from the FEIR for the Downtown Strategy 2040 which has disclosed a significant cumulative impact to historic resources. The Draft SEIR concluded that project would have a significant unavoidable cumulative impact to historic

resources. The cumulative analysis is intended to provide a combined (or aggregate) evaluation of potential impacts to historic resources downtown, consistent with CEQA and the findings of the Downtown Strategy 2040 FEIR. Therefore, the cumulative impacts have been analyzed and disclosed. No further analysis is required.

Comment C.7: The Report summarizes that “all significant impacts of the proposed project associated with the specific project and site would be reduced to a less than significant level with the implementation of mitigation measures identified in this SEIR except for the following:

- Cultural Resources: The project would result in significant and unavoidable impacts to an historical resource, which will be unavoidable even with mitigation incorporated because the project would result in the demolition of the on-site City Landmark, and the limited retention of the historic façade which would cause a substantial adverse change in the significance of the locally designated City Landmark.
- Land Use and Planning: The project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources.

PAC*SJ is generally in agreement in the historic reports conclusions but does not believe that the City should ever accept that the fatal impact to its historic resources is unavoidable. Although PAC*SJ favors the applicant’s current design among any of the options that propose to demolish a City Landmark in part or in whole, we and others have questioned the viability of this project through all of its iterations.

Response C.7: The commenter’s agreement with the conclusions of the historic reports and support for full protection of the Realty Building are included in the administrative record. The comment does not point to deficiencies in the CEQA analysis; therefore, no further analysis is required.

Comment C.8: 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 C.8: As discussed in the Draft SEIR (Section 3.5), the Realty Building was constructed in 1925 and housed many realtors over the years. The building is currently occupied by office and restaurant uses. The project includes approximately 18,600 square feet of commercial space on the first and second floors and could accommodate local businesses in the future. Per the project applicant, the landlord is providing relocation assistance to existing tenant(s).¹ The comment does not raise issues regarding the CEQA analysis; therefore, no further analysis is required.

¹ December 2022. Personal Communication with Loida Kirkley (Project Applicant).

LETTER D: Santa Clara Valley Transportation Authority

Comment D.1: In 2018, FTA and VTA released the Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (SEIS/SEIR) for VTA’s BART Silicon Valley Phase II Extension Project (BSV Phase II Project). VTA’s Board of Directors certified the SEIR and approved the BSV Phase II Project in April 2018, and FTA issued the Record of Decision in June 2018. The BSV Phase II Project facilities approved with the SEIS/SEIR is adjacent to this proposed development. Easements, in which temporary or permanent structures would not be allowed, are required for the BSV Phase II Project. VTA is in the process of evaluating this need including assessing the need of easements adjacent to future BSV Phase II project facilities.

VTA is currently in the process of advancing the design for the BSV Phase II project. Utility relocations and site preparations are expected to begin in 2023, while heavy construction in this area is expected to follow in 2024.

Response D.1: The information provided regarding easements, utility relocations/site preparations, and construction of the BSV projects is included in the administrative record. The applicant will coordinate with VTA throughout the preparation of construction documents and processing of permits. The project permit, on behalf of the Public Works Department, will include this condition of approval:

BART Phase II: The project will be required to submit structural and shoring plans to the Santa Clara Valley Transportation Authority (VTA) for coordination with the future BART tunnel to ensure no conflicts or impacts to the proposed BART project. Tie-backs may not be acceptable at certain locations and/or elevations depending on the project's design.

This comment does not raise any concerns with the CEQA analysis; therefore, no further response is required.

Comment D.2: The Draft Supplemental EIR (Draft SEIR) for the 19 North Second Street Mixed-Use Project (August 2022, City of San Jose File Numbers SP21-044 & HP21-001, and State Clearinghouse Number 2021070529) does not include foundation/excavation or non-preliminary off-site utility drawings for the proposed development; therefore, VTA cannot comment on those.

Response D.2: Draft environmental documents typically do not include foundation/excavation or non-preliminary off-site utility drawings. The foundation/excavation or non-preliminary off-site utility drawings for the proposed development will be provided to VTA before initiating construction; coordination with VTA will be a condition of approval in the project permit. The comment does not speak to the adequacy of the environmental document or analysis, no further response is required.

Comment D.3: VTA’s BART Phase II Extension Project is also implementing a Historic Building Investigation and Monitoring Program to monitor potential impacts to historic structures during construction of the Project. This site includes resources that were deemed eligible for or listed in the National Register of Historic Places (NRHP) and California Register of Historic Resources (CRHR) – shown on page 10 of Volume III Appendix D in the Final SEIS/SEIR (https://www.vta.org/sites/default/files/documents/VolumeIII_Appendix%2520D_Cultural%2520Resources_feb20_2018.pdf). If the 19 North Second Street Mixed-Use Project results in a change in the

status of any historic resources, VTA will coordinate with FTA and the property owner/developer to address any necessary changes to VTA's Historic Building Investigation and Monitoring Program as appropriate.

Response D.3: As described in *Section 3.5. Cultural Resources* of the SEIR, the existing building on the project site is designated as a City Landmark. The project includes a Special Use Permit and Historic Preservation Permit to partially demolish the Realty Building by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. This is identified as a significant unavoidable impact although mitigation measures are included in the SEIR, including MM CR-1a, that identify implementation of protection measures to safeguard these portions of the designated City Landmark. It is understood that VTA may need to coordinate with FTA and the property owner/developer to address any necessary changes to VTA's Historic Building Investigation and Monitoring Program as appropriate. The comment does not raise any new issues about the project's environmental impacts, nor do they provide new information that would constitute substantial evidence to indicate that the project would result in new significant environmental impacts substantially greater in severity than disclosed in the Draft SEIR.

Comment D.4: The City of San José's General Plan Policy EC-1.9 states that "Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms." VTA's BSV Phase II Project has received state and federal environmental clearance and is advancing its design into construction beginning in 2023. Please ensure appropriate mitigation is incorporated into the 19 North Second Street Mixed-Use Project to address the General Plan requirement stated above.

Response D.4: As described in *Section 3.13 Noise and Vibration* of the SEIR, a technical noise and vibration assessment was prepared to determine noise and vibration impacts of the proposed project (see Appendix F of the SEIR). In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD, 2015, 62 Cal.4th 369, Case No. S213478.*) case that determined that CEQA does not require lead agencies to consider the effects of the environment on future residents and occupants of a project. In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project.

Page 181 of the Draft SEIR, under "Project Conditions of Approval," identifies a series of noise insulation features that are to be incorporated into the project to reduce interior noise levels to 45 dBA DNL or less at residential interiors, consistent with General Plan Policy EC-1.1. The comment does not raise any additional impacts or require new mitigation; therefore, no further analysis is required.

Comment D.5: Because of the proximity between this proposed development and the BSV Phase II project and the possibility of concurrent construction, VTA requests the development's design

(including but not limited to the building’s foundation system, shoring and support of excavation plans, geotechnical reports, the next phase of the site assessment report, structural drawings, and non-preliminary off-site utilities plans), as well as construction activities (including but not limited to haul routes, construction approach and sequence, schedule, logistics, approach for monitoring adjacent structures during construction, etc.) be shared/discussed with VTA. VTA’s review of these documents as they advance and become available will be critical, including to ensure that BSV Phase II structures are not compromised, potentially causing damages and or other safety concerns. Additionally, as projects may be built concurrently, construction activities such as haul routes, times, logistics, etc. should be further discussed as design and construction progress. As the 19 North Second Street Mixed-Use Project has not shared or discussed specific technical details above with VTA, and an anticipated construction start date of early 2023 as stated in the 19 North Second Street Mixed-Use Project Draft SEIR (p. 6) has been provided, VTA requests the City of San Jose requires this development initiate the appropriate discussions with VTA to assure that the 19 North Second Street Mixed-Use Project has been planned and designed to be compatible with the BSV Phase II Project, including to avoid damages or other safety concerns, before any permits and approvals are finalized.

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

Response D.5: VTA’s comment letter was shared with the applicant on October 27, 2022. As stated above, a permit condition of approval will require the applicant to coordinate with VTA throughout the preparation of construction documents and processing of permits to ensure that BSV Phase II structures are not compromised. The comment does not raise any additional impacts or require new mitigation; therefore, no further analysis is required.

LETTER E: Valley Water

Comment E.1: Valley Water records indicate 3 active wells located on the project site. If the wells will continue to be used following permitted activity, they must be protected so they do not become lost or damaged during completion of permitted activity. If the wells will not be used following permitted activity, they must be properly destroyed under permit from Valley Water, in accordance with Valley Water Ordinance 90-1.

While Valley Water has records from most wells located in the County, it is always possible that a well exists that is not in Valley Water's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. Property owners or their representatives need to call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Response E.1: The project applicant received a copy of the letter and will coordinate with Valley Water to address existing wells located on the project site.

Comment E.2: The SEIR concludes that the project is consistent with planned growth in the Downtown Strategy 2040. The analysis from the Downtown plan relied on the Urban Water Management Plans (UWMP) for the San Jose Water Company and for Valley Water, which both assume substantial increases in water conservation to manage future water demands. Consistent with General Plan Policies MS-18.5 and 18.6, the 2030 Greenhouse Gas Reduction Strategy, and to meet water conservation targets assumed in the UWMPs, Valley Water suggests that all new separate residential units be required to install a submeter to encourage efficient water use. Studies have shown that adding submeters can reduce water use 15 to 30 percent.

Response E.2: As discussed in Section 3.6 (Energy) of the draft SEIR, the project is subject to the City's Green Building Policy which would increase building efficiency and water building performance. In addition, the project would be in conformance with General Plan Policies MS-18.5 and MS-18.6, the 2030 Greenhouse Gas Reduction Strategy, and the water conservation targets identified in the UWMP.

5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the 19 North Second Street Mixed-Use Supplemental EIR, dated August 2022. Revised or new language is underlined, and deletions are shown in ~~strikeout~~ text.

Page vi, Summary of the Project, second paragraph, last sentence is revised as follows:

The Special Use Permit would consider the creation of no more than four commercial condominium units for the commercial space and no more than one residential condominium unit for the residential portion of the project, and the Historic Preservation Permit would review the proposed changes to the Realty Building, an historic City Landmark.

Page 9, Section 2.4.1.1 Project-Related Approvals, Permits, and Clearances, item number 4 is revised as follows:

Subdivision Actions such as ~~Lot Line Adjustment~~ or Parcel Map or Tentative and Final Subdivision Map.

Page 205, seventh paragraph, the first sentence is revised as follows:

Any subsurface artifacts found on-site would be addressed consistent with the measures identified in the Downtown Strategy 2040 FEIR, as well as mitigation measure CR-2 ~~CR-3~~ in *Section 3.5. Cultural Resources*.

Page 223, fourth paragraph, the second sentence is revised as follows:

With implementation of the Mitigation Measure CR-2 ~~CR-3~~, impacts to subsurface resources would be less than significant.

Attachment A

Attachment A
Draft EIR Comment Letters

Leianne Humble

From: KKLLC Admin <admin@kanyonconsulting.com>
Sent: Monday, August 29, 2022 1:54 PM
To: Blanco, Maira
Subject: Notice of Availability (NOA) and Public Comment Period of a draft Environmental Impact Report for the 19 N. Second Street Mixed-Use Project

[External Email]

miSmin Tuuhis [Good Day]

Kan rakat Kanyon Sayers-Roods. I am writing this on behalf of the Indian Canyon Band of Costanoan Ohlone People as requested, responding to your letter

As this project's Area of Potential Effect (APE) overlaps or is near the management boundary of a potentially eligible cultural site, I am interested in consulting and voicing our concerns. With some instances like this, usually we recommend that a Native American Monitor and an Archaeologist be present on-site at all times during any/all ground disturbing activities. The presence of a Native monitor and archaeologist will help the project minimize potential effects on the cultural site and mitigate inadvertent issues.

A-1

Kanyon Consulting, LLC has numerous Native Monitors available for projects such as this, if applicable, we recommend a Cultural Sensitivity Training at the beginning of each project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on.

Kanyon Consulting is a strong proponent of honoring truth in history, when it comes to impacting Cultural Resources and potential ancestral remains, we need to recognise the history of the territory we are impacting. We have seen that projects like these tend to come into an area to consult/mitigate and move on shortly after - barely acknowledging the Cultural Representatives of the territory they steward and are responsible for. Because of these possibilities, we highly recommend that you receive a specialized consultation provided by our company as the project commences, bringing in considerations about the Indigenous peoples and environment of this territory that you work, have settled upon and benefit from.

As previously stated, our goal is to Honor Truth in History. And as such we want to ensure that there is an effort from the project organizer to take strategic steps in ways that #HonorTruthinHistory. This will make all involved aware of the history of the Indigenous communities whom we acknowledge as the first stewards and land managers of these territories.

A-2

Potential Approaches to Indigenous Cultural Awareness/History:

- Signs or messages to the audience or community of the territory being developed. (ex. A commerable plaque, page on the website, mural, display, or an Educational/Cultural Center with information about the history/ecology/resources of the land)
- Commitment to consultation with the Native Peoples of the territory in regards to presenting and messaging about the Indigenous history/community of the land (Land Acknowledgement on website, written material about the space/org/building/business/etc, Cultural display of cultural resources/botanical knowledge or Culture sharing of Traditional Ecological Knowledge - Indigenous Science and Technology)
- Advocation of supporting indigenous lead movements and efforts. (informing one's audience and/or community about local present Indigenous community)

We look forward to working with you.

Tumsan-ak kannis [Thank You]

Kanyon Sayers-Roods
Consultant / Tribal Monitor [ICMBCO]
Kanyon Konsulting, LLC

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

October 13, 2022

Maira Blanco
City of San Jose
200 E Santa Clara St
San Jose, CA 95113

Re: Second Street Mixed-Use Project
19 North Second Street, San Jose, CA

Dear Maira Blanco,

Thank you for giving us the opportunity to review the subject plans. The proposed Second Street Mixed-Use Project is within the same vicinity of PG&E's existing facilities that impact this property.

PG&E operates underground gas and electric distribution facilities currently serving this property. Please contact PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require prior to any proposed demolition or construction.

B-1

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

B-2

If you have any questions regarding our response, please contact me at alexa.gardea@pge.com.

Sincerely,



Alexa Gardea
Land Management
916-760-5738



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

October 13, 2022

Maira Blanco
Dept. of Planning, Building & Code Enforcement
200 E. Santa Clara St., 3rd Floor
San Jose, CA 95113

Via email: maira.blanco@sanjoseca.gov

RE: PAC* SJ Comments HP21-001/SP21-044 19 N. Second St. Mixed Use Project

The Preservation Action Council of San Jose (PAC* SJ) appreciates the opportunity to provide comments on the August 2022 for the 19 North Second Street Mixed Use Project, a proposed 146,458 sq. ft. 22-story mixed use residential tower with one below-grade basement. The applicant proposes the demolition of the individually designated City Landmark and eligible National and State Landmark 1925 Realty Building to make way for its proposed project. All but the front façade, exterior walls and a portion of the interior core including the central entry vestibule and corridor of the first floor, the stairs and the second-floor central lobby would be irreversibly lost. It is unclear from the report how the new project can be built without destroying the elements chosen for preservation.

Because the Realty Building is a designated San José City Landmark and is individually eligible for listing in the NRHP and CRHR, the project must comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Standards) in order it to avoid a significant impact to a historical resource under CEQA.

The TraenorHL historic evaluation of the project found that the proposed design would not comply with all of the Standards for Rehabilitation, and that the proposed demolition of the majority of the City Landmark building “would not retain its historic integrity. For this and other reasons, PAC* SJ recommends that the City exercise its judgement to fully protect this beautiful City Landmark.

As required, the report includes a summary of four alternatives to lessen the impact of the project: 1) No Project Alternative; 2) Preservation/Adaptive Reuse Alternative; 3) Reduced Alternative; and, 4) Decreased Alternative. All of these alternatives deliver less of the proposed project’s objectives and were ultimately not given serious consideration by the applicant.

As would be expected, PAC* SJ believes the Environmentally Superior Preservation/Adaptive Reuse Alternative, seeks to activate the site while preventing the permanent loss of a historic resource. Given the immense level of high intensity development all around this proposed project this building seems like the very kind of street level architectural variety future workers, residents and visitors to downtown will long for.

PAC* SJ recognizes that the applicant has responded to PAC* SJ’s 8/27/21 request that an alternative design be considered which includes a set-back from the historic front façade in order to preserve the appearance of a freestanding two-story historic structure from the public right-of-way. PAC* SJ had noted a set-back requirement of at least 25’. The applicant has responded with a set-back of ~18’ that PAC* SJ would like expanded to at least 25.’

PAC* SJ BOARD

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C-1

C-2

C-3

PAC* SJ notes that San Jose's General Plan Policies were adopted for the purpose of avoiding or mitigating land use impacts from development projects. PAC* SJ believes that the project's current design is largely inconsistent with the following Envision San José 2040 Land Use and Planning Policies:

Policy CD1.1 Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD6.8 Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development

Policy LU-1.6 With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.

Policy LU-3.8 Leverage Downtown's urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

Policy LU-13.2 Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

Policy 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.

Policy LU-13.4 Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

Policy LU-13.6 Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.

Policy LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Policy LU-13.22 Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.

Policy LU-16.4 Require development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory to salvage the resource's building materials and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials.

PAC* SJ believes the question as to whether this project will cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect

C-4

C-5

is easily answered in the affirmative.

The project includes an application for a Special Use Permit and Historic Preservation Permit to partially demolish the Realty Building, a City Landmark, and construct a 22-story building with one below-grade basement level. Approximately 18,643 square feet of commercial uses would be located on the first and second floors, and a total of 220 affordable senior housing units would be located on the third through 22nd floors.

The Historic Preservation Permit is required pursuant to Section 13.48 of the San José Municipal Code which requires the approval of a HP Permit for any work performed on a City Landmark. The project would partially demolish the existing building by removing the majority of extant building components except for the front façade, the exterior walls, and a portion of the interior core including the central entry vestibule and corridor on the first floor, the stairs, and the second-floor central lobby. The project would incorporate the existing North Second Street façade into the new building. Projecting cornices would be at the 4th, 12th, 18th, and roof levels, dividing the new building into four sections. A recessed glazed central bay through the center of the front façade. As a designated City Landmark, the site is subject to the review of a Historic Preservation Permit in accordance with the Historic Preservation Chapter (13.48) of the San José Municipal Code, which promotes the preservation of landmark districts to protect and enhance the City’s cultural aesthetic character.

In Section 3.5 Cultural Resources, the proposed project notes that it would result in the demolition of the historic structure on-site (Realty Building) and would only partially meet the principles and guidelines for rehabilitation. The report notes that the project proponent’s submitted hardship information for non-compliance with the Historic Preservation Ordinance proposed for the project will be accepted by the City; however, the proposed project would still conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental impact. PAC* SJ believes this project has created the hardship for which it is seeks relief.

Cumulative Impact

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant, effects taking place over a period of time. CEQA Guidelines Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR. The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project’s contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all the pending development listed result in a cumulatively significant impact on the resources in question; and if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts. Section 15130(B) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. The project would primarily contribute to the cumulative effects of development in the area surrounding the Downtown core; therefore, the cumulative discussion is focused on the area defined within the Downtown Strategy 2040, except where otherwise indicated. A list of the cumulative development in the project area used for this analysis is presented in Table 20 (taken in part from the City’s website⁵⁸ for planned or approved projects are located within

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1,000 feet of the project site.

PAC* SJ notes that while the SEIR provides a list of projects with a range of status from “Pending” to “Approved by not yet constructed” to “Partially Completed” Unfortunately, the list describes what is to be or actively planned to be built, while completely omitting a summary of on-site and adjacent buildings for each of these projects. For example, the City View Project at 150 North Almaden Boulevard summarizes the projects plan to build three 19-story buildings with up to 3.8 million sq. ft. of office and commercial space without even summarizing the Historic Landmark eligible mid-century historic buildings that are to be demolished to make way for the new project. PAC* SJ believes that the number of historic buildings from a range of periods of significance are only being considered individually, not in aggregate.

Significant Impacts:

The Report summarizes that “all significant impacts of the proposed project associated with the specific project and site would be reduced to a less than significant level with the implementation of mitigation measures identified in this SEIR except for the following:

- **Cultural Resources:** The project would result in significant and unavoidable impacts to an historical resource, which will be unavoidable even with mitigation incorporated because the project would result in the demolition of the on-site City Landmark, and the limited retention of the historic façade which would cause a substantial adverse change in the significance of the locally designated City Landmark.
- **Land Use and Planning:** The project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect related to the significant unavoidable impact to historic resources.

PAC* SJ is generally in agreement in the historic reports conclusions but does not believe that the City should ever accept that the fatal impact to its historic resources is unavoidable. Although PAC* SJ favors the applicant’s current design among any of the options that propose to demolish a City Landmark in part or in whole, we and others have questioned the viability of this project through all of its iterations.

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
Board V.P. & Advocacy Committee Chair
Preservation Action Council of San Jose
1650 Senter Road
San Jose, CA 95112

408-930-2561
mike@preservation.org



C-6
Con't

C-7

C-8

Leianne Humble

Subject: FW: 19 N Second St: VTA comments will be delayed FILE NOS: HP21-001, SP21-044 (FORMERLY H20-040), ER22-249

From: Torney, Lola <Lola.Torney@vta.org>

Sent: Thursday, October 27, 2022 10:08 AM

To: Blanco, Maira <Maira.Blanco@sanjoseca.gov>

Cc: plan.review <plan.review@vta.org>

Subject: RE: 19 N Second St: VTA comments will be delayed FILE NOS: HP21-001, SP21-044 (FORMERLY H20-040), ER22-249

[External Email]

Okay! Official comments below. Thank you for your patience!

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

In 2018, FTA and VTA released the Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (SEIS/SEIR) for VTA’s BART Silicon Valley Phase II Extension Project (BSV Phase II Project). VTA’s Board of Directors certified the SEIR and approved the BSV Phase II Project in April 2018, and FTA issued the Record of Decision in June 2018. The BSV Phase II Project facilities approved with the SEIS/SEIR is adjacent to this proposed development. Easements, in which temporary or permanent structures would not be allowed, are required for the BSV Phase II Project. VTA is in the process of evaluating this need including assessing the need of easements adjacent to future BSV Phase II project facilities.

D-1

VTA is currently in the process of advancing the design for the BSV Phase II project. Utility relocations and site preparations are expected to begin in 2023, while heavy construction in this area is expected to follow in 2024.

The Draft Supplemental EIR (Draft SEIR) for the 19 North Second Street Mixed-Use Project (August 2022, City of San Jose File Numbers SP21-044 & HP21-001, and State Clearinghouse Number 2021070529) does not include foundation/excavation or non-preliminary off-site utility drawings for the proposed development; therefore, VTA cannot comment on those.

D-2

VTA’s BART Phase II Extension Project is also implementing a Historic Building Investigation and Monitoring Program to monitor potential impacts to historic structures during construction of the Project. This site includes resources that were deemed eligible for or listed in the National Register of Historic Places (NRHP) and California Register of Historic Resources (CRHR) – shown on page 10 of Volume III Appendix D in the Final SEIS/SEIR (https://www.vta.org/sites/default/files/documents/Volumelll_Appendix%2520D_Cultural%2520Resources_feb20_2018.pdf). If the 19 North Second Street Mixed-Use Project results in a change in the status of any historic resources, VTA will coordinate with FTA and the property owner/developer to address any necessary changes to VTA's Historic Building Investigation and Monitoring Program as appropriate.

D-3

The City of San José’s General Plan Policy EC-1.9 states that “Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.” VTA’s BSV Phase II Project has received state and federal environmental

D-4

clearance and is advancing its design into construction beginning in 2023. Please ensure appropriate mitigation is incorporated into the 19 North Second Street Mixed-Use Project to address the General Plan requirement stated above.

↑ D-4
Cont

Because of the proximity between this proposed development and the BSV Phase II project and the possibility of concurrent construction, VTA requests the development's design (including but not limited to the building's foundation system, shoring and support of excavation plans, geotechnical reports, the next phase of the site assessment report, structural drawings, and non-preliminary off-site utilities plans), as well as construction activities (including but not limited to haul routes, construction approach and sequence, schedule, logistics, approach for monitoring adjacent structures during construction, etc.) be shared/discussed with VTA. VTA's review of these documents as they advance and become available will be critical, including to ensure that BSV Phase II structures are not compromised, potentially causing damages and or other safety concerns. Additionally, as projects may be built concurrently, construction activities such as haul routes, times, logistics, etc. should be further discussed as design and construction progress. As the 19 North Second Street Mixed-Use Project has not shared or discussed specific technical details above with VTA, and an anticipated construction start date of early 2023 as stated in the 19 North Second Street Mixed-Use Project Draft SEIR (p. 6) has been provided, VTA requests the City of San Jose requires this development initiate the appropriate discussions with VTA to assure that the 19 North Second Street Mixed-Use Project has been planned and designed to be compatible with the BSV Phase II Project, including to avoid damages or other safety concerns, before any permits and approvals are finalized.

D-5

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

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

From: [Lisa Brancatelli](#)
To: [Blanco, Maira](#)
Cc: [Colleen Haggerty](#)
Subject: FW: NOA and Public Comment Period of a draft SEIR for the 19 N. Second Street Mixed-Use Project
Date: Tuesday, October 4, 2022 2:01:37 PM
Attachments: [image001.png](#)

[External Email]

Hello Maira,

Valley Water has reviewed the Draft Supplemental Environmental Impact Report (SEIR) for the 19 North Second Street Mixed-Use Project (APN 467-21-028) received on August 29, 2022.

1. Valley Water records indicate 3 active wells located on the project site. If the wells will continue to be used following permitted activity, they must be protected so they do not become lost or damaged during completion of permitted activity. If the wells will not be used following permitted activity, they must be properly destroyed under permit from Valley Water, in accordance with Valley Water Ordinance 90-1.
 While Valley Water has records from most wells located in the County, it is always possible that a well exists that is not in Valley Water's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. Property owners or their representatives need to call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.
2. The SEIR concludes that the project is consistent with planned growth in the Downtown Strategy 2040. The analysis from the Downtown plan relied on the Urban Water Management Plans (UWMP) for the San Jose Water Company and for Valley Water, which both assume substantial increases in water conservation to manage future water demands. Consistent with General Plan Policies MS-18.5 and 18.6, the 2030 Greenhouse Gas Reduction Strategy, and to meet water conservation targets assumed in the UWMPs, Valley Water suggests that all new separate residential units be required to install a submeter to encourage efficient water use. Studies have shown that adding submeters can reduce water use 15 to 30 percent.

E-1

E-2

If you have any questions, or need further information, you can reach me at (408) 630-2479, or by e-mail at LBrancatelli@valleywater.org. Please reference Valley Water File No. 34505 on future correspondence regarding this project.

Thank you,

LISA BRANCATELLI

ASSISTANT ENGINEER II (CIVIL)

Community Projects Review Unit

lbrancatelli@valleywater.org

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

CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118

www.valleywater.org