

**REVISED NOTICE OF PREPARATION OF A
DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
ST. JAMES PARK CAPITAL VISION AND PERFORMING ARTS PAVILION PROJECT**

FILE NO: PP16-037
PROJECT APPLICANT: City of San José Parks, Recreation &
Neighborhood Services Department
APNs: 467-21-014 and 467-21-001

Project Description: The project includes both physical and programmatic changes to St. James Park, an approximately 8.5-acre urban park in downtown San José. Physical changes to the park may include, but are not limited to, construction or installation of a performing arts pavilion; streetscape improvements; a central plaza; small commercial buildings (e.g., cafés, vendors, or a beer garden); public restrooms (temporary portable and/or permanent); gateway monuments that include signage and lighting features; improvements to the public transit stops; an outdoor fitness cluster; an interactive water feature; temporary loading zones for park events; designated vendor spaces or food truck parking; equipment for computer/internet use throughout the park; and landscape amenities (e.g., movable furniture, bollards, benches, tree grates, etc.).

Programmatic changes to the use of the park may include, but are not limited to, new music and performing arts events at the performing arts pavilion; and new commercial uses at the park (such as a café or vendors), street performers, festivals, and a farmers' market. The project also proposes permanently vacating the segment of North 2nd Street that bisects the site (from East St. James Street to East St. John Street), which would prohibit vehicle and bus through-traffic.

Location: St. James Park, bordered by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east.

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this EIR may be used by your agency when considering subsequent approvals related to the project. The project description, location, and probable environmental effects that will be analyzed in the EIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs.

A previous Notice of Preparation (NOP) for the EIR was circulated to the public and local, state, and federal agencies on May 25, 2016 and a public scoping meeting was held on June 15, 2016. Since the circulation of the NOP in 2016, the regulatory framework has changed and the project has been refined. This revised NOP reflects the current regulatory setting (specifically the City's recent adoption of the Downtown Strategy 2040 and City Council Policy 5-1 Transportation Analysis Policy) and clarifies the project description. The Revised NOP will circulate for the standard 30-day


comment period. Appendix A of the EIR will include both NOPs and all of the comments received during both circulation periods.

According to State law, the deadline for your response is 30 days after receipt of this notice; however, we would appreciate an earlier response, if possible. Please identify a contact person, and send your response to:

City of San José
Department of Planning, Building, and Code Enforcement
Attn: Krinjal Mathur
200 East Santa Clara Street, 3rd Floor Tower
San José CA 95113-1905
Phone: (408) 535-7874, E-mail: krinjal.mathur@sanjoseca.gov

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

4/3/19
Date


Deputy

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FOR THE ST. JAMES PARK CAPITAL VISION
AND PERFORMING ARTS PAVILION PROJECT

April 2019

1.0 INTRODUCTION

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment, to examine methods of reducing adverse impacts, and to consider alternatives to the project.

The EIR for the proposed project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended, and the requirements of the City of San José. The EIR analysis will tier from the San José Downtown Strategy 2040 EIR (SCH # 2003042127), to the extent possible.

In accordance with Sections 15120 et seq. of the CEQA Guidelines, the EIR will include the following:

- A project description;
- A description of the existing environmental setting, probable environmental impacts, and mitigation measures;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth-inducing impacts of the proposed project; and (d) cumulative impacts.

A previous Notice of Preparation (NOP) for the EIR was circulated to the public and local, state, and federal agencies on May 25, 2016 and a public scoping meeting was held on June 15, 2016. Since the circulation of the NOP in 2016, the regulatory framework has changed and the project has been refined. This revised NOP reflects the current regulatory setting (specifically the City's recent adoption of the Downtown Strategy 2040 and City Council Policy 5-1 Transportation Analysis Policy) and clarifies the project description, and will circulate for the standard 30-day comment period. Appendix A of the EIR will include both NOPs and all of the comments received during both circulation periods.

2.0 PROJECT LOCATION

The approximately 8.5-acre project site is located in Downtown San José. It is bordered by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east. Regional, vicinity, and aerial maps of the project site are provided in Figures 1-3.

3.0 PROJECT BACKGROUND

Multiple Master Plans have been prepared for the park over the years, the most recent of which were the 1985 Master Plan and the 2002 Master Plan Update prepared for the City of San José Redevelopment Agency. The Master Plan Update provides a vision for the future development of the park, establishing an appropriate and attractive plan as well as programming to activate and promote its use, consistent with the Downtown Strategy 2040 and the Envision San José 2040 General Plan (2040 General Plan) EIRs. Furthermore, in 2016 the City conducted a design competition for St. James Park. As a result of that effort, the winning design (see Project Description below) builds upon the vision outlined in the Master Plans.

4.0. PROJECT DESCRIPTION

The physical and programmatic changes proposed are described below. The project also proposes permanently vacating the segment of North 2nd Street that bisects the site (from East St. James Street to East St. John Street), which would prohibit vehicle and bus through-traffic. The Light Rail Transit (LRT) system and associated platform will remain along North 2nd Street.

Physical Changes to the Park

Physical changes to the park may include, but are not limited to, construction or installation of:

- a performing arts pavilion with an amplified sound and lighting system (including large digital screens) for outdoor performances;
- streetscape improvements, including new pedestrian and street lighting;
- a central plaza;
- small commercial buildings built for the purposes of leasing to private entities for commercial purposes (e.g., cafés, vendors, or a beer garden);
- public restrooms (temporary portable and/or permanent);
- gateway monuments that include signage and lighting features;
- improvements to the public transit stops;
- an outdoor fitness cluster;
- an interactive water feature;
- temporary loading zones for park events;
- designated vendor spaces or food truck parking;
- equipment for computer/internet use throughout the park; and
- landscape amenities (e.g., movable furniture, bollards, benches, tree grates, etc.).

Physical changes could also include:

- relocation of historic markers;
- removal and replacement of non-heritage trees;

- reunification of the park by connecting the two halves of the park through the use of pedestrian paths and other complementary design elements, including the permanent vacation of North 2nd Street to prohibit vehicle and bus traffic between East St. James Street and East St. John Street; and
- renovation and possible relocation of the children's playground and associated equipment.

Programmatic Changes to the Park

Programmatic changes to the use of the park may include, but are not limited to:

- new music and performing arts events at the performing arts pavilion; and
- new commercial uses at the park (such as a café or vendors), street performers, festivals, and a farmers' market.

5.0 ENVIRONMENTAL IMPACTS TO BE ANALYZED

The EIR will address the environmental impacts associated with the proposed project. The City anticipates that the EIR will focus on the following issues:

Aesthetics

The EIR will describe the existing aesthetic conditions of the project site and immediate vicinity. The EIR will evaluate the project's impact to scenic vistas and scenic resources. The project's consistency with applicable zoning and other regulations governing scenic quality will also be discussed. The EIR will also evaluate the project's light and glare impacts. Mitigation measures for aesthetic impacts will be identified, as appropriate.

Air Quality

The EIR will describe existing local and regional air quality and the air quality impacts of the proposed project in accordance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines. The impact of the project on local emissions and regional air quality plans will be analyzed. Development-level impacts due to construction, including toxic air contaminants and diesel particulate matter will also be analyzed for the project. Mitigation measures will be identified, where and when appropriate.

Biological Resources

The EIR will include a description of the existing biological setting and an analysis of impacts to biological resources such as habitats, special-status species, trees (e.g., Heritage Trees and ordinance-sized trees), and biologically sensitive areas, based on the analysis included in the Downtown Strategy 2040 EIR. The project's consistency with the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (the "Habitat Plan") will also be discussed. Impacts from the proposed project will be described and mitigation measures will be identified, where and when appropriate.

Cultural Resources

St. James Park, located within the St. James Square City Landmark District and the St. James Square National Register Historic District, is considered a historical resource under CEQA. St. James Park is listed as a contributing site to both districts. The EIR will describe existing cultural resources in the City Landmark and National Register districts and vicinity of the park based upon available inventories of historic resources, including the Downtown Strategy 2040 EIR. The potential for cultural resources, including archeological and historic resources, to be affected by the project will be assessed. Mitigation measures will be identified for significant cultural resource impacts, where and when appropriate.

Energy

The EIR will identify the potential for the project to result in significant energy impacts. Mitigation measures for energy impacts will be identified, where and when appropriate.

Geology and Soils

The EIR will identify geologic and seismic hazards based on the Downtown Strategy 2040 EIR. The EIR will describe any geologic constraints or risks resulting in impacts to development proposed and identify mitigation measures, where and when appropriate.

Greenhouse Gas Emissions

The EIR will describe the regulatory context surrounding greenhouse gas emissions. The EIR will discuss whether the project would generate significant greenhouse gas emissions or conflict with applicable plans, policies, or regulations adopted for the purpose of reducing greenhouse gas emissions. A project-specific greenhouse gas analysis will be prepared and mitigation measures will be identified, where and when appropriate.

Hazards and Hazardous Materials

The EIR will describe existing conditions and impacts resulting from hazardous materials contamination from current or former uses in the Downtown using information in the Downtown Strategy 2040 and General Plan 2040 EIRs to the extent possible. Hazards associated with aircraft operations of the Norman Y. Mineta San José International Airport will also be described. Mitigation measures will be identified for impacts resulting from or to development included in the project, where and when appropriate.

Hydrology and Water Quality

The EIR will describe existing hydrology and water quality and will evaluate flooding, drainage, and water quality impacts that would result from or impact development in the Downtown. Information from the Downtown Strategy 2040 EIR will be utilized to the extent possible. The EIR will identify mitigation measures, as appropriate.

Land Use

The EIR will describe existing land uses in the vicinity of the park and the project's consistency with plans and policies including the current Envision San José 2040 General Plan and General Plan Land Use/Transportation Diagram. The EIR will describe the changes in land uses proposed by the project and identify land use compatibility impacts, as necessary. Mitigation measures will be described for any significant land use impacts.

Noise and Vibration

The EIR will describe the existing noise environment and noise impacts resulting from construction and implementation of the proposed project, using the analysis in the Downtown Strategy 2040 EIR to the extent possible. Noise impacts will be identified for: (1) proposed land use changes that will expose sensitive receptors to noise or vibration levels exceeding those considered normally acceptable based on the City's policies; and (2) changes in the noise environment resulting from the project, including those related to traffic. Impacts from the proposed Performing Arts Pavilion will be quantitated and described, and mitigation measures for significant impacts will be identified.

Population and Housing

The EIR will describe anticipated changes in projected population, jobs, and housing as a result of the proposed project. Population and housing impacts will be addressed and mitigation measures identified, where and when appropriate.

Public Services

Increases in demand for public services resulting from the project will be estimated in the EIR based upon a qualitative estimate of demand for police, fire, and medical services. Likely impacts to the physical environment that could result from these increased demands will be identified. Mitigation measures, such as programs and funding mechanisms for new facilities will be identified, as appropriate.

Transportation

The EIR will describe the existing traffic conditions in the vicinity of the park and Downtown, and evaluate the transportation impacts of the project including the project's consistency with the City's Transportation Analysis Policy (City Council Policy 5-1), approved by City Council on February 27, 2018. The potential parking demand will be determined by factoring in geographical location and transit accessibility, and utilizing parking occupancy data for nearby City parking garages. An evaluation of the closure of North 2nd Street to vehicles and buses will be completed. Traffic impacts resulting from the proposed project and related mitigation measures for significant impacts will be identified.

Utilities and Service Systems

The EIR will describe the anticipated demand for utilities and services, including water, sanitary sewer, storm sewer, and solid waste resulting from the proposed project. Exceedance of the existing

capacity of existing infrastructure, such as water, stormwater, and sanitary sewer pipelines will be identified. Mitigation measures for utility and service impacts will be identified, as appropriate.

Cumulative Impacts

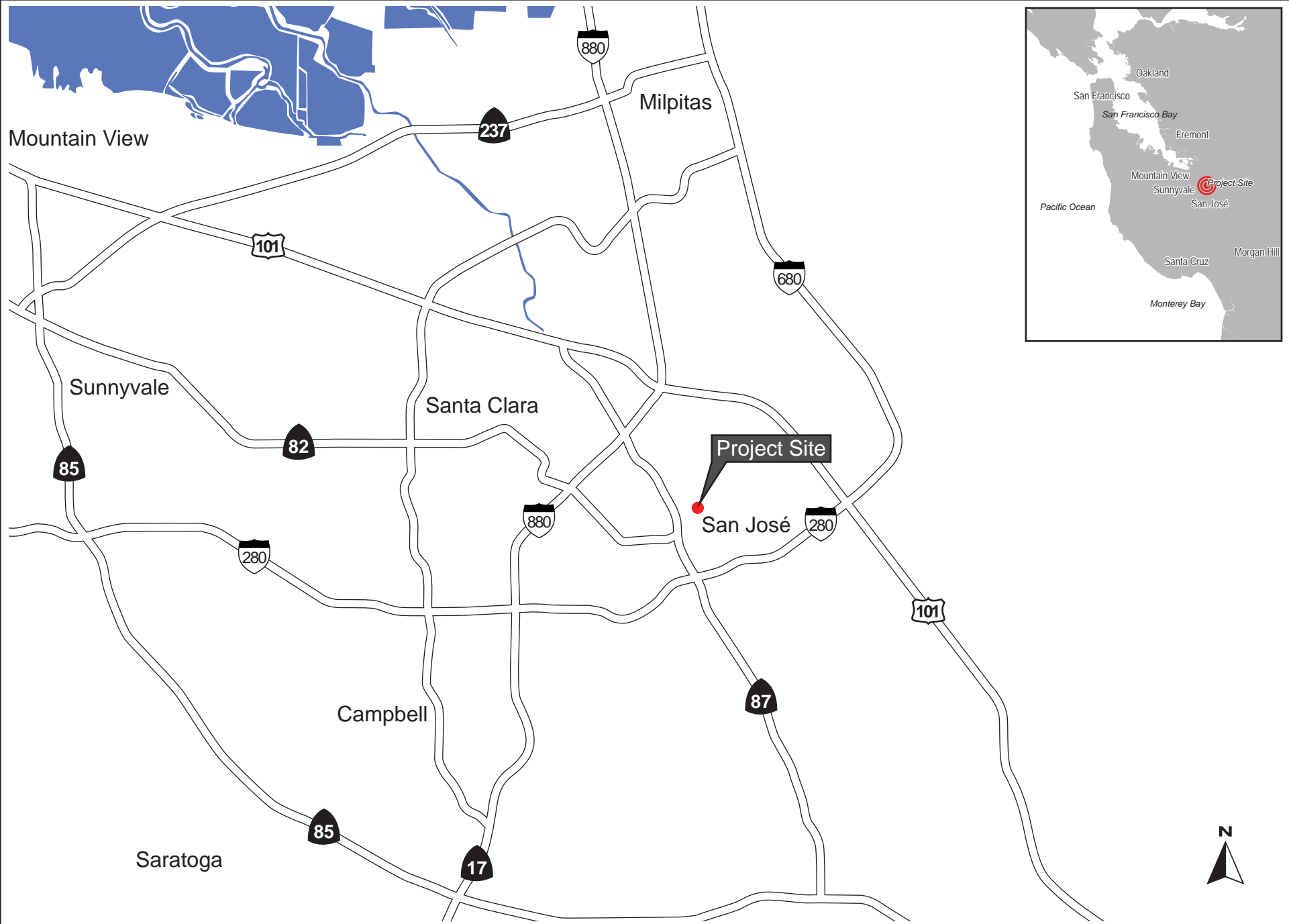
Pursuant to CEQA Guidelines Section 15130, the EIR will discuss the cumulative impacts of the project in combination with other past, present or reasonably foreseeable project-level and programmatic projects. Mitigation measures will be identified to reduce and/or avoid significant impacts, as appropriate.

Alternatives

Pursuant to CEQA Guidelines Section 15126.6, the EIR will evaluate a range of reasonable alternatives to the project, based on the results of the environmental analysis. A No Project Alternative shall also be evaluated along with its impacts. The alternatives discussion will focus on those alternatives that could feasibly accomplish most of the basic objectives of the proposed project and could avoid or substantially lessen one or more of the significant environmental effects identified in the EIR (CEQA Guidelines Section 15126.6). The environmentally superior alternative(s) will be identified based on the number and degree of associated environmental impacts.

Other Sections

The EIR will also include all other sections required under the CEQA Guidelines, including: agriculture and forestry resources, hydrology and water quality, mineral resources, tribal cultural resources, wildfire, growth-inducing impacts, significant irreversible environmental changes references, and EIR Authors. Relevant technical reports will be provided as appendices.



REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2



AERIAL PHOTOGRAPH

FIGURE 3

From: Aghegnehu, Ben [<mailto:ben.aghegnehu@rda.sccgov.org>]

Sent: Wednesday, April 24, 2019 2:49 PM

To: Mathur, Krinjal <krinjal.mathur@sanjoseca.gov>

Cc: Talbo, Ellen <Ellen.Talbo@rda.sccgov.org>

Subject: RE: San Jose Planning Public Review of Revised NOP: St. James Park Capital Vision and Performing Arts Pavilion

April 24, 2019

Krinjal Mathur

Planning, Building & Code Enforcement
200 E. Santa Clara St.
City of San José, CA 95113

SUBJECT: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE ST. JAMES PARK capital vision AND PERFORMING ARTS PAVILION PROJECT

Dear Krinjal Mathur,

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Draft Environmental Impact Report For The St. James Park Capital Vision And Performing Arts Pavilion Project and has the following comments:

- Please include Almaden Expressway intersections and roadway segments for LOS analysis in the Transportation Impact Analysis (TIA) using the latest VTA TIA guidelines. Impacts and mitigations should be assessed for Almaden Expressway as it is a regional facility. The analysis should be conducted using County signal timing for County study intersections and the most recent CMP count and LOS data for CMP intersections. Please contact the County for the correct signal timing information.

If you have any questions or concerns about these comments, please contact me at 408-573-2462 or ben.aghegnehu@rda.sccgov.org

Thank you,

Ben Aghegnehu

Associate Transportation Planner
County of Santa Clara | Roads & Airports
101 Skyport Rd | San Jose, CA, 95110
408-573-2462 (o)

From: Dave Truslow [REDACTED]
Sent: Friday, May 03, 2019 11:10 AM
To: Mathur, Krinjal <krinjal.mathur@sanjoseca.gov>
Subject: St. James Park EIR Comments To File # PP16-037

1. The closure of of 2nd St. increase air pollution by requiring a longer and slower vehicular route.
2. The City Charter requires a ballot initiative as the proposal repurposes a park into a commercial venture and removes space from free public use.
3. The proposal siphons money from existing parks. According to the most recent report, PRNS is unable to maintain parks at targeted objectives. The proposal further burdens PRNS with additional costs that are already underfunded.
4. The proposal lacks a financial analysis that addresses PRNS current financial issues, nor its future ones due to higher costs associated with the proposed changes.
5. St. James park is shunned by the public due to the increasingly large homeless population that inhabit the park. The proposed "activation" lacks any rational basis to believe the situation will change. All previous efforts have failed.

According to witness reports by retired Judge Ladoris Cordell and others, the park is a haven for drug dealing. Neighbors report finding syringes in the children's play area and aggressive panhandling. Despite prohibitions against public feeding and camping, SJPd has declined to enforce the municipal code. As one former police chief told me, "We don't want Youtube videos showing us rousting the homeless."

The homeless impact has grown more severe over the years despite spending millions to relocate the nearby CityTeam homeless facility, fencing off the park, and removing the senior center at Julian and 3rd St. Other measures such as offering jobs and housing to the park's denizens have also failed. Tools were stolen by the homeless and the effort was abandoned. Millions spent on permanent and temporary homeless housing and services have not made any tangible impact.

Approximately 18 months after the St. James park homeless housing project commenced, Housing employees Ray Bramson and Kelly Hemphill disclosed that less than half of the units were occupied. Difficulties included stolen appliances and fixtures, unsanitary conditions, drug dealing, prostitution, occupancy (having friends and family in units) and other adverse impacts affecting other tenants. The project made no measurable impact on St. James park's public appeal.

The homeless housing project at 2nd St. and Julian will further exacerbate problems associated with the excessive concentration of nearby homeless facilities and services conditions. These have been amply demonstrated by impacts from the nearby Donner Lofts project. San Jose Police send 3-person squad cars due to the violent nature of many calls associated with the building.

The City of San Jose has failed to enforce the municipal code until matters reach a crisis. Examples include the Jungle(described as the nations largest homeless camp), the Spring St encampments, and failure to eliminate encampments along the Guadalupe river park dating to the time of mayor Susan Hammer.

What has not been attempted is to enforce ordinances against possession of stolen property such as shopping carts, littering, public intoxication, and narcotics trafficking. Park rangers are prohibited from carrying firearms to protect themselves. San Jose's woefully inadequate police force prevents adequate protection of park rangers and effectively discourages enforcement of ordinances.

6. The proposed changes in conjunction with new development surrounding the park will adversely impact the quality of life for nearby residents due to the cumulative impact. These include, but are not limited to increased noise, increased traffic and parking congestion, interruption of delivery services, and the reduction of economic value of commercial and residential property due to the proposed changes.

Please keep me informed about the project.

Thank you in advance,

-dave truslow

A solid black rectangular box used to redact the signature of Dave Truslow.

From: Chop, Zachary@DOT [<mailto:zachary.chop@dot.ca.gov>]

Sent: Friday, May 03, 2019 1:55 PM

To: Mathur, Krinjal <krinjal.mathur@sanjoseca.gov>

Subject: ST. JAMES PARK CAPITAL VISION AND PERFORMING ARTS PAVILION PROJECT GTS #04-SCL-2019-00564

Greetings,

Thank you for including the Department of Transportation (Caltrans) District 4 (D4) in the Environmental Review Process. We would like to inform you of the D4 Bike Plan (Plan) . There is a project identified in the Plan at the State Route 87/ Julian Street interchange. We are providing the information below for your consideration:

The Caltrans District 4 Bike Plan (Plan) for the San Francisco Bay Area was developed within the framework of *Toward an Active California*, the California State Bicycle and Pedestrian Plan. This framework includes an overall vision, goals, objectives, and strategies to improve bicycle safety and mobility throughout the State. The District 4 Bike Plan, the first of its kind in the State, evaluates bicycle needs on and across the Bay Area's State transportation network and identifies infrastructure improvements to enhance bicycle safety and mobility and remove some of the barriers to bicycling in the region. This Plan will guide District 4 and its partners to develop an integrated bicycle network for the Bay Area.

Many of the improvements identified in the Plan are conceptual and will require further study and coordination with local jurisdictions and stakeholders. The Plan will be updated regularly as future needs and opportunities are identified and evaluated.

Fair share contributions should be considered for the project identified below:

- Julian St Interchange reconstruction - ramps only- Class IV (Project ID SC-87-X06)

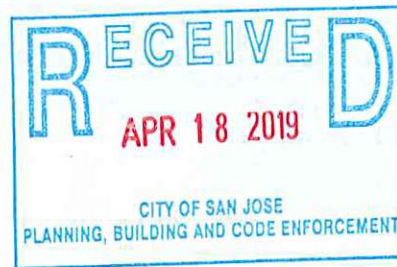
Detailed project improvement Replace free-merging on/off ramps with stop-controlled ramps to improve bike and ped accommodation and safety. Add continuous sidewalks through interchange. Add continuous Class IV or I bikeways through interchange.

Thanks!

Zachary Chop
Associate Transportation Planner
Office of System & Regional Planning
Caltrans District 4
111 Grand Ave Oakland Ca 94612
(510) 622-1643

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department

1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691 Phone (916) 373-3710
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>
Twitter: @CA_NAHC



April 16, 2019

Krinjal Mathur
City of San Jose
200 E. Santa Clara St., T-3
San Jose, CA 95113

RE: SCH# 2016052074 St. James Park Capital Vision and Levitt Pavilion Project, Santa Clara County

Dear Mr. Mathur:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email

address: Gayle.Totton@nahc.ca.gov.

Sincerely,



for

Gayle Totton

Associate Governmental Program Analyst

cc: State Clearinghouse

File: 33405
Guadalupe River

May 8, 2019

Ms. Krinjal Mathur
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113-1905

Subject: Revised Notice of Preparation of a Draft Environmental Impact Report for the St. James Park Capital Vision and Performing Art Pavilion.

Dear Ms. Mathur:

The Santa Clara Valley Water District (Valley Water) has reviewed the Revised Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the St. James Park Capital Vision and Performing Art Pavilion, received on April 8, 2019.

Valley Water records don't show any wells located on the project site. To protect groundwater quality and in accordance with Valley Water Ordinance 90-1, all existing wells affected by redevelopment of the site need to be identified and properly registered with Valley Water and either be maintained or destroyed in accordance with the Valley Water's standards. Destruction of any well and the construction of any new wells proposed, including monitoring wells, requires a permit from Valley Water prior to construction. Property owners or their representative should contact the Valley Water Wells and Water Measurement Unit at (408) 630-2660, for more information.

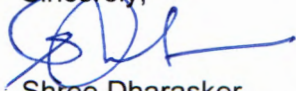
According to the Federal Emergency Management Agency's current Flood Insurance Rate Map No. 06085C0234H effective May 18, 2009, the site is in Zone D, areas in which flood hazards are undetermined but possible.

Valley Water does not have any facilities or right of way within and adjacent to the project site; therefore, a Valley Water encroachment permit is not required for the project.

Please provide a copy of the DEIR to Valley Water when available for public review.

If you have any questions, or need further information, you can reach me at (408) 630-3037, or by e-mail at sdharasker@valleywater.org. Please reference Valley Water File No. 33405 on future correspondence regarding this project.

Sincerely,



Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit

cc: U. Chatwani, C. Haggarty, S. Dharasker, M. Richert, M. Martin, File