
Appendix A-1

Revised Notice of Preparation (NOP) and Comment Letters

March 2019

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**REVISED NOTICE OF PREPARATION OF A
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
FOR THE GARDEN GATE TOWER PROJECT**

FILE NO: SP18-001; T18-001
PROJECT APPLICANT: KT URBAN
APNs: 472-26-089 and 472-26-090

Project Description: The project includes development of a multifamily apartment building with ground floor neighborhood-oriented retail with two design options proposed: (1) Option 1: Traditional Multi-Family Development and (2) Option 2: Co-Living Community Option.

Option 1: Traditional Multi-Family Development – Development of a multi-family apartment building with up to 290 residential units and approximately 4,800 square feet of ground floor neighborhood oriented retail area. The proposed development would include approximately 12,502 square feet of private open space (e.g., balconies) and approximately 4,713 square-feet of common open space. The total building area is approximately 513,333 square feet.

Option 2: Co-Living Community Option – Development of up to 850 bedrooms in a Co-Living Community configuration with a combined total of approximately 425,897 square feet (including open space areas). The ground level will include approximately 6,000 square feet of retail, lobby and a loading area.

Both options propose a development of a 27-floor building with a maximum height of approximately 282 feet. The buildings would have a similar footprint and design with the exception of some minor differences in the ground floor layout. Both options would also include the demolition of an existing two-story residential building (on the City's Historic Resources Inventory), façade treatment to an existing single-story brick office building, and relocation of an on-site neon sign to the roof of the proposed development.

Location: The 0.42-acre Project site is on the southeast corner of South 1st Street and East Reed Street in the City of San José. The site is located on two parcels (APNs 472-26-089 and 472-26-090).

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 EIR (SCH # 2003042127) and the Envision San José 2040 EIR (SCH # 2009072096) as supplemented. Both design options will be evaluated in equal detail in the SEIR. 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 SEIR 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 SEIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs.

A previous NOP for the project was circulated to the public, and local and state agencies on April 23, 2018 and a public scoping meeting was held on April 30, 2018. Due to changes to the project description,

the NOP was revised and is now being recirculated for a 30-day comment period. Appendix A of the SEIR will include both NOPs and all of the comments received during the scoping periods.

According to State law, the deadline for your response is 30 days after receipt of this notice. We would appreciate comments by April 26, 2019; however, earlier responses are preferred, 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, Environmental Project Manager
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



Deputy

3/15/19

Date

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March 2019

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.

A Supplemental EIR (SEIR) is prepared when it is determined by the Lead Agency that changes proposed in an approved project will require revisions to the previous EIR because of possible new impacts or an increase in severity of previously identified impacts. As the Lead Agency, the City of San José will prepare a SEIR to the Downtown Strategy 2040 EIR (SCH # 2003042127) and the Envision San José 2040 EIR (SCH # 2009072096) as supplemented, to address the environmental effects of the proposed Garden Gate Tower Development.

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

- A summary of the project;
- A project description;
- A description of the existing environmental setting, environmental impacts, and mitigation measures for the project;
- 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 NOP for the SEIR was circulated to the public and local, state, and federal agencies on April 23, 2018 and a public scoping meeting was held on April 30, 2018. Due to changes to the project description, the NOP was revised and is now being recirculated for the standard 30-day comment period. Appendix A of the SEIR will include both NOPs and all of the comments received during the circulation periods.

Project Location

The proposed Project is located in the southwest portion of downtown San José, in Santa Clara County, California. The 0.42-acre Project site is on the southeast corner of South 1st Street and East Reed Street. The project location is shown in Figures 1 and 2. The 0.42-acre Project site is located on 600 South 1st Street, 618 South 1st Street, and 8 East Reed Street in the Central/Downtown Planning Area in the City of San José.

Existing Uses

The existing site is comprised of two parcels (APNs 472-26-089 and 472-26-090). Existing uses of the site consist of a parking lot, a single-story brick office building and adjacent parking, and a two-story wood-framed building comprised of four residential units.

Land uses surrounding the proposed Project site are as follows:

- **North** – East Reed Street, future downtown residential (high-density) with ground floor retail
- **East** – un-named Alley, commercial, downtown residential
- **South** – two-story commercial building directly adjacent, I-280
- **West** – South 1st Street, downtown residential (high-density)

Project Background

In December 2018, the City of San José adopted the Downtown Strategy 2040 EIR. The Downtown Strategy 2040 EIR was prepared to increase the amount of new commercial office and residential development capacity and revised development phasing to extend the horizon (buildout) year of the downtown development to 2040. Additionally, the EIR established an Employment Priority Area Overlay, changed certain land use designations, and expanded the Downtown boundary. The Downtown Strategy 2040 EIR is consistent with the Envision San José 2040 General Plan and associated EIRs.

Subsequently, in March 2019 the City amended the City's Zoning Ordinance (Title 20 of the San José Municipal Code) to establish Co-Living Community as an allowed residential use within two Downtown Zoning District to build upon existing efforts to intensify density in approved growth areas under the Envision San José 2040 General Plan to address and reduce the City's current housing crisis. A Co-Living Community is defined, per section 20.200.197 of the City's Zoning Ordinance, as a residential facility where individual secure bedrooms rented to one or two persons and provided for an established period of time with a lease agreement. To be considered a Co-Living Community, shared full kitchen facilities must serve ten or more bedrooms, and must include interior common space excluding janitorial storage, laundry facilities and common hallways. A bedroom that contains a full kitchen facility would not be considered a Co-Living Community.

Project Description

The proposed Project includes construction of a multifamily apartment building with ground floor neighborhood-oriented retail. A conceptual rendering of the proposed building is shown in Figure 3. For the floor plans, two design options are proposed: (1) Option 1: Traditional Multi-Family Development and (2) Option 2: Co-Living Community Option. Both options would involve the same building footprint and nearly the same exterior building architecture with the exception of some minor differences in the ground floor layout. Both floor plan options will be evaluated in equal detail in the SEIR.

Furthermore, both options would require the two existing buildings onsite to be demolished. The proposed structure would require excavation to approximately 40 feet below grade to construct four levels of parking. Approximately 31,500 cubic yards of soil would be excavated and hauled from the site.

The proposed Project would be LEED certified as required by City Council policy and would achieve LEED NC v4 Certification through the U.S. Green Building Council (USGBC). The Project site has a land use designation of Downtown in the Envision San José 2040 General Plan and is zoned Downtown Primary Commercial (DC).

Option 1: Traditional Multi-Family Development

The proposed Option 1 includes construction of a multi-family apartment building with up to 290-residential units and approximately 4,800 square feet of ground floor neighborhood oriented retail area divided into four potential spaces. The proposed residences would include a mix of studio, one-bedroom, two-bedroom, and penthouse units on floors 5 through 25. Floors 1 through 4 would include the building lobby, the commercial spaces, and parking areas. A site plan layout of the ground floor is shown in Figure 4 and a typical residential floor plan is shown in Figure 5. The proposed development would include approximately 12,502 square feet of private open space (such as balconies) and approximately 4,713 square-feet of common open space. Building amenities would include a rooftop outdoor terrace with pool and fitness room. The total building area is approximately 513,333 square feet. The proposed 27-floor high rise building would have a maximum height of approximately 282 feet.

The parking garage would be located underground (levels B1-B4) and levels 3 and 4. Vehicular parking in the basement would be accessible from a right turn in from South 1st Street northbound and parking on the 3rd and 4th levels would be accessed through the alley off East Reed Street. A total of 232 parking spaces are proposed. Additionally, a bike room would be located on the first floor with approximately 73 bicycle racks.

Option 2: Co-Living Community Option

The proposed Option 2 includes a mixed-use residential building of twenty-seven levels with a maximum height of 282 feet. Option 2 proposes up to 850 bedrooms in a Co-Living Community configuration with a combined total of approximately 425,897 square feet (including open space areas). The ground level will include approximately 6,000 square feet of retail, lobby and a loading area. The primary entrance to the building lobby for the residences would be on Reed Street. The ground floor site plan is shown in Figure 6. Similar to Option 1, building amenities would include a rooftop outdoor terrace with pool and fitness room. The residential units are proposed on floors 2 through 26. A typical residential floor plans is shown in Figure 7. These floor plans consist of:

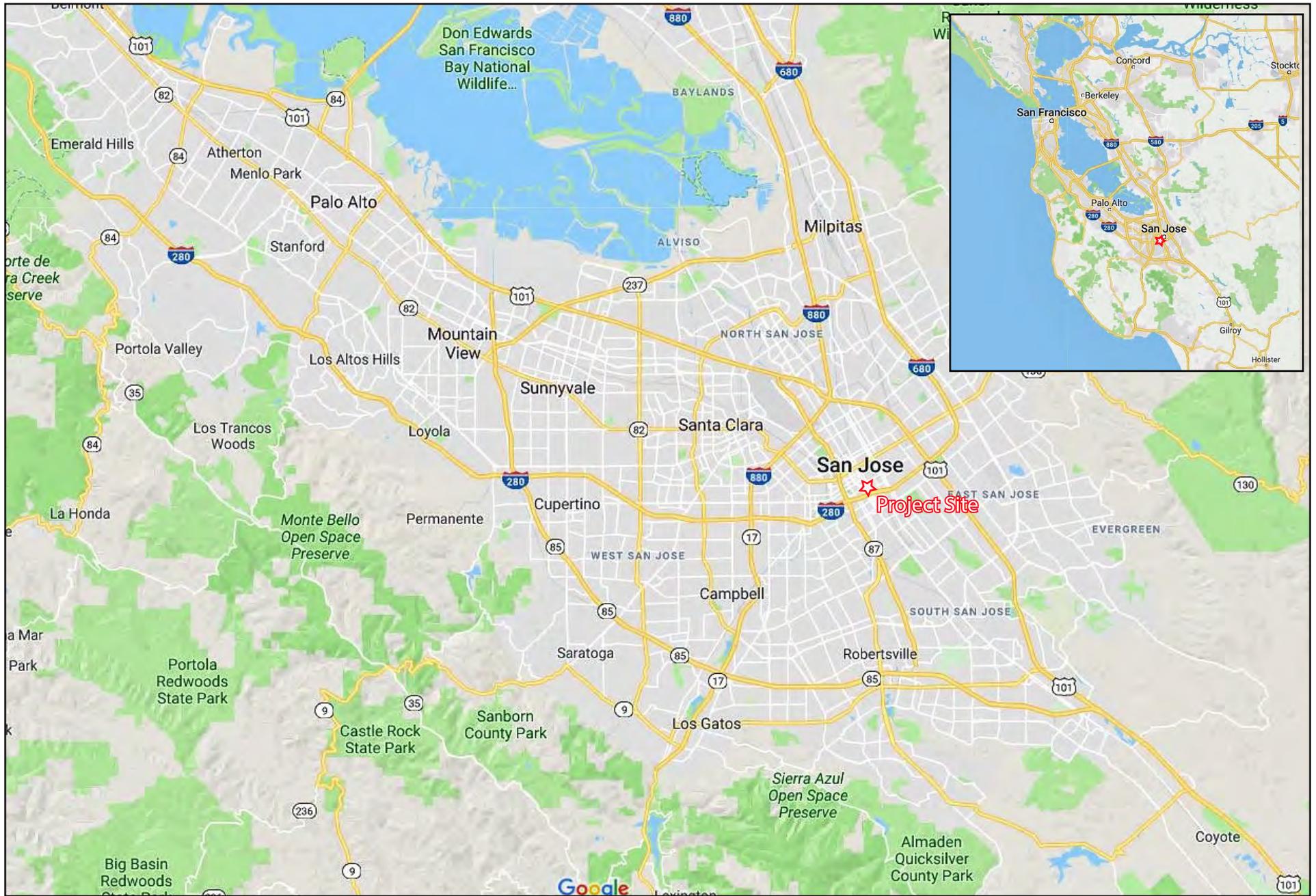
- Levels 2 through 26 include approximately 34 bedrooms per level: 16-bedrooms with en-suite bathrooms and 18 bedrooms with shared bathroom facilities. Each floor would have two shared kitchen areas with dining areas and common areas in addition to shared laundry facilities, mechanical rooms and janitorial storage areas.
- The top level, Level 27, is designed with a swimming pool, common terrace, and amenity area.

Option 2 would include Transportation Demand Management Program to reduce the number of vehicle trips generated by the project and to reduce the required parking. Option 2 proposes a four-story below-grade parking garage with a total of approximately 124 parking stalls and no above grade parking is proposed and will include accessible spaces and electric vehicle charging stations. The parking garage would be located underground (B1-B4). No visitor or guest parking would be

available and all parking would be reserved. Vehicular parking in the basement would be accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor for approximately 192 bicycle racks. Access to the bike room would be from the alley on the eastern side of the building.

Project Approvals Anticipated To Be Required

1. Special Use Permit
2. Tentative Map
3. Demolition Permit
4. Grading Permit
5. Building Permit



Source: Kimley-Horn and Associates, 2018

Figure 1: Regional Location Map

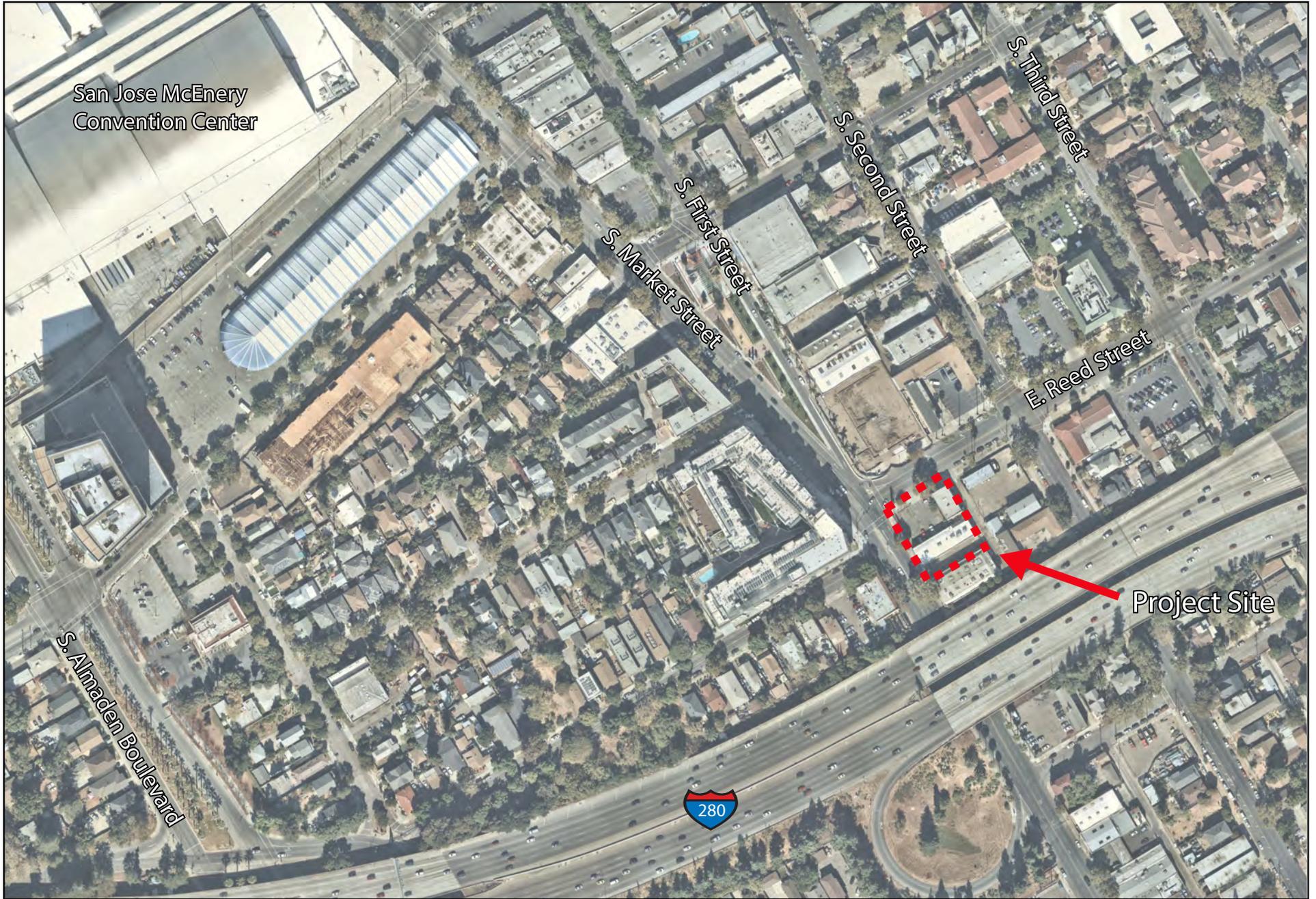
Garden Gate Tower



Not to scale

Kimley»Horn

Expect More. Experience Better.



Source: Kimley-Horn and Associates, 2018

Figure 2: Project Vicinity Map
Garden Gate Tower



Not to scale

Kimley»Horn
Expect More. Experience Better.



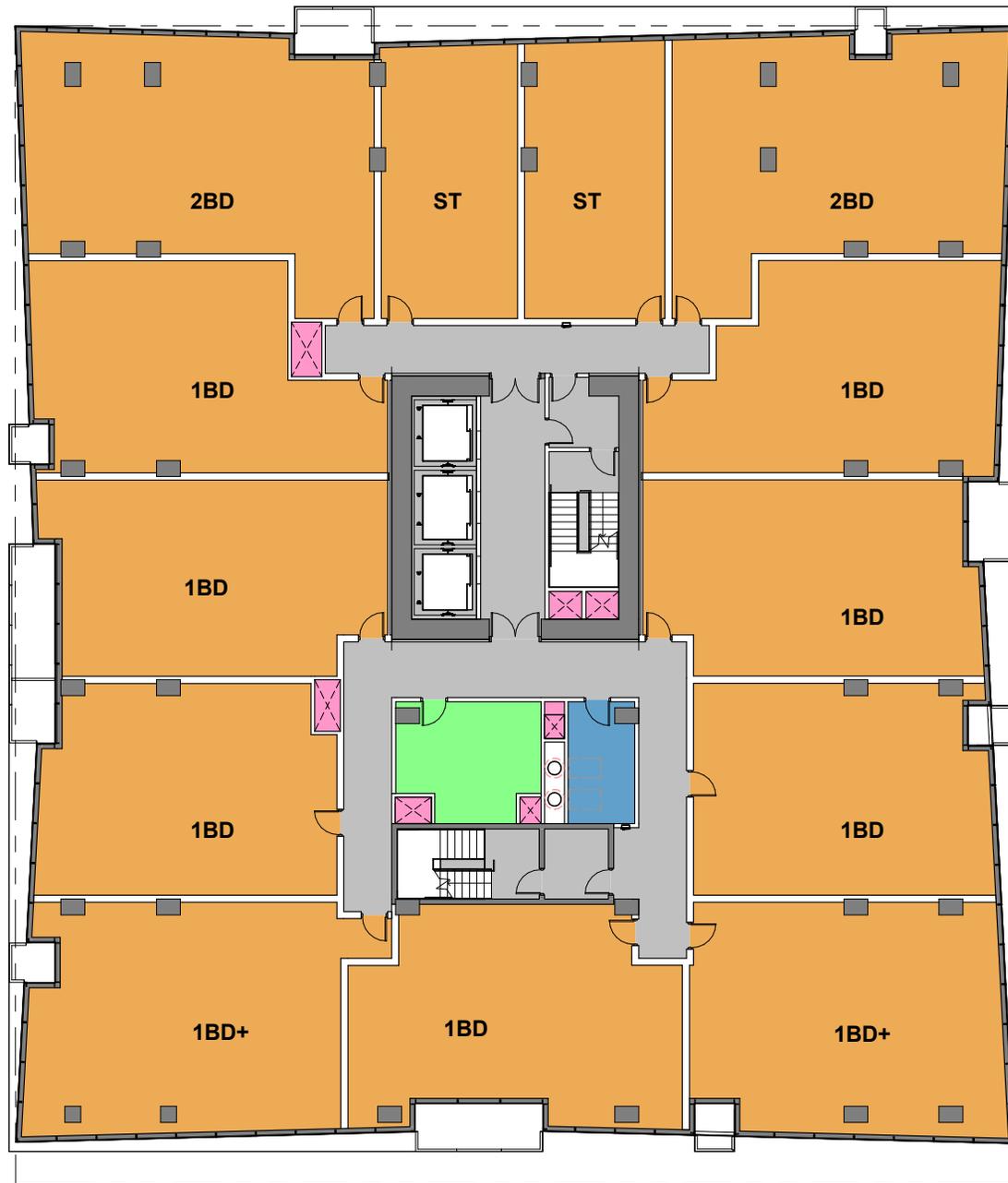
Source: C2K Architecture, Inc. 2018

Figure 3: Proposed Garden Gate Tower Rendering
Garden Gate Tower



Source: C2K Architecture, 2019

Figure 4: Option 1 Ground Floor Site Plan
Garden Gate Tower



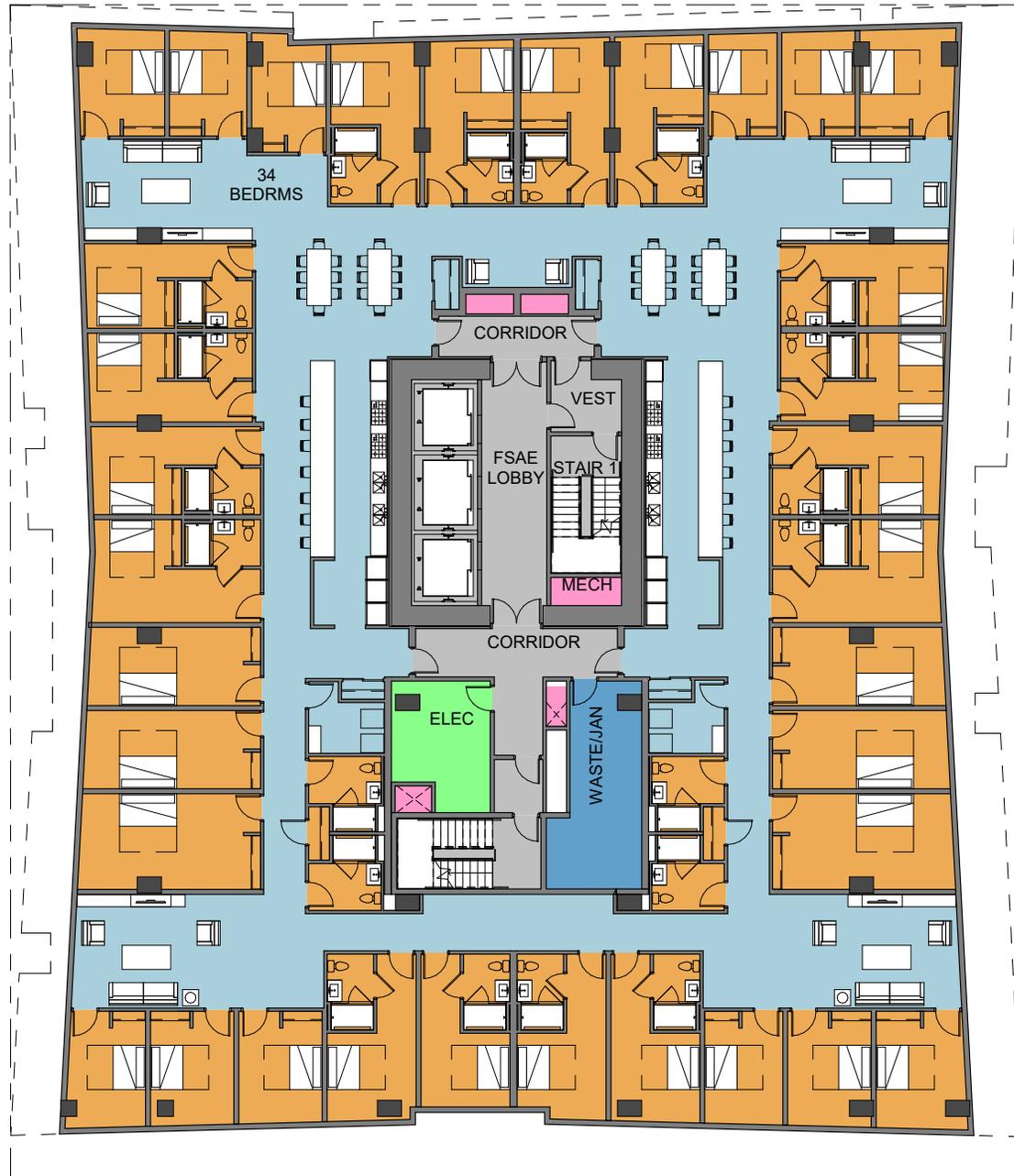
Source: C2K Architecture, 2019

Figure 5: Option 1 Typical Residential Floor Plan
Garden Gate Tower



Source: C2K Architecture, 2019

Figure 6: Option 2 Ground Floor Site Plan
Garden Gate Tower



Source: C2K Architecture, 2019

Figure 7: Option 2 Typical Residentail Floor Plan
Garden Gate Tower

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Potential Environmental Impacts of the Project

The SEIR will describe the existing environmental conditions on the Project site and will identify the significant environmental effects anticipated to result from development of the proposed Project. For purposes of the discussion below, references to the Project or proposed Project include both Option 1 and Option 2. Both options will be evaluated in equal level of detail in the SEIR, however; because both options have the same physical footprint and same exterior building design, the analysis for many of the environmental categories may be the same. Mitigation measures will be identified for potentially significant environmental impacts, as warranted. The analysis in the SEIR will include the following specific categories of environmental impacts and concerns related to the proposed project. Additional subjects may be added at a later date, if new information becomes available.

1. Land Use

The Project site is located in a developed urbanized area surrounded by commercial, office, and residential land uses. The SEIR will describe the existing land uses adjacent to and within the Project area. This discussion will evaluate the Project's compatibility with existing and proposed land uses in the Project area. The SEIR will evaluate the Project's consistency with existing land use regulations including the City's Envision San José 2040 General Plan, zoning and municipal code, City's Design Guidelines, General Plan Urban Design Guidelines for Downtown, General Plan Historic Preservation Policies and the Downtown San José Historic District Design Guidelines. The SEIR will also analyze the shade and shadow impacts from the development. Potential land use impacts as a result of the proposed Project will be analyzed and mitigation measures will be identified for significant impacts, if necessary.

2. Aesthetics & Visual Resources

The proposed Project site is surrounded primarily by mixed-use commercial/retail/office uses and residential neighborhood including two-story and multi-family residential structures. The SEIR will describe the existing visual setting of the Project area and the visual changes that are anticipated to occur as a result of the proposed Project. If significant impacts related to visual resources and aesthetics are found, mitigation measures will be identified.

3. Transportation and Circulation

The SEIR will examine the existing traffic conditions in the immediate vicinity of the Project site. A traffic operational analysis will be prepared for the proposed Project in order to identify the transportation impacts of the proposed Project on the existing local and regional transportation system and the planned long-range transportation network. Both Options 1 and 2 will be evaluated equally for potential traffic impacts. If transportation impacts are found to be significant, mitigation measures will be identified.

4. Noise and Vibration

The Project site is located adjacent to South First Street and I-280, both major roadways with high traffic volumes. The site is located approximately 2.5 miles south of Norman Y. Mineta San José Airport. The SEIR will discuss impacts to the proposed Project from existing off-site noise sources.

The SEIR will also discuss the increase in traffic noise that will result from implementation of the proposed Project, and short-term construction noise. Noise levels will be evaluated for consistency with applicable standards and guidelines from the City of San José. If noise and vibration impacts are found to be significant, mitigation measures will be identified.

5. *Population and Housing*

The SEIR will examine the proposed Project's impact on population and housing in the City. The SEIR will evaluate the applicable regional and City plans, policies and regulations to the development. Mitigation measures, if found to be required, will be discussed.

6. *Air Quality*

The SEIR will address the regional air quality conditions in the Bay Area and discuss the proposed Project's impacts to local and regional air quality based on the Bay Area Air Quality Management District (BAAQMD) thresholds. The SEIR will discuss sensitive receptors and temporary construction impacts to air quality. Mitigation measures, if found to be required, will be discussed.

7. *Geology and Soils*

The Project site is located in the most seismically active region in the United States. The SEIR will discuss the possible geological impacts associated with existing soils and groundwater conditions on the Project site and seismicity activity. Mitigation measures, if found to be required, will be discussed.

8. *Hydrology and Water Quality*

Based on Flood Insurance Rate Maps the proposed Project site is located in Zone D- an area of minimal flooding. The SEIR will address the possible flooding issues of the site as well as the effectiveness of the storm drainage system and the Project's effect on storm water quality consistent with the requirements of the Regional Water Quality Control Board. The SEIR will also include the percentage of pervious and impervious surfaces on-site (under existing and Project conditions), and a list of proposed stormwater control measures that meet the City's Low Impact Development Requirements. Mitigation measures, if found to be required, will be discussed.

9. *Biological Resources*

The Project site is within a developed and urbanized area of downtown San José. The site is developed with two two-story buildings surrounded by surface parking lots. The SEIR will discuss the overall loss of existing urban habitat, tree loss, and the proposed Project's consistency with the Santa Clara Valley Habitat Plan and the City's policies and regulations pertaining to biological resources. Mitigation measures, if found to be required, will be discussed.

10. *Cultural and Historic Resources, and Tribal Cultural Resources*

The proposed Project has two existing structures that are listed in the City of San José Historic Resources Inventory. A historical evaluation will be prepared for the existing structures on the project site. The SEIR will address the potential for prehistoric, historic, archeologic, and tribal

cultural resources. If cultural and historic resources are found to be significant, mitigation measures will be identified.

11. Agricultural and Forestry Resources

The Project site is not located in an area with agricultural resources or forest lands.

12. Hazards and Hazardous Materials

The Project site is surrounded by commercial businesses and downtown residential land uses. The SEIR will summarize known hazardous materials conditions on and adjacent to the Project site and will address the potential for hazardous materials from the proposed development. Mitigation measures, if found to be required, will be discussed.

13. Energy

Implementation of the proposed Project will result in an increased demand for energy on-site. The SEIR will address the increase in energy usage on-site and proposed design measures to reduce energy consumption. Mitigation measures, if found to be required, will be discussed.

14. Utilities and Service Systems

Implementation of the proposed Project will result in an increased demand on utilities compared to existing conditions. The SEIR will examine the impacts of the Project on wastewater system, storm drains, water supply, and solid waste management. The SEIR will analyze applicable state, regional, and City plans and policies for consistency. Mitigation measures, if found to be required, will be discussed.

15. Public Services

Implementation of the proposed Project will increase the population of the City which will result in an increased demand on public services, including police, fire protection, schools, and parks. The SEIR will address the availability of public facilities. Mitigation measures, if found to be required, will be discussed.

16. Greenhouse Gas Emissions

The SEIR will address the proposed Project's contribution to regional and global greenhouse gas emissions based on the BAAQMD thresholds. Proposed design measures to reduce energy consumption, which in turn will reduce greenhouse gas emissions, will be analyzed. Mitigation measures will be identified for significant impacts.

17. Mineral Resources

The Project site is not located in an area known to have mineral resources. The Project will not hinder or preclude any existing mineral extraction operations.

18. Recreation

The proposed Project will increase the population in the City and result in increased use of existing parks, trails, and recreation centers. The SEIR will examine City policies, such as the Parkland Dedication Ordinance/ Parkland Impact Ordinance, to ensure the Project is consistent with City of San José policies.

19. *Wildfire*

The Project site is within a developed and urbanized area of downtown San José. The site is developed with two two-story buildings surrounded by surface parking lots and no urban wildland interface. The SEIR will discuss the Project's potential to exacerbate wildfire risks or expose project occupants to wildlife risks including pollutants from wildfires.

20. *Alternatives*

Pursuant to CEQA Guidelines Section 15126.6, the SEIR will examine a range of reasonable alternatives to the proposed Project including a "No Project" alternative and one or more alternative development scenarios depending on the impacts identified. Other alternatives that may be discussed could include reduced development alternatives (e.g., smaller project site or reduced density alternatives), alternative land uses, and/or alternative locations. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the proposed Project while achieving most of the identified objectives of the Project. The environmentally superior alternative(s) will be identified based on the number and degree of associated environmental impacts.

21. *Significant Unavoidable Impacts*

The SEIR will identify those significant impacts that cannot be avoided, if the Project is implemented as proposed.

22. *Cumulative Impacts*

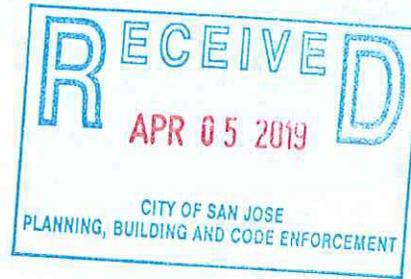
Pursuant to CEQA Guidelines Section 15130, the SEIR will include a Cumulative Impacts section that will address the potentially significant cumulative impacts of the Project when considered with other past, present, and reasonably foreseeable future projects in the development area.

23. *Other Sections*

In conformance with the CEQA Guidelines, the SEIR will also include the following sections: 1) consistency with local and regional plans and policies, 2) growth inducing impacts, 3) significant irreversible environmental changes, 4) areas of known controversy, 5) references, 6) organizations/ persons consulted, 6) SEIR author and consultants, and 7) appendices

An Initial Study will be prepared to focus the analysis of the SEIR. The Initial Study will be provided as an appendix to the SEIR and include analyses for resource areas that have no new significant impacts or no increase in previously identified impact.

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 2, 2019

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

RE: SCH# 2018042072 Garden Gate Tower, 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, subs. (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

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April 22, 2019

Krinjal Mathur
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José CA 95113-1905

Re: SP18-001; T18-001; 472-26-089 and 472-26-090

Dear Mr. Mathur:

Thank you for giving us the opportunity to review the subject plans. The proposed SP18-001; T18-001; 472-26-089 and 472-26-090 is within the same vicinity of PG&E's existing facilities that impact this property. PG&E has underground gas and electric lines that serve the properties. Before demolition and excavation, please contact Underground Service Alert (USA) and PG&E Service Planning.

Please contact the Building and Renovation Center (BRSC) for facility map requests at BRSCSSR@pge.com and 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.

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

Sincerely,

Jon Lockhart
Land Management
925-328-5122

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File: 33926
Guadalupe River

April 23, 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 Supplemental Environmental Impact Report for the Garden Gate Tower Project

Dear Ms. Mathur:

The Santa Clara Valley Water District (Valley Water) has reviewed the Revised Notice of Preparation of a Draft Supplemental Environmental Impact Report (DSEIR) for the Garden Gate Tower project, received on March 25, 2019, and has the following comments:

The proposal could result in a net increase of over 500 dwelling units, therefore a Water Supply Assessment (WSA) needs to be prepared by San Jose Water Company and incorporated into the EIR. Valley Water requests the opportunity to review the draft WSA to comment on the consistency with countywide water supply planning efforts.

Re-development of the site provides opportunities to minimize water and associated energy use by using recycled water, incorporating on-site reuse for both storm and graywater, and requiring water conservation measures above State standards (i.e., CALGreen). To reduce or avoid adverse impacts to water supply, the City and applicant should consider the following:

- Landscaping that meets or exceeds the requirements of the City's water efficient landscape regulations;
- Weather- or soil-based irrigation controllers;
- Dedicated landscape meters;
- Sub-meters for multi-family housing and individual spaces within commercial buildings;
- Dual plumbing to facilitate and maximize the use of alternative water sources for irrigation, toilet flushing, cooling towers, and other non-potable water uses; and
- Alternative water sources for non-potable uses including recycled water, storm water, rainwater, and graywater

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

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April 23, 2019

Ms. Krinjal Mathur

Revised Notice of Preparation of a Draft Supplemental Environmental Impact Report for the Garden Gate Tower Project

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.

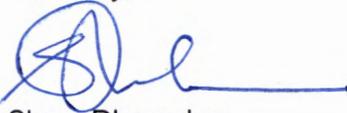
According to the Federal Emergency Management Agency's current Flood Insurance Rate Map No. 06085C0234H dated May 11, 2009, the site is located in Zone D, areas in which flood hazards are undetermined but possible.

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 DSEIR 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. 33926 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, File