

# APPENDIX A

## Notice of Preparation (NOP) and NOP Comments

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**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
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December 16, 2019

Samantha Haschert  
City of Santa Cruz Planning and Community Development Department  
809 Center St., Room 101  
Santa Cruz, CA 95060

**Re: Notice of Preparation of an Environmental Impact Report for the Riverfront Project**

Dear Ms. Haschert:

We received the above referenced Notice of Preparation (NOP) for the City's upcoming environmental impact report (EIR) on the Riverfront Project which proposes to merge five parcels and replace existing commercial buildings and parking lots with one 0.98-acre parcel and a seven-story mixed-use development containing 175 condominiums, 11,498 square feet of new commercial space, and at-grade and underground parking. About one-third of the merged parcel would be in the coastal zone and appeal area. The City's approved Local Coastal Program (LCP) is the standard of review for the portion of the proposed project in the coastal zone.

Thank you for engaging with our office early in the environmental review process; doing so will help identify and address the project's potential impacts to coastal resources. As a preliminary matter, we continue to strongly support the City's efforts to protect its coastal resources while simultaneously working to cultivate the Riverfront character of its downtown, create affordable housing, and protect the river's natural environment. The City's Downtown Plan and recent amendments to the City's LCP enacted to help carry out the Downtown Plan will act in tandem to advance those efforts. The purpose of this letter is to identify issues of LCP consistency as early as possible and propose avoidance and/or mitigation measures to address those issues during the CEQA review process. Our ultimate goal with this approach is to facilitate a streamlined environmental review process. The following comments apply to the portions of the proposed project that are located within the City's coastal zone.

**Standard of Review**

Much of the basis for the City's current environmental evaluation of this project is based on the City's General Plan 2030 and its associated EIR. However, for the portions of the project that are located in the coastal zone, these documents cannot be used to evaluate this project's impacts on coastal resources because neither the General Plan 2030 nor its EIR are formally adopted into the City's LCP. The project's EIR could help the process of determining how the project potentially impacts coastal resources by aligning some elements of the EIR scope towards the City's LCP. Specifically, the portion of the proposed project that lies in the coastal zone will be evaluated according to the City's certified LCP, including the City's Downtown Plan and the recent LCP amendments associated with the Downtown Plan, as that is the legal standard of review for approving coastal development permits.

**Variances and Exceptions**

The Riverwalk is a greatly under-utilized coastal access and recreation resource for the City. Accordingly, most of our concern about the scope of the project's EIR centers on the proposed project's use of variances and exceptions that could potentially undermine the development standards for this area of the downtown's coastal zone. The project includes several variances and exceptions to applicable development standards, including waivers for maximum building height, the Skyline Architectural Variation standard, minimum building setback requirements, and the Downtown Plan's design guidelines, among others. The statutory basis in the LCP for approving or allowing these exceptions and variances is not clear. Please explain the basis for each exception and why each exception is allowable. The EIR should also include a detailed chart or table indicating the Downtown Plan's existing development standards, what the project proposes, and how the standards are either met or exceeded, as well as the LCP-authorized basis for such exceptions or variances.

### **Visual Resources in the Coastal Zone**

It appears that the proposed buildings may adversely impact visual resources if the already substantial design height and bulk allowed by the LCP are increased through the use of variances and exceptions, as discussed above. It is unclear how increasing the maximum building height permitted in the Downtown Plan's "Additional Height Zone B" area from 70 feet to the proposed 81 feet will protect visual resources, or if this proposed increase is even permissible by the LCP. The City's LCP (*Vol. 1, Community Design Element, Goal 2.2 and 2.2.1, p.85*) and the 2017 LCP amendments associated with the Downtown Plan state that the City will preserve important public views and viewsheds through a development's siting, scale, and other specific design guidelines that encourage carefully-planned and appropriately-designed growth. Numeric zoning standards for height and bulk are understood to be maximums to be subsequently modified in order to best meet core LCP policies. The EIR should therefore evaluate how the project's prominent location adjacent to the San Lorenzo River's western levee combined with its proposed 81-foot height (versus the 70-foot maximum allowed in the LCP) and the proposed shape and mass of the buildings (with setback and setback exceptions) would potentially impact coastal views to the south and downriver towards the ocean. We recommend that the EIR include detailed visual simulations to assess such impacts and that story poles be used to demonstrate buildings' height, setback, and setback configurations so that the public and decision makers can fully assess such impacts. We also recommend that the EIR show how the currently proposed design and possible design alternatives would provide view corridors from the street toward the river. The EIR should also include an evaluation of the project's impact (seasonally) on sunlight and shade in and around the site. *See LCP Vol. 1, Community Design Element Goal 2.2.*

### **Water Quality: Storm Water Collection, Treatment, and Discharge**

The NOP provides limited details of how the project's storm water collection and treatment system would function. The EIR should include a detailed explanation of the proposed system, including how it is consistent with LCP provisions designed to protect the river's water quality (*See LCP Vol. 1, Environmental Quality Element Goal 2.3.1, and LCP Implementation Plan*



*Section 24.14.050*). Given the development's net increase in impervious surface area, minimizing storm water run-off and increasing the treatment and filtration of run-off is a high priority for a development site that drains directly into the adjacent river near its outlet to the ocean. The EIR should also examine the degree to which the site's pervious landscaping and other pervious surface area will be designed to function as bioswales to treat and otherwise manage storm water, and should incorporate the principles of "Low Impact Development" as much as possible. Also, in keeping with the increasingly more common design features of contemporary buildings in our dry region, the EIR should include a detailed description of how the project's rainwater run-off from its roofs can be filtered, stored, and used for the project's landscape irrigation or other uses.

### **Access**

According to the NOP, the proposed project includes two pedestrian pathways that will provide public access to the Riverfront and to the project's proposed public plazas. These pathways address a goal shared by the City and Coastal Commission of stimulating public access to the Riverwalk. Although the NOP does not cite specific numbers, our understanding is that the buildings in the proposed project would have reduced setbacks and setbacks from the pedestrian pathways and the street, which could compromise the aesthetics of the public accessways and outdoor plazas. The EIR should provide the amounts of setbacks and setbacks and should evaluate the aesthetics and utility of the pedestrian pathways and public plazas in light of the proposed variances and exceptions to the LCP, i.e. will the pathways be well-lit and not overly obscured by shadows or towering building fronts, as these could be factors that adversely affect the public's use of these pathways (*See LCP Vol. 1, Community Design Element, Goal 3.6*). This effect of reduced setback and setbacks could, in turn, reduce the appeal of using the public accessways and plazas and hinder public access to the Riverwalk from this project.

### **Coastal Hazards**

The LCP requires that development should be planned and executed to mitigate known and foreseeable coastal hazards (*LCP Vol. 1, Safety Element, Goal 3.1*). Flooding and ground water intrusion are foreseeable risks for a development site on a coastal floodplain. Climate change will likely increase coastal storm intensity, raise sea levels, and allow ocean water to reach farther upriver more frequently as high tides correspondingly increase. The NOP states that the impacts from climate change would likely raise the water table around the site, which is in the 100-year flood plain of the San Lorenzo River. While a levee system now protects the project site and the rest of downtown, the combination of risks that includes sea level rise, elevated water tables, higher seasonal king tides, more intense storms, and reliance on levees to protect dense development located on a flood plain calls for a thorough risk assessment in the EIR. This is especially relevant considering that the project would require significant excavation for foundation piles and an underground parking garage. The NOP mentions a possible risk mitigation measure of relying on existing infrastructure to pump out flood water but this mitigation factor requires uninterrupted electric power and assumes no significant rain event within 10 hours of a flood. With more intense coastal storms predicted to occur with the further

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onset of climate change, these assumptions may be optimistic, and thus, unduly expose the project to avoidable hazards. Finally, the NOP mentions a potential mitigation involving raising the elevation of levees to address flooding issues; however, this would require major federal funding that would alter the project's major public accessway to the Riverfront. The EIR should therefore thoroughly evaluate all of these issues, including alternatives that avoid such flooding impacts, as well as mitigation measures that would minimize such impacts.

**Other Issues**

We concur with the City that the subareas of Cultural Heritage and Energy warrant further review in the forthcoming EIR. Preserving historic buildings in the coastal zone that have significant cultural value and form part of a community's overall heritage is an important element of preserving coastal resources. Commission staff also shares the City's concern regarding the development's energy use and conservation of energy resources, especially related to how the project will generate its own renewable energy and affect the region's overall energy use and carbon emissions.

Thank you for considering these comments as you plan the scope of the Riverfront project EIR. Please do not hesitate to contact me at the address or phone number above if you wish to discuss any of the above comments.

Sincerely,

Colin Bowser  
Coastal Planner  
Central Coast District Office

NATIVE AMERICAN HERITAGE COMMISSION  
Cultural and Environmental Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691 Phone: (916) 373-3710  
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November 20, 2019

Samantha Haschert  
Santa Cruz, City of  
809 Center Street, Room 101  
Santa Cruz, CA 95060

RE: SCH# 2019110392, Riverfront Project, Santa Cruz County

Dear Ms. Haschert:

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](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](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](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: [Nancy.Gonzalez-Lopez@nahc.ca.gov](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

Sincerely,



Nancy Gonzalez-Lopez  
Staff Services Analyst

cc: State Clearinghouse



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](mailto:nahc@nahc.ca.gov)  
Website: <http://www.nahc.ca.gov>



November 20, 2019

Samantha Haschert  
Santa Cruz, City of  
809 Center Street, Room 101  
Santa Cruz, CA 95060

RE: SCH# 2019110392, Riverfront Project, Santa Cruz County

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  - 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](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](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](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: [Nancy.Gonzalez-Lopez@nahc.ca.gov](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

Sincerely,



Nancy Gonzalez-Lopez  
Staff Services Analyst

cc: State Clearinghouse



Gavin Newsom  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Kate Gordon  
Director

**Notice of Preparation**

November 20, 2019

To: Reviewing Agencies

Re: Riverfront Project  
SCH# 2019110392

Attached for your review and comment is the Notice of Preparation (NOP) for the Riverfront Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Samantha Haschert  
Santa Cruz, City of  
809 Center Street, Room 101  
Santa Cruz, CA 95060**

with a copy to the State Clearinghouse in the Office of Planning and Research at [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov). Please refer to the SCH number noted above in all correspondence concerning this project on our website: <https://ceqanet.opr.ca.gov/2019110392/2>.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

cc: Lead Agency

**Notice of Completion & Environmental Document Transmittal**

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

**201#9110392****Project Title:** Riverfront ProjectLead Agency: City of Santa Cruz Planning and Community Development DeptContact Person: Samantha HaschertMailing Address: 809 Center Street, Room 101Phone: (831) 420-5196City: Santa Cruz

Zip: \_\_\_\_\_

County: Santa Cruz**Project Location:** County: Santa CruzCity/Nearest Community: Santa CruzCross Streets: Downtown between Pacific Avenue and Front Street south of Soquel AvenueZip Code: 95060Longitude/Latitude (degrees, minutes and seconds): \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" N / \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" W Total Acres: ~1 acreAssessor's Parcel No.: 005-151-39, -22, -30, -31, -50

Section: \_\_\_\_\_

Twp.: \_\_\_\_\_

Range: \_\_\_\_\_

Base: \_\_\_\_\_

Within 2 Miles: State Hwy #: 1, 17Waterways: San Lorenzo River

Airports: \_\_\_\_\_

Railways: \_\_\_\_\_

Schools: \_\_\_\_\_

**Document Type:**CEQA: ☒ NOP☐ Draft EIRNEPA: ☐ NOIOther: ☐ Joint Document☐ Early Cons☐ Supplement/Subsequent EIR☐ EA☐ Final Document☐ Neg Dec

(Prior SCH No.) \_\_\_\_\_

☐ Draft EIS☐ Other: \_\_\_\_\_☐ Mit Neg Dec

Other: \_\_\_\_\_

☐ FONSI**Local Action Type:**☐ General Plan Update☐ Specific Plan☐ Rezone☐ Annexation☐ General Plan Amendment☐ Master Plan☐ Prezone☐ Redevelopment☐ General Plan Element☐ Planned Unit Development☐ Use Permit☐ Coastal Permit☐ Community Plan☒ Site Plan☐ Land Division (Subdivision, etc.)☐ Other: \_\_\_\_\_**Development Type:**☒ Residential: Units \_\_\_\_\_

Acres \_\_\_\_\_

☐ Office: Sq.ft. \_\_\_\_\_

Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Transportation: Type \_\_\_\_\_☒ Commercial: Sq.ft. \_\_\_\_\_

Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Mining: Mineral \_\_\_\_\_☐ Industrial: Sq.ft. \_\_\_\_\_

Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Power: Type \_\_\_\_\_

MW \_\_\_\_\_

☐ Educational: \_\_\_\_\_☐ Waste Treatment: Type \_\_\_\_\_

MGD \_\_\_\_\_

☐ Recreational: \_\_\_\_\_☐ Hazardous Waste: Type \_\_\_\_\_☐ Water Facilities: Type \_\_\_\_\_

MGD \_\_\_\_\_

☐ Other: \_\_\_\_\_**Project Issues Discussed in Document:**☐ Aesthetic/Visual☐ Fiscal☐ Recreation/Parks☐ Vegetation☐ Agricultural Land☐ Flood Plain/Flooding☐ Schools/Universities☐ Water Quality☐ Air Quality☐ Forest Land/Fire Hazard☐ Septic Systems☐ Water Supply/Groundwater☒ Archeological/Historical☐ Geologic/Seismic☐ Sewer Capacity☐ Wetland/Riparian☐ Biological Resources☐ Minerals☐ Soil Erosion/Compaction/Grading☒ Growth Inducement☐ Coastal Zone☐ Noise☐ Solid Waste☐ Land Use☐ Drainage/Absorption☐ Population/Housing Balance☐ Toxic/Hazardous☐ Cumulative Effects☐ Economic/Jobs☐ Public Services/Facilities☐ Traffic/Circulation☐ Other: \_\_\_\_\_**Present Land Use/Zoning/General Plan Designation:**












Developed / Central Business District / Regional Visitor Commercial

**Project Description: (please use a separate page if necessary)**





The proposed project consists of demolition of existing commercial buildings and construction of construct a seven-story, mixed-use building with 175 residential condominium units and 11,498 square feet of ground floor and levee front commercial space.

## NOP Distribution List






Resources Agency






-  **Resources Agency**  
Nadell Gayou
-  **Dept. of Boating & Waterways**  
Denise Peterson
-  **California Coastal Commission**  
Allyson Hitt
-  **Colorado River Board**  
Elsa Contreras
-  **Dept. of Conservation**  
Crina Chan
-  **Cal Fire**  
Dan Foster
-  **Central Valley Flood Protection Board**  
James Herota
-  **Office of Historic Preservation**  
Ron Parsons
-  **Dept of Parks & Recreation**  
Environmental Stewardship  
Section
-  **S.F. Bay Conservation & Dev't. Comm.**  
Steve Goldbeck
-  **Dept. of Water Resources**  
Resources Agency  
Nadell Gayou

## Fish and Wildlife

-  **Depart. of Fish & Wildlife**  
Scott Flint  
Environmental Services  
Division
-  **Fish & Wildlife Region 1**  
Curt Babcock
-  **Fish & Wildlife Region 1E**  
Laurie Harnsberger
-  **Fish & Wildlife Region 2**  
Jeff Drongosen
-  **Fish & Wildlife Region 3**  
Craig Weightman

### Other Departments

-  **Fish & Wildlife Region 4**  
Julie Vance
-  **Fish & Wildlife Region 5**  
Leslie Newton-Reed  
Habitat Conservation  
Program
-  **Fish & Wildlife Region 6**  
Tiffany Ellis  
Habitat Conservation  
Program
-  **Fish & Wildlife Region 6 I/M**  
Heidi Calvert  
Inyo/Mono, Habitat  
Conservation Program
-  **Dept. of Fish & Wildlife M**  
William Paznokas  
Marine Region

-  **California Department of Education**  
Lesley Taylor
-  **OES (Office of Emergency Services)**  
Monique Wilber
-  **Food & Agriculture**  
Sandra Schubert  
Dept. of Food and Agriculture
-  **Dept. of General Services**  
Cathy Buck  
Environmental Services Section
-  **Housing & Comm. Dev.**  
CEQA Coordinator  
Housing Policy Division

## Independent Commissions, Boards

-  **Delta Protection Commission**  
Erik Vink
-  **Delta Stewardship Council**  
Anthony Navasero
-  **California Energy Commission**  
Eric Knight






**County:**

County: Santa Cruz




af

SCH#









2019110392





-  **Native American Heritage Comm.**  
Debbie Treadway
-  **Public Utilities Commission**  
Supervisor
-  **Santa Monica Bay Restoration**  
Guangyu Wang
-  **State Lands Commission**  
Jennifer Deleong
-  **Tahoe Regional Planning Agency (TRPA)**  
Cherry Jacques

Cal State Transportation  
Agency CalSTA

-  **Caltrans - Division of Aeronautics**  
Philip Crimmins
-  **Caltrans – Planning**  
**HQ LD-IGR**  
Christian Bushong
-  **California Highway Patrol**  
Suzann Ikeuchi  
Office of Special Projects

## Dept. of Transportation

-  **Caltrans, District 1**  
Rex Jackman
-  **Caltrans, District 2**  
Marcelino Gonzalez
-  **Caltrans, District 3**  
Susan Zanchi
-  **Caltrans, District 4**  
Patricia Maurice
-  **Caltrans, District 5**  
Larry Newland
-  **Caltrans, District 6**  
Michael Navarro
-  **Caltrans, District 7**  
Dianna Watson
-  **Caltrans, District 8**  
Mark Roberts

-  **Caltrans, District 9**  
Gayle Rosander
-  **Caltrans, District 10**  
Tom Dumas
-  **Caltrans, District 11**  
Jacob Armstrong
-  **Caltrans, District 12**  
Maureen El Harake



Cal EPA

## Air Resources Board

- ☐ **Airport & Freight**  
Jack Wursten
- ☐ **Transportation Projects**  
Nesamani Kalandiyur
- ☒ **Industrial/Energy Projects**  
Mike Tollstrup
- ☐ **California Department of Resources, Recycling & Recovery**  
Kevin Taylor/Jeff Esquivel
- ☐ **State Water Resources Control Board**  
Regional Programs Unit  
Division of Financial Assistance
- ☐ **State Water Resources Control Board**  
Cindy Forbes – Asst Deputy  
Division of Drinking Water
- ☐ **State Water Resources Control Board**  
**Div. Drinking Water # \_\_\_\_\_**
- ☒ **State Water Resources Control Board**  
Student Intern, 401 Water Quality Certification Unit  
Division of Water Quality
- ☐ **State Water Resources Control Board**  
Phil Crader  
Division of Water Rights
- ☒ **Dept. of Toxic Substances Control Reg. # \_\_\_\_\_**  
CEQA Tracking Center
- ☐ **Department of Pesticide Regulation**  
CEQA Coordinator

Regional Water Quality Control  
Board (RWQCB)

- ☐ **RWQCB 1**  
Cathleen Hudson  
North Coast Region (1)
- ☐ **RWQCB 2**  
Environmental Document  
Coordinator  
San Francisco Bay Region (2)
- ☒ **RWQCB 3**  
Central Coast Region (3)
- ☐ **RWQCB 4**  
Teresa Rodgers  
Los Angeles Region (4)
- ☐ **RWQCB 5S**  
Central Valley Region (5)
  - ☐ **RWQCB 5F**  
Central Valley Region (5)  
Fresno Branch Office
  - ☐ **RWQCB 5R**  
Central Valley Region (5)  
Redding Branch Office
- ☐ **RWQCB 6**  
Lahontan Region (6)
  - ☐ **RWQCB 6V**  
Lahontan Region (6)  
Victorville Branch Office
- ☐ **RWQCB 7**  
Colorado River Basin Region (7)
- ☐ **RWQCB 8**  
Santa Ana Region (8)
- ☐ **RWQCB 9**  
San Diego Region (9)

-  Other \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
-  \_\_\_\_\_
- Conservancy





November 26, 2019

Samantha Haschert, Senior Planner  
City of Santa Cruz  
Planning and Community Development Department  
809 Center Street, Room 101  
Santa Cruz, California 95060

Dear Ms. Haschert:

This is in response to your request for comments regarding the City of Santa Cruz Notice of Preparation of an Environmental Impact Report for project known as Riverfront Project.

Please review the current effective Flood Insurance Rate Maps (FIRMs) for the County of Santa Cruz (Community Number 060355) and City of Santa Cruz (Community Number 060353), Maps revised September 29, 2017. Please note that the City of Santa Cruz, Santa Cruz County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any **development** must not increase base flood elevation levels. **The term development means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.



November 26, 2019

- All buildings constructed within a coastal high hazard area, (any of the “V” Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.
- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA’s Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfip/forms.shtm>.

**Please Note:**

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community’s floodplain manager for more information on local floodplain management building requirements. The Santa Cruz floodplain manager can be reached by calling Eric Marlatt, Zoning Administrator, at (831) 420-5115. The Santa Cruz County floodplain manager can be reached by calling Antonella Gentile, Resource Planner/Floodplain Manager, at (831) 454-3164.

If you have any questions or concerns, please do not hesitate to call Patricia Rippe, Senior Floodplain Manager Specialist, of the Mitigation staff at (510) 627-7015.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregor Blackburn", with a long horizontal flourish extending to the right.

Gregor Blackburn, CFM, Branch Chief  
Floodplain Management and Insurance Branch

cc:

Eric Marlatt, Zoning Administrator, City of Santa Cruz  
Antonella Gentile, Resource Planner/Floodplain Manager, Santa Cruz County  
State of California, Department of Water Resources, South Central Region Office  
Patricia Rippe, Senior Floodplain Manager Specialist, DHS/FEMA Region IX  
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

To:  
Samantha Haschert, City Planner  
City of Santa Cruz

12/19/2019

Comments to Notice of Preparation(NOP) for  
**Front St/RiverFront Project**

Please note that that my comments are in oblique.

**1. Aesthetics**

(c) Effects on Visual Character

*The potentially 82 feet high Project will change the visual character when viewed from the Front St., east bank, down and upstream levee path and streets.*

*The high levee trees will be gone, which are currently visible from these locations.*

*The mass and potentially 82 feet height of the Project diminishes the view of the sky, which has shown to have impact on humans, fauna and flora.*

*These aspects are not considered in the NOP findings.*

<https://www.nature.com/articles/d41586-019-01238-y>

[Protect our right to light](#)

<http://www.newgeography.com/content/003938-city-leaders-are-love-with-density-most-city-dwellers-disagree>

[City Leaders Are in Love With Density but Most City Dwellers Disagree | Newgeography.com](#)

<https://buildingtheskyline.org/city-shadows/>

[Skyscrapers and Shadows: The Value of Sunshine in the City - Skynomics Blog](#)

<https://buildingtheskyline.org/Skynomics Blog>

*The view of the Palomar and the Del Mar Theater will be blocked by the Project. The 2 buildings are considered landmarks of Santa Cruz. This lost view in needs to be addressed in the NOP.*



(d) Light and Glare

*The Project is designated for residential living. The 175 residential condos and 11,498 square feet of ground-floor and levee-front commercial space create an increase of light source. The 175 condos will house residents, who will be activating light source for their every day needs. Currently no light nor glare sources exist on that site that are comparable to the proposed Project. Therefore it is an unreasonable assumption that the proposed Project would not result in new or substantially more severe light and glare impacts.*

*These mitigation measures need to be addressed:*

- Nighttime building lighting at the top of the building, interiors of all floors, lobby and atria shall be controlled motion, time sensors.
- It is urged that time-switch control devices or occupancy sensors are installed, complying with the current California Energy Code, that can be programmed to turn off lights during those time frames.

*Night lighting effects night flying birds, such as Owls, Night-Herons, dusk and dawn hunting birds, migratory birds, Night-Herons, etc. The Project is in the Pacific migratory Flyway and the U.S. Fish and Wildlife Service estimates that collision with building glass is currently the second greatest source of direct mortality of approximately one billion North American birds each year. Therefore all best possible measures have to be applied to the Project to prevent bird glass collisions, which are not fully presented in the NOP findings.*

<https://sciencing.com/identify-american-hawks-2041155.html>

<https://environmentalevidencejournal.biomedcentral.com/articles>

<https://www.nature.com/scientific-reports/articles>

<https://www.sciencedaily.com/releases/2018/01>

*The NOP does not show that the Project applies Section 110.6 Mandatory Requirements for Fenestration Products & Exterior doors*

*<https://codes.iccsafe.org/content/CAEC2019/subchapter-2-all-occupancies-mandatory-requirements-for-the-manufacture-construction-and-installation-of-systems-equipment-and-building-components>.*

*Nor is Title 24 of the 2019 California Energy Commission mentioned. (<https://www2.energy.ca.gov/2018publications/CEC-400-2018-020/CEC-400-2018-020-CMF.pdf2>) These documents address fenestrations, which reduce glare and light as well as energy efficiency.*

#### **4. Biological Resources**

(a-c) Special-Status Species, Sensitive Habitat NOP responds to the west slope earthen fill.

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special- status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

*The NOP concludes that no adverse effects need to be considered for " Does Project Involve New Significant Impacts or Substantially More Severe Impacts?" and "New Impacts Peculiar to Project or Site?" for (a-c).*

- *The conclusions ignore that*
- *habitat modification does occur with consequent habitat loss, which is caused by the required earthen<sup>77</sup> fill of 3,500 cubic yards for the 490 linear feet of levee to cover approx. 15,500 square feet(Project Description);*
- *the Project and the west slope fill will increase of human activity and recreational traffic thus impacting existing sensitive riparian habitats;*
- *the west slope banks have been/are are a part of the Natural Resources riparian corridor, the San Lorenzo River;*

- the west slope location presently provides essential shelter, native plant food sources, breeding locations, hunting perches for special-status species and the diverse riparian corridor wildlife, such as
- local and migratory birds,
- snakes, lizards,
- insects
  - Owls, Cooper, Red-tailed, Red-shouldered Hawks, Merlin Falcons( Raptors & Falcons need high trees for their hunting activities);
  - the vital information of the "Lower San Lorenzo River 2015 Fall Migration Bird Surveys";
  - the reports of the rich biodiversity of the San Lorenzo River fauna and flora can be found on e-bird. (e-bird ranks the San Lorenzo River (within Santa Cruz)( <https://ebird.org/hotspots>) as number 13 out of the 100 County Hotspots )
  - and on inaturalist:
    - [https://www.inaturalist.org/check\\_lists/55067-Birds-Of-Lower-San-Lor...](https://www.inaturalist.org/check_lists/55067-Birds-Of-Lower-San-Lor...)
    - [https://www.inaturalist.org/check\\_lists/55063-Lower-San-Lorenzo-Rive...](https://www.inaturalist.org/check_lists/55063-Lower-San-Lorenzo-Rive...)
    - <https://www.inaturalist.org/projects/san-lorenzo-river-urban-corridor>
    - <https://www.inaturalist.org/places/lower-san-lorenzo-river>

*The loss of habitat, due to modification is not addressed comprehensively, thus validity of the NOP conclusions in regard to the substantial adverse effects is not be adequately assessed. The incomplete findings have to be revised to fulfill the checklist requirements.*

*It is worth noting that an in-depth revision is highly advisable, because habitat loss due to urban development is causing the steep decline of the bird & insect population, which has resulted in the loss of 3 billion birds since 1970 and 40% of the insect population.*

[US and Canada have lost nearly 3 billion of bird population in last 50 years: Study - ABC News](#)

<https://www.theguardian.com/environment/2019/nov/13/insect-apocalypse-poses-risk-to-all-life-on-earth-conservationists-warn>



Migratory WHITE-crowned SPARROW feeding on the Project's west slope, Dec. 2019

b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)



*The Project is located in very close vicinity to the riparian corridor, which is a highly valued Natural Resource.*[Riparian Zones I CRD.](#)

*It is necessary to evaluate the cumulative impacts of this potentially 82 feet high Project and probable future projects on the riparian habitats beyond the immediate buildings site. The riparian biodiversity will be cumulatively impacted by the drastic height change from the current 1-2 story high buildings, the loss of the west side slope habitat and probable future habitat loss, the increased light sources, shading, human noise and traffic. The San Lorenzo River lies in the important Pacific Flyway needs to be evaluated accordingly,. It is an essential location for summer and winter migratory Federal and State protected birds, who are present on the west slope.*

*The urban development effects are addressed in these studies:*

[Urbanization - Riparian/Channel Alteration I CADDIS Volume 2 I US EPA \(PDF\) MANAGING HEALTHY RIPARIAN AREAS IN URBAN SETTINGS OF GREECE TO IMPROVE LIVING CONDITIONS](#)

[Microsoft Word - UARA\\_07-17-07.doc - UARA\\_07-17-07\\_chapter7.pdf](#)

[https://cals.arizona.edu/extension/riparian/pub/UARA\\_07-17-07\\_chapter7.pdf](https://cals.arizona.edu/extension/riparian/pub/UARA_07-17-07_chapter7.pdf)

[Riparian Areas Environmental Uniqueness, Functions, and Values I NRCS](#)

[https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/?cid=nrcs143\\_014199](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/?cid=nrcs143_014199)

*The Bio Report-Appendix A does not do justice to the Natural Resources that are adjacent to the Project. It offers gathered data, but no in-depth, site specific surveys nor inventory data of site specific flora, fauna.*

*Consequently the NOP findings for (b) are inconclusive and warrant revision.*

c) Have a substantial adverse effect on state or federally protected wetlands(including, but not limited to, marsh,vernal pool, coastal,etc.) through direct removal, filling, hydrological interruption, or other means.

The Downtown Plan Amendments EIR concluded that, while increased building heights in the downtown area would result in increased shading of riparian and aquatic habitat—particularly during winter months—however, increased shading would have a less-than-significant impact on special-status species. However.

*Since this NOP conclusion is not supported with well substantiated data, the above sentence is an assumption.*

(a-c) Special-Status Species, Sensitive Habitat

'Avoid transparent glass skyway, walkways...etc'

NOP states that "Some windows are located at the corners of buildings, but appear to include framing around windows that provide a visual barrier at building corners."

*The NOP has to clarify if the Project plans have in fact framing around windows that provide a visual barrier at building corners. Asserting that the windows 'appear' to have frames is vague, consequently misleading, thus unacceptable.*

(d) Wildlife Movement/Breeding

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

*The NOP conclusion is an abstract finding that future redevelopment of existing urban downtown area would not affect wildlife movement as it would occur within the existing development footprint. It is not based on scientific, comprehensive surveys and studies of cumulative urban development impacts on riparian biodiversity.*

*The NOP is not including a request for a monitoring plan to track the impacts of the increased urban development on the riparian corridor. It stands to reason that the City applies best management standards to the highly valued Natural Resources, which are not applied/ reflected in the NOP.*

*NOP states: "Tree removal during breeding season (generally March 1 to August 1) has the potential to destroy bird nests, eggs or chicks...etc"*

*The vague breeding date of '(generally March 1 to August 1)' allows for misinterpretations of tree removals.*

*Furthermore the NOP has to incorporate California State Department of Fish and Wildlife amended breeding dates of February 1 through September 1 as stated in the August 6, 2019 Public Works 'Lake or Streambed Alteration Agreement' (Notification No. 1600-2013-0176-R3, City of Santa Cruz Routine Maintenance Activities).*

*The III. Environmental Setting section lists the names of the 32 existing trees consist of 13 species, of which 8 species amount to 19 native trees. In the Conflicts with Local Plans the list for 21 planned tree replacements names 5 species, which are all non-native California trees. The choice of these trees is unacceptable, because these trees do not enhance the riparian corridor's habitats and its wildlife. The planned tree is in opposition to SLURP, the General Plan 2030, ACOE, who all stipulate that the preservation, protection, and enhancement of natural resources is of highest priority.*

#### (e-f) Conflicts with Local Plans

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

*The NOP response does not include the 2003 adopted 'San Lorenzo Urban River Plan'(SLURP).*

*Due to this omission the recommendations, goals and priority of SLURP and the Lower San Lorenzo River and Lagoon Enhancement Plan are not considered, addressed nor integrated into the NOP findings such as the SLURP section "1.4 Relationship to Existing City Plans" (page 13):*

*"Future updates of the General Plan and Local Coastal Program will incorporate recommendations from the San Lorenzo Urban River Plan for "significant riverfront areas" including Front Street, Salz Tannery, and Beach Flats, ..etc. Additionally, the recommendations of the Urban River Plan should be referenced in regional plans referring to the San Lorenzo River and watershed."*

*Nor are the Project's recreational effects evaluated according to the SLURP's priorities: " the Restoration of the River." and "...recognize that the River is first a habitat area for fish and wildlife and second a passive recreational area for enjoyment by the community."*

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

*The regrettable absence of an adopted Habitat Conservation Plan should not refrain the City from striving to achieve the best protection, enhancement outcomes for the Natural Resources.*

## 6. Energy

### (a) Energy Use.

*NOP states:* It is not expected that the proposed project would not result in impacts related to inefficient or wasteful use of energy that would not result in impacts related to inefficient or wasteful use of energy that would be peculiar to the project or site or substantially more severe than evaluated in the General Plan 2030 EIR.

*This sentence is illogic and contradictory thus difficult to evaluate its meaning.*

*It is regrettable that*

- *the actual energy demand was not calculated for this site therefore eliminating an evaluation;*
- *ASHRAE and ICC findings were not included, which would result in reduced energy use and cost. (ABC-Bird-Friendly Design, page 34);*
- *the Project is not installing solar panels;*
- *it is not clear to what extend the CalGreen checklist is applied to the Project*

<https://aiacalifornia.org > calgreen-checklists>

*The State of California has the goal to reduce ineffective energy use, which are showing very positive results.*

<http://www.digitaljournal.com/news/environment/energy-efficiency-had-an-amazing-impact-in-2019/article/563812>

*Therefore it stands to reason that the Project's energy use is held to these goal standards, which can not be determined by the NOP findings.*

These energy saving measures should be a requirement for the Project:

- *Nighttime building lighting at the top of the building, interiors of all floors, lobby and atria shall be controlled motion, time sensors.*
- *It is urged that time-switch control devices or occupancy sensors are installed, complying with the current California Energy Code, that can be programmed to turn off lights during those time frames.*

### *Summary:*

*The Project is located in close vicinity to a riparian corridor and its important and sensitive biodiversity. As noted in the CRD report and supplied links, human development situated close to the riparian corridor impacts its health. The applicant and the City Planning Department have to account for their decision to place the high and massive Project in this location by supplying comprehensive, scientific data that evaluates the cumulative effects/impacts on the riparian flora, fauna, aquatic habitats and by applying the best environment management practices. It will serve the public Natural Resources and the future generations to apply high*

*caliber, aesthetic, environmental, energy use consideration, evaluation and mitigations to this Project.*

Sincerely,  
jane mio  
215 Mtn. View Ave.  
Santa Cruz, Ca. 95062



YELLOW-rumped migratory WARBLER feeding in the Project's west slope  
Nov. 2019



**From:** Ruselle Revenaugh [<mailto:ruselle@earthlink.net>]  
**Sent:** Monday, December 23, 2019 11:36 AM  
**To:** Samantha Haschert <[SHaschert@cityofsantacruz.com](mailto:SHaschert@cityofsantacruz.com)>  
**Cc:** Dennis Wheeler <[gaza@gazabowen.com](mailto:gaza@gazabowen.com)>  
**Subject:** 418 development

Hello Samantha,

We were present at the EIR meeting held at Lauden Nelson for the 418 development. We've been discussing the various issues surrounding this project for many months now, and the meeting brought to life several more. Foremost, we are concerned about the potential loss of the community and cultural diversity that the 418 project currently provides: so much creativity and heart and healing is available and supported there! But we are also greatly concerned about the environmental impact of such a huge development! We were GREAT supporters of including the river in our new developments after the earthquake, knowing that including that fabulous resource of ours, rather than hiding it (as we still do), would bring so many benefits to our town, culturally, environmentally, and spiritually. But none of that happened, and we were greatly disappointed! Instead, we got MORE chain stores, big ugly signs welcoming visitors to our not-so-charming any more town, and more homeless people populating and peeing on our precious river front properties.

So, now you're talking about building -- and big -- at the rivers edge. Will you somehow honor the river, including it and its natural inhabitants in the developers' plans? I hope so! There are MANY birds that live in that corridor and many more that migrate through. Have you actually considered them at all? And what about the depth required for a foundation to support such a massive building! That WILL affect the water table, water quality, and the speed of construction, as water naturally will flow where it wants to go. It did not sound like you had addressed these issues in your planning. I sure hope that you do!

We recently ran across an article that I am sending to you here, as I think it has great significance for the development of Santa Cruz, particularly 418 Front St! Growing trees on the high rise buildings erected in Santa Cruz should be required from now on!! We are losing trees all the time! (I was horrified when the redwoods in the middle of highway one at Morrissey St were removed; they were the essence of Santa Cruz's charm!) And they should absolutely be replaced! Please take the time to read this article, watch the videos associated with it, and consider implementing this practice in your planning of our city. Trees and shrubbery growing up along the heights of the riverfront developments, especially, would help to address the environmental impacts of these precious riparian areas!

Please take this seriously. We used to be a very "green" community. I understand the need for Santa Cruz to grow UP. However, that does not mean we should forget or destroy our natural beauty. On the contrary, we need to foster MORE of it in order to keep our lands, rivers, forests, as well as Our lungs, hearts, and souls, happy and healthy!  
thank you,  
Ruselle Revenaugh

-----Forwarded Message-----

From: Dennis Wheeler

Sent: Dec 8, 2019 3:52 PM

To: Ruselle R

Subject: vertical forest

The project's two residential towers -- measuring 80 meters (262 feet) and 112 meters (367 feet) respectively -- play host to around 20,000 trees, shrubs and plants. They spill out from irregularly placed balconies and crawl up the structures' sides. By Boeri's estimates, there are two trees, eight shrubs, and 40 plants for each human inhabitant....

But the architect's proudest claim is that the buildings absorb 30 tons of carbon dioxide and produce 19 tons of oxygen a year, according to his [research](#), with a volume of trees equivalent to more than 215,000 square feet of forestland....

Other energy-efficient features, including geothermal heating systems and wastewater facilities, have attracted less attention. Nonetheless, they help the towers to not only resemble trees, but function like them too, the architect said.....

His firm has already unveiled plans for new Vertical Forest buildings in European cities including Treviso in Italy, Lausanne in Switzerland and Utrecht in the Netherlands.

In the Chinese city of Liuzhou, Guangxi province, he has masterminded an entire "[Forest City](#)," scheduled for completion in 2020, which comprises tree-covered houses, hospitals, schools and office blocks over a sprawling 15-million-square-foot site. (Boeri said that he's also been approached about producing similar "cities" in Egypt and Mexico.)

[www.dailykos.com/stories/2019/12/2/1903081/-Architect-creates-gorgeous-Vertical-Forest-high-rises-lined-with-215-000-Sq-Ft-of-forest-greenery?detail=emaildkre](http://www.dailykos.com/stories/2019/12/2/1903081/-Architect-creates-gorgeous-Vertical-Forest-high-rises-lined-with-215-000-Sq-Ft-of-forest-greenery?detail=emaildkre)