

Appendix A – Notice of Preparation and Comments Received during Public Scoping Period

Contains:

- **Notice of Preparation**
- **Comment letters received during public scoping period from:**
 - **California Department of Fish and Wildlife**
 - **City of San José**
 - **Native American Heritage Commission**
 - **Preservation Action Council of San José**
- **Response to Sacred Lands File Search Request from Native American Heritage Commission**

County of Santa Clara

Facilities and Fleet Department

County Center at Charcot
2310 North First Street, Suite 200
San Jose, California 95131-1011
(408) 993-4600



NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE FORMER SAN JOSE CITY HALL PROJECT

Project Owner/Proponent: County of Santa Clara - Facilities and Fleets Department (FAF)

Project Title: Former San Jose City Hall Project

Assessor's Parcel Number: 259-04-023

As the Lead Agency, the County of Santa Clara will prepare an Environmental Impact Report (EIR) for the proposed project referenced above. The County welcomes your input regarding the scope and content of the environmental information to be included in the EIR. A brief description of the proposed project, its location, and a summary of the potential environmental effects is attached.

The project proposes demolition of the former San Jose City Hall building (former City Hall). The facility is a five-story, approximately 113,430-square-foot office building, at 801 North First Street in San Jose, on the northwest corner of North First Street and West Mission Street. Approval of the project will require actions by the County of Santa Clara, including approval by the County Board of Supervisors.

A Public Scoping/Community Meeting to solicit comments on the Notice of Preparation will be held on:

Tuesday, July 7, 2020 from 6:30 p.m. to 7:30 p.m.

The meeting will be held virtually. The meeting link and instructions for joining the virtual meeting are available on the project website at <https://www.sccgov.org/sites/faf/capital-projects/Pages/fmr-city-hall.aspx>.

In accordance with the California Environmental Quality Act (CEQA), comments on this Notice of Preparation are due within 30 days of its receipt. However, an earlier response, if possible, would be appreciated. Please send your response to:

County of Santa Clara Facilities and Fleets Department

Attention: Emily Chen

2310 North First Street, Suite 200

San Jose CA 95131

E-mail: Emily.F.Chen@faf.sccgov.org; Phone: (408) 993-4635

Prepared by:

Emily Chen, Senior Planner

Approved by:

David Barry, Chief of Facilities Planning Services

DocuSigned by:

Emily Chen

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DocuSigned by:

David Barry

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Signature

6/22/2020

Date

6/22/2020

Date

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith

Project Location

The former San Jose City Hall is at 801 North First Street, approximately 1.5 miles north of downtown San Jose, on the northwest corner of North First and West Mission Streets (Figure 1). The building is located in the southeastern portion of an approximately 9.8-acre parcel, just south of the existing County Government Center, and within “Site D” of the County’s Civic Center Master Plan. The project site is limited to that portion of the parcel that would be required to enable demolition of the former City Hall Building (Figure 2), including the curved driveway and associated surface parking area to the south of the building and the surface parking area formerly occupied by the City Hall Annex building (demolished in 2018) to the north of the building, which may be used as staging areas for the project. The western portion of the parcel, outside of the project site, contains the County’s Reentry Resource Center and a surface parking lot, while the northeastern portion contains a public grassed plaza area with mature trees.

Project Description

The proposed project involves the demolition of the former San José City Hall, a five-story, 113,430-square-foot office building. The building is currently vacant and is not in a usable condition, with ongoing maintenance and security costs borne by the County.

Demolition activities would include the following:

- Preparation of the building, including stabilization or abatement of hazardous building materials and disconnection of utilities;
- Demolition of the building, using implosion (placing explosive materials so that the structure collapses on itself) and/or traditional demolition methods;
- Sorting and disposal of demolition debris; and
- Regrading, filling and hydroseeding of the site.

No future use has been identified or proposed for the site following demolition of the building. However, impacts of reasonably foreseeable potential future uses will be considered as part of the EIR’s growth-inducing and/or cumulative impact analyses.

Potential Environmental Effects of the Project

The EIR will identify the significant environmental effects anticipated to result from implementation of the proposed project. As allowed by CEQA Guidelines §15063(a), an Initial Study has not been prepared for the Proposed Project because an EIR will clearly be required. Due to the location of the project site in an urban area that is not within or close to any farmlands or forestry resources, known mineral deposits, or wildfire hazard areas, these environmental topics will not be addressed in detail in the EIR. The EIR will evaluate all other environmental issues contemplated for consideration under CEQA and the CEQA Guidelines, including:

- | | |
|-----------------------------------|---------------------------------|
| • Aesthetics | • Land Use and Planning |
| • Air Quality | • Noise and Vibration |
| • Biological Resources | • Recreational Resources |
| • Cultural Resources | • Population and Housing |
| • Energy | • Public Services |
| • Geology and Soils | • Transportation |
| • Greenhouse Gas Emissions | • Utilities and Service Systems |
| • Hazards and Hazardous Materials | • Tribal Cultural Resources |
| • Hydrology and Water Quality | |

It is anticipated that the primary focus of analysis will be on the specific environmental topics outlined below. Mitigation measures will be identified to reduce or avoid significant impacts, as appropriate.

Aesthetics

The project site currently contains the five-story former City Hall building and associated surface parking and landscaping. The proposed project calls for the County to demolish this building, and fill and regrade the site. The EIR will describe the existing zoning and other regulations governing scenic quality and assess whether the project would conflict with such regulations. Light and glare impacts will also be evaluated.

Air Quality

The EIR will address the regional air quality conditions in the Bay Area and discuss the proposed project's impacts to local and regional air quality according to the 2017 Bay Area Air Quality Management District guidelines and thresholds, focusing on temporary demolition-related impacts such as construction vehicle exhaust and dust.

Biological Resources

The EIR will describe existing biological resources in the project vicinity and address any biological resource effects associated with the project, including impacts to habitats and special-status species, including nesting birds.

Cultural and Tribal Cultural Resources

The former San Jose City Hall is eligible for the National Register of Historic Places, as well as the California Register of Historical Places. As a result, the EIR will discuss the effects of the loss of a historic resource. The EIR will also discuss the potential for prehistoric and Native American cultural resources to be located in the project area.

Energy

The EIR will examine the potential for the project to result in excessive or inefficient use of energy and will discuss any energy conservation measures included as part of the project.

Geology & Soils

The project site is located within a seismically active region. The EIR will discuss possible geological impacts associated with seismic activity and the existing soil conditions on-site, as well as potential impacts to paleontological resources.

Greenhouse Gas Emissions

The EIR will describe the regulatory context surrounding the issue of global climate change and will evaluate the project's greenhouse gas emissions and contribution to global climate change, in conformance with the methodology of the Bay Area Air Quality Management District and any other applicable criteria.

Hazards & Hazardous Materials

The EIR will summarize hazardous materials conditions on and adjacent to the project site and identify any potential contamination that could affect construction workers and/or nearby receptors, such as residences, schools, daycare facilities, and open space/recreational areas.

Hydrology & Water Quality

The EIR will describe the existing hydrologic and drainage conditions at the project site, as well as changes in site drainage and hydrological conditions that may result from the proposed project. The EIR will address the possible impacts of the project on stormwater, surface water, and groundwater quality.

Land Use and Planning

The project site is located in an urban area within the boundaries of the County's Civic Center. The EIR will describe the existing land uses on and adjacent to the project site. Cumulative land use impacts that would occur as a result of the proposed project would be analyzed, including impacts due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Noise and Vibration

The EIR will describe existing noise conditions in the project area and evaluate the potential for noise and vibration generated by the project to exceed applicable noise standards and adversely affect sensitive receptors in the area.

Population and Housing

The EIR will assess whether the project would induce cumulative unplanned population growth in the area or displace substantial numbers of existing people or housing.

Public Services and Recreational Resources

The EIR will discuss the availability of public facilities and service systems (including police and fire services, parks, schools, and libraries) and recreational resources in the project area, and the potential for the project and related projects to cumulatively require the construction of new or expanded facilities.

Transportation

The EIR will describe the existing transportation network and analyze the impacts of the project, including whether the project would conflict with applicable transportation planning policies, result in a substantial increase in vehicle miles travelled, create a traffic safety hazard, or impact emergency access.

Utilities and Service Systems

The EIR will describe the existing utilities, including potable water supply utilities, serving the project area. The EIR will evaluate the proposed project's effects on these utilities.

Alternatives

The EIR will identify and evaluate a reasonable range of alternatives to the project that would feasibly attain most of the project's basic objectives, but would avoid or substantially lessen any of the project's significant effects. As required by CEQA, the EIR will also analyze a "No Project" alternative (i.e., to retain the former City Hall in its current unused state). Other alternatives that seek to reduce the significant environmental impacts of the project will be identified, which may include adaptive re-use of the former City Hall building either as residential or office space. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the project while achieving most of the identified objectives of the project (see CEQA Guidelines Section 15126.6).

The EIR will identify the degree to which each alternative might avoid or substantially lessen one or more of the project's significant environmental impacts, whether the alternative could result in other or increased impacts, and the degree to which the alternative would feasibly accomplish most of the project's basic objectives. In accordance with CEQA, the EIR will identify an environmentally superior alternative, based on the number and degree of associated environmental impacts.

Cumulative Impacts

The EIR will include a discussion of significant cumulative impacts of the project when considered with other past, present, and reasonably foreseeable future projects in the area. This section will cover all relevant subject areas discussed in the EIR (e.g., air quality, noise, traffic), will specify which of the areas are anticipated to experience significant cumulative impacts, and will determine whether the proposed project's incremental contributions are cumulatively considerable. Mitigation measures will be identified to reduce or avoid the project's cumulatively considerable contribution to significant cumulative impacts.

Growth Inducing Impacts

The EIR will qualitatively evaluate the project's potential to induce growth and any subsequent environmental impacts that would occur pursuant to CEQA Guidelines Section 15126(d).





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 15, 2020

Ms. Emily Chen
County of Santa Clara Facilities and Fleets Department
2310 North First Street, Suite 200
San Jose, CA 95131
Emily.F.Chen@faf.sccgov.org

Subject: Former City Hall Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2020060451, City of San Jose, Santa Clara County

Dear Ms. Chen:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the County of Santa Clara (County) for the Former City Hall Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is expected to be a Trustee Agency with regards to this Project. As a Trustee Agency, CDFW has a responsibility pursuant to CEQA for commenting on projects that could directly or indirectly impact biological resources. CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e. biological resources). As a Trustee Agency, CDFW is responsible for providing, as available, biological expertise to review and comment upon environmental documents and impacts arising from project activities (CEQA Guidelines, § 15386; Fish and Game Code, § 1802).

PROJECT DESCRIPTION SUMMARY

Proponent: County of Santa Clara

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Ms. Emily Chen
County of Santa Clara
July 15, 2020
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Objective: Demolition of the former San José City Hall, a five-story, 113,430-square-foot office building.

Location: 801 North First Street, San Jose, CA 95110; APN #259-04-023.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

The NOP does not specify that the proposed Project could potentially result in tree removal. However, upon review of Figure 2 within the NOP, the proposed Project site includes many trees located immediately adjacent to the building to be demolished. Trees are also located within 200 feet of the building to be demolished. Please be advised that both native and non-native trees provide nesting habitat for birds, and habitat value for other wildlife. CDFW recommends that the DEIR include a clear analysis of potential impacts to trees within the Project area, and appropriate and effective compensatory mitigation to completely offset any permanent impacts of removing trees from the Project area.

CDFW also recommends that the following protective measures be included in the DEIR:

1. **Nesting Bird Surveys:** If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), CDFW recommends that a qualified biologist conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys should be conducted at the appropriate times of day and during appropriate nesting times.
2. **Active Nest Buffers:** If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist should conduct baseline monitoring of the nest to characterize "normal" bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g. defensive

Ms. Emily Chen
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flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or by email at Kristin.Garrison@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or by email at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento

July 22, 2020

County of Santa Clara Facilities and Fleet Department
Attention: Emily Chen
2310 North First Street, Suite 200
San Jose, CA 95131
E-mail: Emily.F.Chen@faf.sccgov.org

RE: Notice of Preparation of an Environmental Impact Report for the Former San José City Hall Project

Dear Ms. Chen,

Thank you for the opportunity to comment on the Notice of Preparation of an Environmental Impact Report (EIR) for the Former San José City Hall Project.

The City of San José understands the project as follows: Demolition of the former San José City Hall, a five-story, 113,430-square-foot office building. The building is currently vacant and is not in a usable condition, with ongoing maintenance and security costs borne by the County.

Demolition activities would include the following:

- Preparation of the building, including stabilization or abatement of hazardous building materials and disconnection of utilities;
- Demolition of the building, using implosion (placing explosive materials so that the structure collapses on itself) and/or traditional demolition methods;
- Sorting and disposal of demolition debris; and
- Regrading, filling and hydroseeding of the site.

First, the City encourages the County of Santa Clara to avoid demolition of the Former San José City Hall, which is eligible for listing in the National Register of Historic Places and the California Register of Historical Resources, and is a likely a Candidate City Landmark. This comment is made in light of the fact that no new development is proposed on the site at this time. As defined by the California Environmental Quality Act (CEQA), the demolition of the Former San Jose City Hall would constitute a substantial adverse change to the significance of the historic resource and its significance would be materially impaired. Once the building is demolished, there is no way to go back and revisit any of the alternatives for reusing the building should the opportunity arise in the future. We would encourage the County to leave its options open and retain the building until such time as comprehensive redevelopment is proposed for the site.

At minimum, the alternatives analysis will be critical and the feasibility of preservation alternative(s) needs to be thoroughly and thoughtfully explored. Alternatives the City would like to see include an adaptive re-use alternative, where the building is re-habilitated and re-used for offices or as a

different use such as a hotel, residential, or community/arts center. Several examples exist of re-using former public buildings as hotels and art space, such as the Kennedy School in Portland, Oregon and the conversion of an old high school into loft apartments in Albuquerque, New Mexico.

If demolished, the City encourages the County of Santa Clara to develop creative and meaningful mitigation measures tailored to the resource type, size materials, location and significance. The measures should directly address the loss of a historic resource, be useful to the public, readily accessible to the public, engaging and lessen the loss of the historic property. Demolition cannot typically be fully mitigated through documentation (photos, drawings), salvage or a plaque.

Finally, the EIR must include a description of anticipated uses after demolition, including interim uses. The City does not desire a large, vacant lot in the middle of one of the City's priority growth areas, the North First Street Urban Village. As redevelopment of the site may not occur for several years, the City recommends retaining as much of the existing mature trees and landscaping as possible to provide green space for the benefit of County workers and other residents and workers nearby.

We thank you for your consideration. If you have any questions, please feel free to contact me. Also, please send future notices concerning this project to David Keyon, Principal Planner, at david.keyon@sanjoseca.gov and Dana Peak, Historic Preservation Review Planner, at dana.peak@sanjoseca.gov.



David Keyon, Principal Planner
City of San Jose
Department of Planning, Building, and Code Enforcement



NATIVE AMERICAN HERITAGE COMMISSION

June 23, 2020

Emily Chen
County of Santa Clara – Facilities and Fleet Department
2310 North First Street
San Jose, CA 95131

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Laura Miranda
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COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2020060451, Former San Jose City Hall Project, Santa Clara County

Dear Ms. Chen:

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 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:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - 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:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - 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:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - 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.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - 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)).
 - 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:
- 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.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - 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.

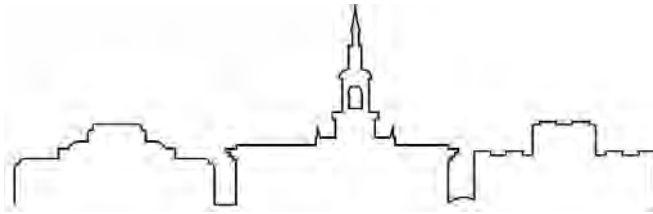
If you have any questions or need additional information, please contact me at my email address: Nancy.Gonzalez-Lopez@nahc.ca.gov.

Sincerely,



Nancy Gonzalez-Lopez
Cultural Resources Analyst

cc: State Clearinghouse



PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

Emily Chen
Facilities and Fleet Department
County of Santa Clara
2310 N. First Street
San Jose, CA 95131

Transmitted via email: emily.f.chen@faf.sccgov.org

EIR SCOPING COMMENTS – FORMER SAN JOSE CITY HALL PROJECT

Preservation Action Council of San Jose (PAC*SJ) welcomes the opportunity to submit scoping comments to the EIR being prepared for a County of Santa Clara project that proposes demolition of the 1957 (former) San Jose City Hall.

As you may know, the local San José firm of Donald Francis Haines & Associates designed the iconic, curved former San José City Hall in the International Style that was completed in 1957. The 2009 Modernism Historic Context Statement paid for by the Redevelopment Agency of the City of San Jose was the first comprehensive study of Modernist buildings in San José. The report specifically called out this Civic Building type as the flagship building of the group designed for the Civic Center complex. Haines' firm designed several structures at Cal Poly San Luis Obispo in the International Style. The firm also designed the Daly City Civic Center and the Main Post Office in Oakland.

No Project Alternative

It is truly unfortunate that the County received the building in apparently poor condition, but its current condition cannot be used as an excuse to justify demolition, especially since no replacement project is proposed for the site. Once the building is gone, it cannot be replaced. The same justifications were used to justify demolition of the Victorian 1889 City Hall, its predecessor. Active maintenance is the best way to keep the building in good condition, and in the end is less costly once a direct reuse or adaptive reuse alternative is identified.

Significant Impact Zone

When the 1958 City Hall was built, much of the surrounding landscape was still fields and farmland. Its setting includes the open space in front of the building and the views of the structure from along Mission Street and the corner of Mission and North 1st St. Nevertheless, construction in the impact zone should be evaluated, consistent with the schematic site plans included in the 2018 Civic Center Master

Plan. An appropriately sized building across the curved driveway along Mission Street could create a more intimate entry setting and enhanced user experience, and could help offset the costs associated with the rehabilitation of the historic building. For the same reasons, structures significantly higher to the west and north of the City Hall should be investigated as project alternatives to demolition.

Cumulative Impacts

Very few resources built in San José between 1935 and 1975 have been designated as City Landmarks. Yet this post-war boom period is incredibly significant in the transition from “the Valley of Hearts Delight” to “Silicon Valley”. Just as the homes built by Joseph Eichler have seen a surge in popularity with many preserved, other non-residential building styles from that era tell a story of development of San Jose during that time. Many non-residential buildings of Civic, Industrial, Commercial and Educational styles were built in San Jose. Without being inventoried or protected, a number of mid-century buildings have been already lost or are threatened. The cumulative impacts of those losses or others in the future needs to be examined.

Adaptive Reuse

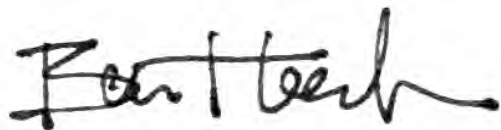
Compatible reuse scenarios must be analyzed as part of the preparation of the EIR. Previous studies identified a series of compatible uses including office, classroom, conferencing, community meeting space and housing. It is unknown how long and how strong the market for office uses will be considering the shift in workplace priorities, accelerated by the current pandemic.

Environmental Concerns

It has been said that the greenest building is the one that already exists. No matter what LEED certification is achieved by a replacement, it cannot compensate for the lost embodied energy and the adverse impact to the waste stream that demolition would cause.

PAC*SJ believes these above concerns must be addressed in the EIR so that County leaders and the general public can fairly weigh the impact of losing this important historic resource without knowing what, if anything, would replace it.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Leech", with a stylized, flowing script.

Ben Leech
Executive Director
Preservation Action Council of San Jose



NATIVE AMERICAN HERITAGE COMMISSION

August 19, 2020

Emily Chen, Senior Planner
County of Santa ClaraVia Email to: Emily.f.chen@faf.sccgov.org
CC to: marellano@muwekma.org

Re: Native American Tribal Consultation, Pursuant to the Assembly Bill 52 (AB 52), Amendments to the California Environmental Quality Act (CEQA) (Chapter 532, Statutes of 2014), Public Resources Code Sections 5097.94 (m), 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2 and 21084.3, Former City Hall Project, Santa Clara County

To Ms. Chen:

Pursuant to Public Resources Code section 21080.3.1 (c), attached is a consultation list of tribes that are traditionally and culturally affiliated with the geographic area of the above-listed project. Please note that the intent of the AB 52 amendments to CEQA is to avoid and/or mitigate impacts to tribal cultural resources, (Pub. Resources Code §21084.3 (a)) ("Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.")

Public Resources Code sections 21080.3.1 and 21084.3(c) require CEQA lead agencies to consult with California Native American tribes that have requested notice from such agencies of proposed projects in the geographic area that are traditionally and culturally affiliated with the tribes on projects for which a Notice of Preparation or Notice of Negative Declaration or Mitigated Negative Declaration has been filed on or after July 1, 2015. Specifically, Public Resources Code section 21080.3.1 (d) provides:

Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

The AB 52 amendments to CEQA law does not preclude initiating consultation with the tribes that are culturally and traditionally affiliated within your jurisdiction prior to receiving requests for notification of projects in the tribe's areas of traditional and cultural affiliation. The Native American Heritage Commission (NAHC) recommends, but does not require, early consultation as a best practice to ensure that lead agencies receive sufficient information about cultural resources in a project area to avoid damaging effects to tribal cultural resources.

The NAHC also recommends, but does not require that agencies should also include with their notification letters, information regarding any cultural resources assessment that has been completed on the area of potential effect (APE), such as:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseño

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
Marshall McKay
Wintun

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Julie Tumamait-Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

- A listing of any and all known cultural resources that have already been recorded on or adjacent to the APE, such as known archaeological sites;
- Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
- Whether the records search indicates a low, moderate, or high probability that unrecorded cultural resources are located in the APE; and
- If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.

2. The results of any archaeological inventory survey that was conducted, including:

- Any report that may contain site forms, site significance, and suggested mitigation measures.

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 in accordance with Government Code section 6254.10.

3. The result of any Sacred Lands File (SLF) check conducted through the Native American Heritage Commission was positive. Please contact the Muwekma Ohlone Indian Tribe of the SF Bay Area on the attached list for more information.

4. Any ethnographic studies conducted for any area including all or part of the APE; and

5. Any geotechnical reports regarding all or part of the APE.

Lead agencies should be aware that records maintained by the NAHC and CHRIS are not exhaustive and a negative response to these searches does not preclude the existence of a tribal cultural resource. A tribe may be the only source of information regarding the existence of a tribal cultural resource.

This information will aid tribes in determining whether to request formal consultation. In the event that they do, having the information beforehand will help to facilitate the consultation process.

If you receive notification of change of addresses and phone numbers from tribes, please notify the NAHC. With your assistance, we can assure that our consultation list remains current.

If you have any questions, please contact me at my email address: Sarah.Fonseca@nahc.ac.gov.

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

**Native American Heritage Commission
Tribal Consultation List
Santa Clara County
8/19/2020**

Amah Mutsun Tribal Band

Valentin Lopez, Chairperson
P.O. Box 5272
Galt, CA, 95632
Phone: (916) 743 - 5833
vlopez@amahmutsun.org

Costanoan
Northern Valley
Yokut

North Valley Yokuts Tribe

Katherine Perez, Chairperson
P.O. Box 717
Linden, CA, 95236
Phone: (209) 887 - 3415
canutes@verizon.net

Costanoan
Northern Valley
Yokut

***Amah Mutsun Tribal Band of
Mission San Juan Bautista***

Irenne Zwielerle, Chairperson
789 Canada Road
Woodside, CA, 94062
Phone: (650) 851 - 7489
Fax: (650) 332-1526
amahmutsuntribal@gmail.com

Costanoan

The Ohlone Indian Tribe

Andrew Galvan,
P.O. Box 3388
Fremont, CA, 94539
Phone: (510) 882 - 0527
Fax: (510) 687-9393
chochenyo@AOL.com

Bay Miwok
Ohlone
Patwin
Plains Miwok

***Indian Canyon Mutsun Band of
Costanoan***

Ann Marie Sayers, Chairperson
P.O. Box 28
Hollister, CA, 95024
Phone: (831) 637 - 4238
ams@indiancanyon.org

Costanoan

***Muwekma Ohlone Indian Tribe
of the SF Bay Area***

Charlene Nijmeh, Chairperson
20885 Redwood Road, Suite 232
Castro Valley, CA, 94546
Phone: (408) 464 - 2892
cnijmeh@muwekma.org

Costanoan

***Muwekma Ohlone Indian Tribe
of the SF Bay Area***

Monica Arellano,
20885 Redwood Road, Suite 232
Castro Valley, CA, 94546
Phone: (408) 205 - 9714
marellano@muwekma.org

Costanoan

North Valley Yokuts Tribe

Timothy Perez, MLD Contact
P.O. Box 717
Linden, CA, 95236
Phone: (209) 662 - 2788
huskanam@gmail.com

Costanoan
Northern Valley
Yokut

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and section 5097.98 of the Public Resources Code.

This list is only applicable for consultation with Native American tribes under Public Resources Code Sections 21080.3.1 for the proposed Former City Hall Project, Santa Clara County.