

**NOTICE OF PREPARATION OF A
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE
ICON-ECHO MIXED-USE PROJECT**

FILE NO: SP21-031
PROJECT APPLICANT: Urban Catalyst (Attn: Paul Ring)
APNs: 467-20-060, 467-20-080, and
467-20-081

Project Description: As proposed, the project would demolish the existing parking lot and buildings on-site (totaling approximately 22,527 square feet) and construct two towers (a 21-story office/retail tower in the southern portion of the site at East Santa Clara Street and North Fourth Street and a 27-story residential tower in the northern portion of the site at St. John Street and North Fourth Street) connected via a podium on floors one to four and would include commercial condominiums. Commercial uses would account for approximately 525,000-square feet, retail uses up to 8,500-square feet, and the residential tower would have up to 415 residential units. One level of below-grade parking is proposed across the project site. A total of 1,151 parking spaces is proposed (893 parking spaces for the office component and 228 parking spaces for the residential component). Of the 893 parking spaces proposed for office space, 30 parking spaces would be allocated for a shared parking agreement with the senior apartments located west of the site at 60 North Third Street. Vehicular access to the site would be provided via one two-lane inbound-only driveway and one multi-lane, two-way driveway along North Fourth Street. Two additional driveways for the loading docks would also be provided along North Fourth Street.

The site is designated *Downtown* under the City's General Plan and has a zoning designation of *Downtown Primary Commercial*.

Location: The approximately 2.1-acre project site is currently developed with a gas station, church, surface parking lot, and commercial buildings in downtown San José. The project site is located north of the San José Downtown Commercial National Register Historic District (San José Downtown Historic District) and near contributing historic structures. Additionally, a portion of the site (APN 467-20-060) is located within the St. James Square City Landmark and National Register Historic District (St. James Square City Landmark District).

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) for the project summarized above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this SEIR may be used by your agency when considering subsequent approvals related to the project.

A joint community and environmental public scoping meeting for this project will be held:

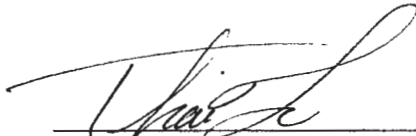
When: Thursday, October 21, 2021, from 6:00 to 7:00 pm

Where: Via Zoom (see instructions below and on www.sanjoseca.gov/activeeirs)

The project description, location, and probable environmental effects to be analyzed in the SEIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs, including the SEIR Scoping Meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice, and responses provided before the 30-day deadline are always welcome. The City will accept comments on the scope of the SEIR until **5:00 pm on Thursday, October 29, 2021**. If you have comments on this Notice of Preparation (NOP), please identify a contact person from your organization, and send your response via mail or email (email preferred) to:

City of San José, Department of Planning, Building and Code Enforcement
Attn: Shannon Hill, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905
E-mail: Shannon.Hill@sanjoseca.gov

Christopher Burton, Director
Planning, Building and Code Enforcement



Deputy

NOTICE OF PREPARATION OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE ICON ECHO MIXED-USE PROJECT

September 2021

Introduction

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

A Supplemental EIR (SEIR) is prepared when it is determined by the discretionary authority that changes proposed in an approved project will require revisions to the previous EIR because of possible new impacts or an increase in severity of previously identified impacts. As the Lead Agency, the City of San José will prepare an SEIR to the Downtown Strategy 2040 Final EIR (SCH#: 2003042127) to address the environmental effects of the Icon Echo Mixed-Use Project because the details of the project were not available at the time the Downtown Strategy 2040 Final EIR was prepared.

An Initial Study (IS) will be prepared (which will be incorporated in the SEIR as an appendix) to focus the SEIR on potentially significant issues pursuant to CEQA Guidelines Section 15178. In accordance with Sections 15120 et seq. of the CEQA Guidelines, the EIR will include the following:

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

Project Location

The approximately 2.1-acre site [Assessor Parcel Numbers (APNs) 467-20-079, -081, -060 and a portion of -080] is currently developed with a gas station, church, surface parking lot, and commercial/retail buildings in downtown San José. The site is bound by East St. John Street to the north, North Fourth Street to the east, East Santa Clara Street to the south, and commercial buildings and senior apartments to the west. The following addresses are associated with the project site: 128 East St. John Street, 95 North Fourth Street, and 77 North Fourth Street (APN 467-20-060), 147 East Santa Clara Street (APN 467-20-079), 49 North Fourth Street (APN 467-20-081), and 60 North Third Street (APN 467-20-080). The project site is located north of the San José Downtown Commercial National Register Historic District (San José Downtown Historic District) and near

contributing historic structures. Additionally, a portion of the site (APN 467-20-060) is located within the St. James Square City Landmark and National Register Historic District (St. James Square City Landmark District). Regional and vicinity maps of the project site are shown in Figure 1 and Figure 2, respectively.

Project Description

As proposed, the project would demolish the existing parking lot and buildings on-site (totaling approximately 22,527 square feet) and construct two towers (an office tower and a residential tower) connected via a podium on floors one to four and would include commercial condominiums. Commercial uses would account for approximately 525,000-square feet, retail uses up to 8,500-square feet, and the residential tower would have up to 415 residential units. One level of below-grade parking is proposed across the project site. A total of 1,151 parking spaces is proposed (893 parking spaces for the office component and 228 parking spaces for the residential component). Of the 893 parking spaces proposed for office space, 30 parking spaces would be allocated for a shared parking agreement with the senior apartments located west of the site at 60 North Third Street. Vehicular access to the site would be provided via one two-lane inbound-only driveway and one multi-lane, two-way driveway along North Fourth Street. Two additional driveways for the loading docks would also be provided along North Fourth Street.

The Northern Tower (residential tower) would be located on the northern portion of the site at East St. John Street and North Fourth Street and would be 27-stories tall with a maximum height of 265-feet to the penthouse roof. Four levels of above-grade parking partially occupied by residential units beneath one level of amenity space and residential units on the upper floors are proposed. An indoor/outdoor fitness space, amenity deck, swimming pool, barbeque/fire pits, and other on-site amenities are proposed on the fifth floor.

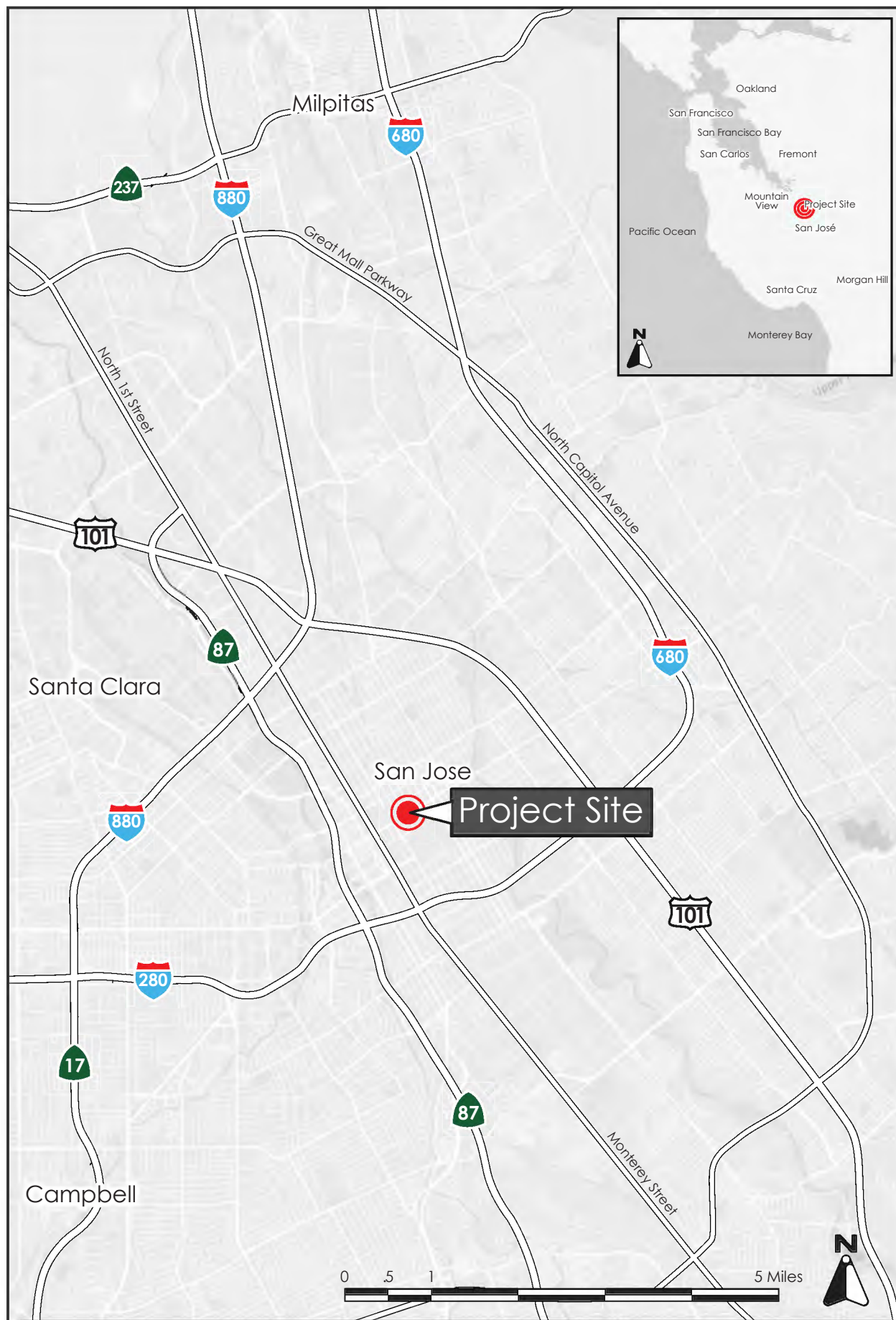
The Southern Tower (office/retail) would be located on the southern portion of the site at East Santa Clara Street and North Fourth Street. The office tower would be 21-stories tall with a maximum height of 263-feet to the penthouse roof. The office tower would consist of eight levels of above-grade parking and office space on the upper floors. Of the eight levels of above-grade parking, floors three, five, and seven would also be partially occupied by office space. A maximum of 8,500 square feet of ground floor retail is proposed along East Santa Clara Street.

Refer to Figures 3 to 5 below for the conceptual site plan and elevations.

The site is designated *Downtown* under the City's General Plan and has a zoning designation of *Downtown Primary Commercial*.

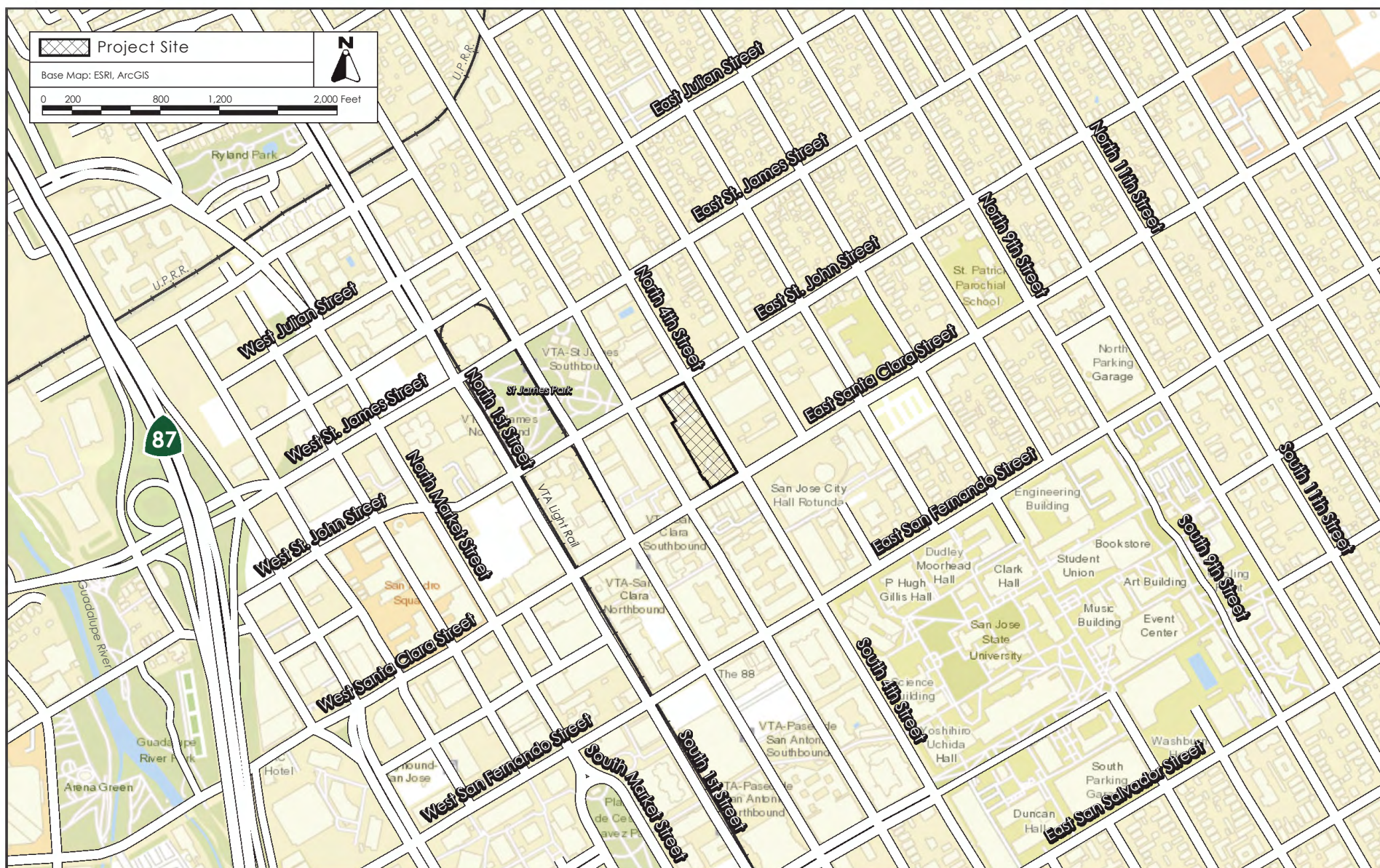
Required Project Approvals

1. Special Use Permit
2. Vesting Tentative Map
3. Demolition, Building, and Grading Permit(s)
4. Department of Public Works Clearances



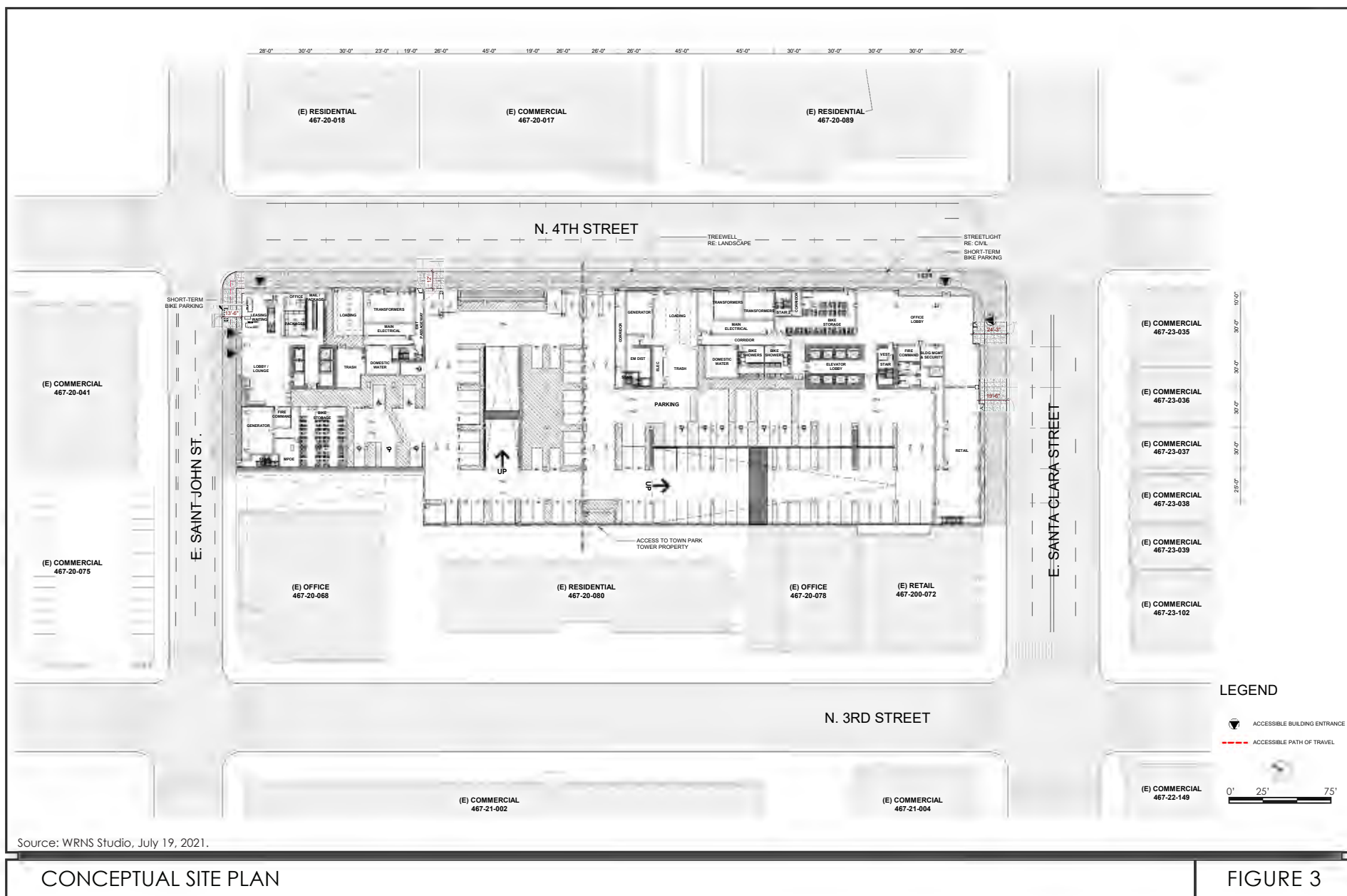
REGIONAL MAP

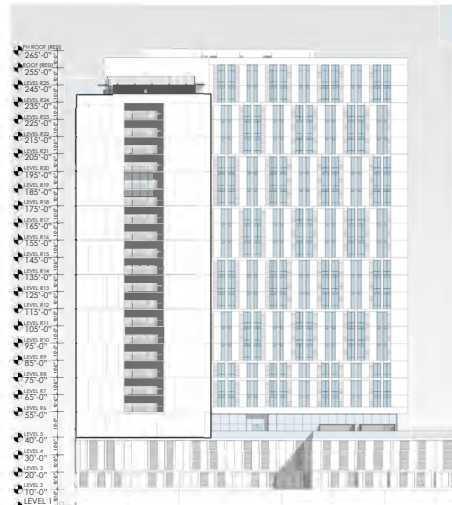
FIGURE 1



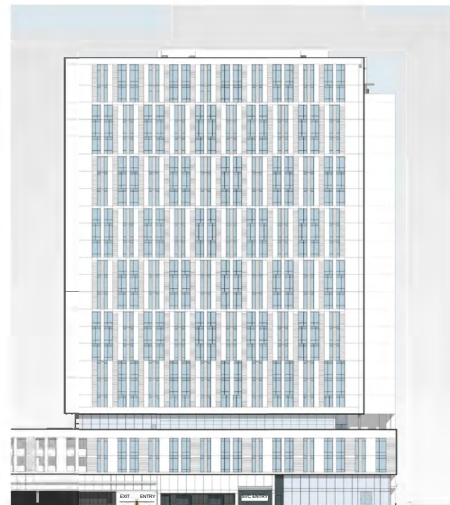
VICINITY MAP

FIGURE 2

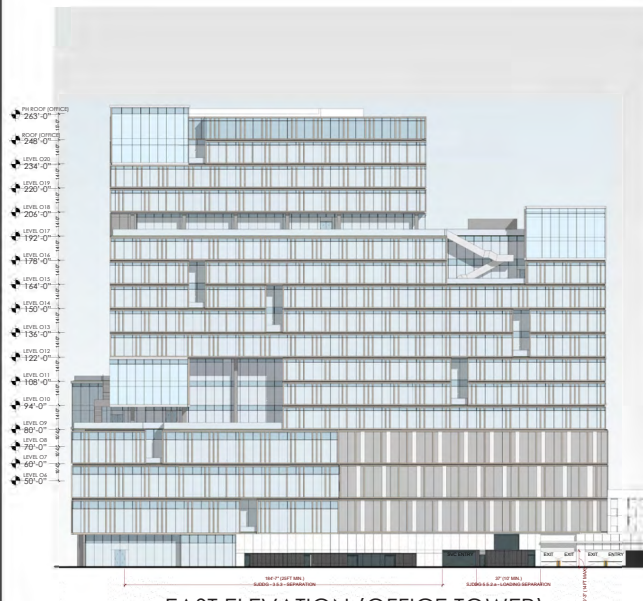




WEST ELEVATION (RESIDENTIAL TOWER)



EAST ELEVATION (RESIDENTIAL TOWER)
FROM NORTH FOURTH STREET



EAST ELEVATION (OFFICE TOWER)
FROM NORTH FOURTH STREET



WEST ELEVATION (OFFICE TOWER)

Source: WRNS Studio, July 19, 2021.

Potential Environmental Impacts of the Project

The SEIR will describe the existing environmental conditions on the project site and will identify the significant environmental effects anticipated to result from development of the project as proposed in comparison to impacts previously identified in the Downtown Strategy 2040 EIR. Mitigation measures will be identified for potentially significant impacts, as warranted. The SEIR will discuss the project's significant environmental impacts on the topic areas described below.

- **Aesthetics** – The proposed development would remove and demolish the existing parking lot and buildings and construct two towers on a podium in downtown San José. The SEIR will describe the existing visual setting and character of the project area and the visual changes that are anticipated to occur as a result of the proposed project. The SEIR will also discuss possible light and glare issues from the development.
- **Air Quality** – The SEIR will address the regional air quality conditions in the Bay Area and discuss the proposed project's construction and operational impacts (including health risk from toxic air contaminants) to local and regional air quality in accordance with the 2017 Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and thresholds.
- **Biological Resources** – Habitats in the project area are low in species diversity and include predominately urban adapted birds and animals. The SEIR will address the loss of trees on-site and off-site, and street trees. Additionally, the SEIR will identify and discuss potential biological impacts resulting from construction and operation of the project, including potential impacts to migratory and nesting birds, and the project's consistency with the Santa Clara Valley Habitat Plan.
- **Cultural Resources** – The project site is located north of the San José Downtown Commercial National Register Historic District (San José Commercial District) and near contributing historic structures. The San José Commercial District is comprised of 45 properties (27 contributing structures and 18 non-contributing properties) and is bounded by South First Street to the west, East Santa Clara Street to the north, South Third Street to the east, and East San Fernando Street to the north. A portion of the site (APN 467-20-060) is located within the St. James Square City Landmark and National Register Historic District (St. James Square Historic District). The St. James Square Historic District area includes St. James Park and is bounded by North Market Street to the west, part of the North Fourth Street block to the east, and part of the block between North Second and North Third Streets. The SEIR will address impacts to the San José Commercial District and the St. James Square Historic District and any historic structures near the site, as well as impacts to potential subsurface archaeological resources from project construction.
- **Energy** – Implementation of the proposed project would result in an increased demand for energy on-site. The SEIR will discuss the increase in energy usage on-site and energy efficiency measures proposed by the project.
- **Geology and Soils** – The SEIR will describe the existing geologic and soil conditions and discuss the possible geological impacts associated with seismic activity and the existing on-site soil conditions.

- **Greenhouse Gas Emissions** – The SEIR will address the project’s consistency with the City’s 2030 Greenhouse Gas Reduction Strategy (GHGRS).
- **Hazards and Hazardous Materials** – The SEIR will discuss the property history, results of the site inspection and regulatory database search, and identification of any hazardous materials conditions on the site, in addition for the potential to encounter hazardous materials during demolition of the existing buildings and parking lot. The potential for hazardous materials impacts which may result from implementation of the proposed project will also be addressed.
- **Hydrology and Water Quality** – The SEIR will address the project’s potential impacts to the storm drainage system. In addition, the SEIR will address the possible flooding issues (the site is not within a 100-year flood zone) and the project’s effect on stormwater runoff quality consistent with the requirements of the Regional Water Quality Control Board (RWQCB).
- **Land Use** – The project site is located within downtown San José and is surrounded by residential and commercial/retail land uses. The SEIR will describe the existing land uses adjacent to and within the project area. In addition, the SEIR will analyze the project’s shading on St. James Park. Land use impacts that would occur as a result of the proposed project will be analyzed, including the consistency of the project with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect.
- **Noise and Vibration** – Noise levels in the project area are primarily influenced by vehicular noise on surrounding roadways, primarily North Fourth Street, East Santa Clara Street, and East St. John Street, and aircraft flyovers from the Norman Y. Mineta San José International Airport. The SEIR will discuss noise and vibration that would result from the construction and operation of the proposed project (including noise from project-generated traffic) and its impact on nearby sensitive receptors. Noise levels will be evaluated for consistency with applicable noise standards and guidelines. Additionally, the SEIR will evaluate the effects of vibration during project construction on nearby historic buildings and adjacent buildings of conventional construction.
- **Population and Housing** – The SEIR will discuss the consistency of the project with planned growth within the City. There are no residences currently on-site; therefore, the project would not displace any residents.
- **Public Services** – The proposed project would increase the employee and resident population of the City which could result in an increased demand on public services, including schools, police and fire protection, libraries, and recreational facilities. The SEIR will address the availability of public facilities and services and the project’s potential to result in adverse physical impacts to the public service facilities.

- **Transportation** – The project site is located within the downtown area and transportation impacts in the area were previously evaluated in the Downtown Strategy 2040 Final EIR. The SEIR will evaluate the project’s transportation impacts pursuant to Senate Bill 743 and the City’s Transportation Analysis Policy (Council Policy 5-1). The project’s consistency with programs, plans, ordinances, or policies addressing the circulations system (including transit, roadway, bicycle, and pedestrian facilities) will be discussed in the SEIR.
- **Tribal Cultural Resources** – The SEIR will discuss the project’s potential for impacts to tribal cultural resources, including impacts to subsurface tribal cultural resources, from project construction, and the project’s compliance with Assembly Bill 52.
- **Utilities and Service Systems** – Implementation of the proposed project could result in an increased demand on utilities and service systems compared to existing conditions due to the increase in development density. The SEIR will examine the impacts of the project on utilities and service systems, including the sanitary sewer and storm drainage systems, water supply, and solid waste management.
- **Other CEQA Sections** – In addition to the resource sections noted above, the SEIR will address the project’s impacts on Agricultural Resources, Mineral Resources, Recreation and Wildfire consistent with the CEQA checklist.
- **Alternatives** – The SEIR will examine alternatives to the proposed project, including a “No Project” alternative, as required by CEQA. Alternatives discussed will be chosen based on their ability to reduce or avoid identified significant impacts of the proposed project while achieving most of the identified objectives of the project.
- **Significant Unavoidable Impacts** – The SEIR will identify any significant impacts that cannot be reduced to a less than significant after incorporation of feasible mitigation measures.
- **Cumulative Impacts** – Section 15130 of the CEQA Guidelines requires an EIR to discuss the cumulative impacts resulting from the project when combined with other past, present, and reasonably foreseeable development in the project vicinity.

In conformance with the CEQA Guidelines, the SEIR will also include the following sections: 1) consistency with local and regional plans and policies, 2) growth inducing impacts, 3) significant irreversible environmental changes, 4) areas of known controversy, 5) references, 6) organizations/persons consulted, 7) SEIR author and consultants, and 8) appendices.



NATIVE AMERICAN HERITAGE COMMISSION



October 6, 2021

Shannon Hill
City of San Jose
200 E. Santa Clara St, Tower 3rd Floor
San Jose, CA 95113

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Pomo

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

Re: 2021090554, Icon-Echo Mixed-Use Project, Santa Clara County

Dear Ms. Hill:

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

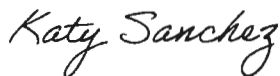
To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

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:
Katy.Sanchez@nahc.ca.gov.

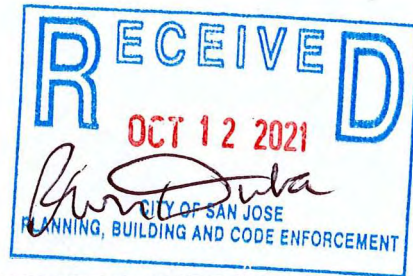
Sincerely,



Katy Sanchez
Associate Environmental Planner

cc: State Clearinghouse

State of California
Native American Heritage Commission
1550 Harbor Blvd., Ste. 100
West Sacramento, CA 95691



CHAIRPERSON
Laura Miranda
Luiseño

October 6, 2021

Shannon Hill
City of San Jose
200 E. Santa Clara St, Tower 3rd Floor
San Jose, CA 95113

95113&1905 0056





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

October 28, 2021

Shannon Hill
Environmental Project Manager
City of San José Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José CA 95113-1905

VIA EMAIL (Shannon.Hill@sanjoseca.gov)

RE: ICON-ECHO Mixed Use Project (SP21-031) SEIR SCOPING COMMENTS

Dear Ms. Hill,

The Preservation Action Council of San Jose (PAC* SJ) appreciates the opportunity to provide SEIR scoping comments for the proposed Two-Tower High Rise ICON-ECHO Mixed Use Project located on 3 parcels totaling 2.19 acres at the Southeast Corner of Santa Clara Street and 4th Street. As currently described, the developer proposes to build one 267' mixed use tower with 415 residential-units, and one 282' mixed use Commercial Tower with 525,000 sq. ft. of Office Space and 8,500 sq. ft. of Retail Space.

To make way for this project, the project's applicant (Urban Catalyst), proposes to demolish all existing structures on the site including the following three structure which are included within the St. James Square City Landmark District:

128 E. St. John Street: 1922 Single Story Commercial Garage

95 N. 4th Street: 1948 Single Story Commercial Building (potentially a auto service station)

77 N. 4th Street: 1927/1947/1960 Flat Top Commercial Building.

Given that the St James Square City Landmark District has irregular borders on its North, South, East and West edges, it is important to provide an explanation as to why the parcels/buildings of any project were specifically and intentionally included within the Historic District. PAC* SJ requests that the Historic Consultant (Treanor HL) provide a detailed analysis of the parcel and its buildings before the City determines if these up to Century-Old structures are individually eligible for listing on the NRHP, CRHR or as a City Landmark.

Given that these resources are representative of buildings constructed during pre-Great Depression and Post World War II periods and are located both within and between Historic Districts, their demolition represents a loss of historic context, so their historic value should not be a matter of speculation.

As the proposed ECHO Residential Tower is located within the St. James Square City Landmark District and is of massive scale relative to the historic buildings within the Historic District, attention to the impact of the

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project's height and massing is needed. The St. James Square Historic District Design Guidelines (as adopted by City Council on 10/17/89) state that they are "intended for use by architects, other design professionals, historic preservation specialists and property owners to promote sensitive and compatible design of modifications to existing structures and the construction of new buildings" such as the ECHO Residential Tower. This document also describes the area around the Park itself as an "Area of Historic Sensitivity" that calls for new development that is "designed to enhance the character of the designated resource." PAC*sj requests that the SEIR explains how the project enhances the character of the Historic District and how it meets or exceeds the Historic District's Design Guidelines.

This SEIR should also include a detailed analysis of the direct and indirect impact of the proposed development on other nearby/adjacent historic structures and potential Districts as a whole, along with a detailed analysis of multiple alternatives that eliminate or substantially reduce the impact of this project on San Jose's historic resources.

PAC*sj specifically notes the significance of the Downtown Commercial Historic District to the south of the ICON tower. The height and massing of the buildings to the south of the ICON tower on East Santa Clara Street are primarily 30' in width and 2-3 stories tall. PAC*sj requests that the design of the ICON tower reflects the Historic District's buildings all the way down to street level.

PAC*sj specifically notes the importance of the Alliance Building at 101-109 East Santa Clara Street, plus the mural on that building's eastern façade of 1968 Olympic Gold Medalist Tommie Smith's Black Power Salute. The building should not be overshadowed, and the cultural significance of the mural should not be hidden from public view.

Finally, a robust summary of financial and physical mitigation measures applicable to this project should be provided in advance of project consideration should the City decide to approve this project via a statement of overriding consideration to justify the granting of demolition permits. PAC*sj is particularly interested as to how the historic fabric within and in the vicinity of this proposed project will be preserved and how San Jose will be able to fund the protection of its historic fabric as it simultaneously seeks to meet its Envision 2040 Program Goals on a project-by-project basis.

Sincerely,

J. Michael Sodergren
Vice President & Advocacy Committee Chair
Preservation Action Council of San Jose (PAC*sj)

mike@preservation.org
mikesodergren@yahoo.com
408-930-2561



October 29, 2021

City of San José Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St., 3rd Floor
San José, CA 95113

Attn: Shannon Hill
By Email: shannon.hill@sanjoseca.gov

Dear Shannon,

VTA appreciates the opportunity to comment on the Notice of Preparation for the Icon-Echo Mixed-Use project. VTA has reviewed the document and has the following comments:

Density and Affordable Housing Proportion

VTA is overall supportive of this project, especially the proposed density increase for Downtown as well as the proposed parking ratios and mix of uses. VTA would like to see information on the proposed share of affordable units and whether that will be in excess of San José's inclusionary requirement.

BART Silicon Valley Phase II

In 2018, FTA and VTA released the Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report (SEIS/SEIR) for VTA's BART Silicon Valley Phase II Extension Project (BSV Phase II Project). VTA's Board of Directors certified the SEIR and approved the BSV Phase II Project in April 2018, and FTA issued the Record of Decision in June 2018. The SEIS/SEIR identified the tunnel, to be constructed as part of the BSV Phase II Project, would be adjacent to this proposed development (See Page 38,

https://www.vta.org/sites/default/files/documents/VolumellI_Appendix%2520B_Project%2520Plans%2520and%2520Profiles_feb20_2018.pdf). A tunnel easement, in which temporary or permanent structures would not be allowed, is required for BSV Phase II Project.

VTA is currently in the process of advancing the design for the BSV Phase II project with procurement documents under development and Requests for Proposals scheduled through Quarter 1, 2022.

At this time, VTA has not reviewed any foundation/excavation drawings prepared for the proposed development and therefore cannot comment on those. Because of the proximity between this proposed development and the BSV Phase II project and the possibility of concurrent construction, VTA requests the development's design (including but not limited to the building's foundation system, shoring, and support of excavation plans), as well as construction activities (including but not limited to haul routes, times, logistics, etc.) be shared/discussed with VTA. VTA's review of these documents as they advance and become available will be critical in ensuring that the structures within the tunnel easement are not compromised, potentially causing damages and or other safety concerns. Additionally, as projects may be built concurrently, construction activities such as haul routes, times,

logistics, etc. should be further discussed as design and construction progress.

Construction Impacts

VIA requests to review the proposed traffic management plan for construction of this project. Similar multi-lane developments very close to the roadway in downtown have required closures of the sidewalks, shoulders, bus/light rail system, and traffic lanes along the frontage of the development. Oversize construction-related material or equipment crossing the light rail tracks on 1st or 2nd Street will require VIA review and approval if it impacts light rail movement or requires power off status with the overhead contact system. The DHR should study to minimize impacts on V. A's transit service such as Routes 22, 25, 64A, 64B, Road 501, and the Rapid 522 during construction. The analysis should review delays or impacts so for how pedestrians and bicyclists will be able to travel to our bus stops along the north side of Santa Clara Street.

Transit Signal Priority

During construction and post construction, the transit signal priority for one-lane services shall be required as always operational. Additionally, if the development is required to modify the adjacent traffic signal at Santa Clara Street/Third Street and Santa Clara Street/Fourth Street intersections, the transit signal priority equipment will need to be retained or replaced, if kind.

V. A looks forward to coordinating with between V. A, the City of San Jose, and the developer from the initial planning and design phases through construction. Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-321-5930 or lola@newvista.org.

Sincerely,



Lola Torrey
Transportation Planner II

From: [Helen Ebert](#)
To: [Hill, Shannon](#)
Subject: icon/echo development 4th St and Santa Clara St.
Date: Tuesday, November 2, 2021 2:03:45 PM

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My name is Helen Ebert and I own the building at 115 E. Santa Clara St. Is it possible to get a plan for the building going up next to my building. How close will it be and what happens to the mural? How much noise and dust will be generated? Is the planner open to discussion with my contractor?

Thank you,

Helen Ebert

[REDACTED]
[REDACTED]@yahoo.com

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From: [Hill, Shannon](#)
To: [Fiona Phung](#)
Cc: [Shannon George](#); [Le, Thai-Chau](#)
Subject: FW: Notice of Preparation for the Icon-Echo Mixed-Use Project Supplemental Environmental Impact Report (SP21-031/T21-033)
Date: Monday, November 8, 2021 12:09:15 PM

Hi Fiona,

Please refer to Valley Water's comments below. I let Shree know that the City already requested and received an approved WSA from SJWC, and it will be included as an appendix to the Draft SEIR when it's circulated for public review.

Thanks,

Shannon Hill
Planner, Environmental Review
Planning, Building & Code Enforcement
City of San José | 200 East Santa Clara Street
Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

From: Shree Dharasker <sdharasker@valleywater.org>
Sent: Thursday, November 4, 2021 7:38 PM
To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Cc: Michael Martin <MichaelMartin@valleywater.org>
Subject: RE: Notice of Preparation for the Icon-Echo Mixed-Use Project Supplemental Environmental Impact Report (SP21-031/T21-033)

You don't often get email from sdharasker@valleywater.org. [Learn why this is important](#)

[External Email]

Dear Ms. Hill,

Thank you for providing a 1-week extension for comments on the Notice of Preparation (NOP) for the Icon-Echo Mixed-Use Project Supplemental Environmental Impact Report (SEIR).

The Santa Clara Valley Water District (Valley Water) has reviewed the SEIR scope of work and has the following comments:

The proposal would allow a substantial net increase in water demand, therefore a Water Supply Assessment (WSA) is required to be prepared by the San Jose Water Company and incorporated into the EIR. Valley Water requests the opportunity to review the draft WSA to comment on the consistency with countywide water supply planning efforts;

especially if future growth will be relying on the groundwater basin, which is managed by Valley Water.

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

- Require landscaping that exceeds the requirements of the City's water efficient landscape regulations;
- Weather- or soil-based irrigation controllers;
- Dedicated landscape meters;
- The installation of dual plumbing to facilitate and maximize the use of alternative water sources for irrigation, toilet flushing, cooling towers, and other non-potable water uses. In addition, onsite reuse of water may be appropriate now or in the future.
- Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater.
- Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.

To address the potential for encountering shallow groundwater during excavation for foundations, Valley Water recommends that a detailed analysis of construction and operational dewatering be conducted, including estimating dewatering volumes/durations, evaluation of impacts to groundwater quantity and quality, and identification of measures to reduce related impacts.

Valley Water has no right of way at the proposed site location, and no encroachment permit will be required prior. Valley Water records indicate that there are 11 properly destroyed wells on these parcels. Because the wells are considered properly destroyed, no action is necessary to protect them or bring them into compliance with the Valley Water Well Ordinance. While Valley Water has records for most wells located in Santa Clara County, it is always possible that a well exists that is not in Valley Water records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. Please contact Valley Water's Well Ordinance Program at (408)630-2660. The proposed project is located in FEMA Flood Zone D, areas where flooding hazards are undermined but possible.

Please provide Valley Water copies of future environmental documents, when available.

Thank you,

Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit
(408)630-3037

From: Hill, Shannon <Shannon.Hill@sanjoseca.gov>

Sent: Wednesday, September 29, 2021 10:37 AM

To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>

Subject: Notice of Preparation for the Icon-Echo Mixed-Use Project Supplemental Environmental Impact Report (SP21-031/T21-033)

*In Response to COVID-19 Pandemic, at this time, the City is utilizing alternative forms of noticing when necessary to reduce in-person contacts and still meet the California Environmental Quality Act (CEQA) noticing mandates. This email notifications contains "Request a Delivery Receipt" and "Request a Read Receipt" to replace the normal certified mailing for CEQA notices such as Notice of Preparation, Notice of Availability, and Notice of Intent. We ask all email recipients to respond to the "Request of Delivery Receipt" or send a follow up email acknowledging the receipt of these notices.

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**NOTICE OF PREPARATION OF A
DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE
ICON-ECHO MIXED-USE PROJECT**

FILE NO:	SP21-031
PROJECT APPLICANT:	Urban Catalyst (Attn: Paul Ring)
APNs:	467-20-060, 467-20-080, and 467-20-081

As proposed, the project would demolish the existing parking lot and buildings on-site (totaling approximately 22,527 square feet) and construct two towers (a 21-story office/retail tower in the southern portion of the site at East Santa Clara Street and North Fourth Street and a 27-story residential tower in the northern portion of the site at St. John Street and North Fourth Street) connected via a podium on floors one to four and would include commercial condominiums. Commercial uses would account for approximately 525,000-square feet, retail uses up to 8,500-square feet, and the residential tower would have up to 415 residential units. One level of below-grade parking is proposed across the project site. A total of 1,151 parking spaces is proposed (893 parking spaces for the office component and 228 parking spaces for the residential component). Of the 893 parking spaces proposed for office space, 30 parking spaces would be allocated for a shared parking agreement with the senior apartments located west of the site at 60 North Third Street. Vehicular access to the site would be provided via one two-lane inbound-only driveway and one multi-lane, two-way driveway along North Fourth Street. Two additional driveways for the loading docks would also be provided along North Fourth Street. The site is designated *Downtown* under the City's General Plan and has a zoning designation of *Downtown Primary Commercial*.

Location: The approximately 2.1-acre project site is currently developed with a gas station, church, surface parking lot, and commercial buildings in downtown San José. The project site is located north of the San José Downtown Commercial National Register Historic District (San José Downtown Historic District) and near contributing historic structures. Additionally, a portion of the site (APN 467-20-060) is located within the St. James Square City Landmark and National Register Historic District (St. James Square City Landmark District).

As the Lead Agency, the City of San José will prepare a Supplemental Environmental Impact Report (SEIR) for the project summarized above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this SEIR

may be used by your agency when considering subsequent approvals related to the project.

A **joint community and environmental public scoping meeting** for this project will be held:

When: Thursday, October 21, 2021 starting at 6:00 pm

Where: Via Zoom (see instructions below and on www.sanjoseca.gov/activeeirs)

The project description, location, and probable environmental effects to be analyzed in the SEIR for the project can be found on the City's Active EIRs website at www.sanjoseca.gov/activeeirs, including the SEIR Scoping Meeting information. According to State law, the deadline for your response is 30 days after receipt of this notice, and responses provided before the 30-day deadline are always welcome. The City will accept comments on the scope of the SEIR until **5:00 p.m. on Thursday, October 29, 2021**. If you have comments on this Notice of Preparation (NOP), please identify a contact person from your organization, and send your response via mail or email (email preferred) to:

City of San José, Department of Planning, Building and Code Enforcement

Attn: Shannon Hill, Environmental Project Manager

200 East Santa Clara Street, 3rd Floor Tower, San José CA 95113-1905

E-mail: Shannon.Hill@sanjoseca.gov

Shannon Hill

Planner, Environmental Review

Planning, Building & Code Enforcement

City of San José | 200 East Santa Clara Street

Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

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