

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE CERTIFYING THE SUZACO MIXED USE
PROJECT SUPPLEMENTAL ENVIRONMENTAL IMPACT
REPORT AND MAKING CERTAIN FINDINGS CONCERNING
SIGNIFICANT IMPACTS, MITIGATION MEASURES AND
ALTERNATIVES, AND ADOPTING A STATEMENT OF
OVERRIDING CONSIDERATIONS AND A MITIGATION
MONITORING AND REPORTING PROGRAM, ALL IN
ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT**

WHEREAS, the City of San José (“City”), acting as lead agency under the California Environmental Quality Act (“CEQA”), prepared and circulated an Environmental Impact Report for the Downtown Strategy 2040 (“Downtown Strategy 2040 EIR”) to update and replace the Downtown Strategy 2000 Environmental Impact Report and analyze the environmental impacts of increased downtown development capacity under the Downtown Strategy Plan 2040 and Envision San José 2040 General Plan; and

WHEREAS, on December 18, 2018, in connection with the adoption of the Downtown Strategy 2040 Plan (Planning File No. PP15-102), the City Council certified the Downtown Strategy 2040 EIR and adopted a mitigation monitoring and reporting program pursuant to CEQA; and

WHEREAS, the City has now prepared and circulated a Supplemental Environmental Impact Report (“SEIR”) to analyze the environmental impacts of a Historic Preservation Permit, Site Development Permit, and Lot Line Adjustment (H21-026/ER21-085) for the SuZaCo Mixed-Use Project under the Downtown Strategy 2040 EIR, which includes the demolition of three existing two-story office buildings, and construction of a four- to six-story mixed-use, U-shaped building while retaining the historic façades of the

City Landmark building (142-150 East Santa Clara Street) at the corner of East Santa Clara and South Fourth Streets in the City of San José, (the “Project”); and

WHEREAS, the Project was evaluated and analyzed under the Downtown Strategy 2040 EIR, and it was determined a supplemental environmental report to the Downtown Strategy 2040 EIR was required as further explained in the initial study and Final SEIR, as defined below, for the Project; and

WHEREAS, a First Amendment to the Draft SEIR was prepared to include responses to comments received during the public comment period and to make any technical or text changes to the Draft SEIR; and

WHEREAS, the First Amendment and the Draft SEIR together comprise the Final SEIR for the Project (collectively, “Final SEIR”); and

WHEREAS, the Final SEIR concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce some but not all of those significant impacts to a less-than-significant level; and

WHEREAS, on October 26, 2022, the Planning Commission of the City of San José reviewed the Final SEIR and recommended the City Council find the Final SEIR was completed in accordance with the requirements of CEQA and further recommended the City Council adopt a resolution certifying the Final SEIR; and

WHEREAS, as required under CEQA, a program to monitor and report on the implementation of measures to mitigate or avoid significant effects on the environment has been prepared for the Project (the “Mitigation Monitoring and Reporting Program”); and

WHEREAS, in connection with the approval of a project for which an environmental impact report has been prepared, which identifies one or more significant environmental effects of the project, the decision-making body of a public agency is required under CEQA to make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration for any impact that may not be reduced to a less than significant level;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. The foregoing recitals, the Downtown Strategy 2040 EIR, and the Final SEIR are incorporated herein as if set forth in the body of this Resolution.
2. The City Council finds and certifies the Final SEIR has been prepared and completed in compliance with CEQA.
3. The Final SEIR was presented to the City Council, the City Council reviewed and considered the information contained therein prior to approving the Project, and, as lead agency for the Project, the City Council finds the Final SEIR reflects the independent judgment and analysis of the City of San José and designates the Director of Planning, Building and Code Enforcement at 200 East Santa Clara Street, 3rd Floor Tower, San José, California 95113 as the custodian of records on which the decision of the City is based.
4. The City Council recognizes the Final SEIR contains additions, clarifications, modifications, and other information in response to comments on the Draft SEIR or obtained after the Draft SEIR was issued and circulated for public review and hereby finds such changes and additional information would not result in: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft SEIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project, or (iii) any feasible alternative considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project.
5. The City Council finds and determines that recirculation of this Final SEIR for further public review and comment is not warranted or required under CEQA.

6. The City Council makes the following findings with respect to potentially significant environmental impacts, as identified in the Final SEIR, with the understanding that all the information in this Resolution is intended as a summary of the full administrative record supporting the Final SEIR.

SUZACO MIXED USE PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS

Air Quality

Impact: **Impact AIR-1:** Construction activities associated with the proposed project would expose the project maximum exposed individuals (MEIs) to cancer risk and PM_{2.5} emissions in excess of Bay Area Air Quality Management District (BAAQMD) significance thresholds of 10 cases per one million for cancer risk and 0.3 µg/m³ for PM_{2.5}, respectively.

Mitigation: **MM AIR-1.1:** Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of the City of San José Department of Planning, Building and Code Enforcement (PBCE) or the Director's designee for review and approval. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter (PM₁₀ and PM_{2.5}).
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to California Air Resources Board (CARB) Level 3 verifiable diesel emission control devices that altogether achieve a 93 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.
- Use of alternatively fueled or electric-powered equipment.
- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment (e.g., stationary cranes and air compressors).

- Limit generator use where feasible.
- Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 93 percent or greater. The plan shall be accompanied by a letter signed by an air quality specialist and shall be submitted for review and approval by the Director of the City of San José PBCE or Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first).

Finding: With implementation of the required Standard Permit Conditions for dust and Mitigation Measure AIR-1.1, the project's construction cancer risk would be reduced to 9.30 chances per one million and the annual PM_{2.5} concentration would be reduced to 0.25 µ/m³ which would not exceed BAAQMD significance threshold for cancer risk and annual PM_{2.5} concentration. The HI would be 0.01 (with mitigation). **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Facts in Support of Finding: Construction equipment and associated heavy-duty truck traffic that generate diesel exhaust, which is a known Toxic Air Contaminant (TAC), pose a health risk to nearby receptors. For the purposes of this analysis, receptors include locations where sensitive populations would be present for extended periods of time, including all existing childcare facilities, pre-schools, schools, and residences surrounding the project site. A community risk assessment of the project construction activities was completed for the proposed project. The assessment evaluated potential health effects for nearby receptors (within 1,000 feet of the project site) from construction emissions of DPM and PM_{2.5}.

The CalEEMod model was used to determine total annual DPM and PM_{2.5} dust emissions for the offroad construction equipment and on-road vehicles that would be used during project construction. Additionally, the U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and PM_{2.5} concentrations at existing receptors in the vicinity of the project. The off-site truck and passenger vehicle emission rates were calculated using the EMFAC2021 model.

As discussed in Section 3.1.2.2, the air quality modeling of project construction found that implementation of Mitigation Measure AIR-1.1 and standard permit conditions reduce the project's construction infant cancer risk from 131.54 to 9.30 chances per one million and the annual PM_{2.5} concentration would be reduced from 1.64 to 0.25 µ/m³, which would not exceed BAAQMD significance threshold for cancer risk and annual PM_{2.5} concentration. The HI would be 0.01 (with mitigation). Therefore, the project

would have a less than significant off-site community risk impact from construction.

Biological Resources

Impact: **Impact BIO-1:** Tree removal associated with construction of the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.

Mitigation: **MM BIO-1.1:** Nesting Raptors and Migratory Birds: The project will be required to implement the following measures:

- Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.
- If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter preconstruction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, or issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit the report including the results of the survey and any designated buffer zones to the Director of the City of San José Department of Planning,

Building and Code Enforcement (PBCE) or Director's designee for review and approval.

Finding: With implementation of Mitigation Measure BIO-1.1, the project's impact to nesting birds and raptors would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Facts in Support of Finding: Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. With implementation of Mitigation Measures BIO-1.1, tree removal would be scheduled to avoid the nesting season or, pre-construction surveys would be completed, and a report indicating the results of the survey and any designated buffer zones would be submitted to the Director or Director's designee prior to any tree removal, or approval of any grading or demolition permits (whichever occur first) to reduce impacts to nesting birds to a less than significant level.

Cultural Resources

Impact: **Impact CUL-2:** Construction activities on-site could impact previously undocumented historic-era and Native American archaeological resources, as the site is documented as being highly sensitive for historic-era archaeological resources and low to moderately sensitive for Native American archaeological resources.

Mitigation: **MM CUL-2.1:** Monitoring. A qualified archaeologist, in collaboration with a Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall be present during ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping. The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) or Director's designee of any finds during monitoring.

MM CUL-2.2: Evaluation. Any historic-era or Native American archaeological resources identified during monitoring required by MM CUL-2.1 shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the project archaeologist in collaboration with a Native American representative registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and NAHC Sacred Land File (as applicable), and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation and plan for disposition and treatment of historic-era and Native American archaeological resources shall be submitted to the Director of the City of San José PBCE or Director's designee.

Finding: Implementation of the identified Mitigation Measures CUL-2.1 and CUL-2.2 would result in a less than significant impact to subsurface archaeological resources. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

Facts in Support of Finding: Native American and historic artifacts have been found throughout the downtown area, particularly near the Guadalupe River. The project site is located approximately 0.6-mile east of Guadalupe River, and therefore the project site has moderate potential for buried prehistoric Native American resources and historic resources. As part of the project, the site will be excavated to allow one level of below-grade retail. As a result, project ground disturbing activities could impact previously unrecorded archaeological resources. Implementing Mitigation Measures MM CUL-2.1 and MM CUL-2.2, which includes monitoring and evaluation of any resources identified during project construction, would reduce any potential impacts associated with project construction to a less than significant level.

Hazardous Materials

Impact: **Impact HAZ-1:** Construction activities associated with the proposed project could expose construction workers, the public, neighboring properties and the environment to hazardous materials in the form of impacted soil, soil vapor, and/or groundwater contamination above Regional Water Quality

Control Board (RWQCB) environmental screening levels, due to historical use of the site. Fuel oil used for the boiler that was present on-site could have been stored on-site in above-ground and/or below-ground storage tanks, and the former laundry, auto repair, cleaning and drying, dry cleaning, and printing businesses on-site could have used and/or stored petroleum-based solvents, organic solvents, dry cleaning solvents, and/or volatile organic compounds.

Mitigation: **MM HAZ-1.1:** Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs). If the Phase II results indicate soil, soil vapor and/or groundwater contamination above ESLs, the project applicant shall enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC). The project applicant shall meet with the regulatory oversight agency and perform additional soil, soil gas and/or groundwater sampling and testing, as required, to adequately define the known and suspected contamination. A Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan shall be prepared and submitted to the regulatory oversight agency for their approval. The plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Director of the City of San José Department of Planning, Building and Code Enforcement (PBCE), and the Environmental Compliance Officer in the City of San José's Environmental Services Department for review.

Finding: Implementation of the identified mitigation measure would reduce exposure of construction workers or nearby land uses to any contamination sources, resulting in a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation Incorporated)]**

Facts in Support of Finding: As discussed in Section 3.4.1.4 of the DSEIR, fuel oil used for a boiler that was present on-site could have been stored on-site in an above ground storage tank (AST) or underground storage tank (UST), and the former laundry, auto repair, cleaning and drying, dry cleaning, and printing businesses on-site could have used and/or stored petroleum-based

solvents, organic solvents, dry cleaning solvents, and/or volatile organic compounds (VOCs). Spills or leaks from these hazardous materials could impact the soil, soil vapor, and/or groundwater quality of the site.

Mitigation Measure HAZ-1.1 requires completion of a Phase II subsurface investigation and implementation of a site management plan to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs), and obtaining regulatory oversight for the project from either the Regional Water Quality Control Board, Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health, and preparation of and compliance with a site management plan, removal action plan or equivalent document would reduce potential impacts to construction workers to a less than significant level.

Noise and Vibration

Impact: **Impact NOI-1:** Mechanical equipment for the project has the potential to exceed the 55 dBA DNL threshold defined in General Plan Policy EC-1.3 by 11 to 19 dBA DNL (depending on noise control features) at adjacent noise-sensitive residential land uses

Mitigation: **MM NOI-1.1:** A detailed acoustical study shall be prepared by a qualified acoustical engineer prior to the issuance of any building permits to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to comply with the City's threshold of 55 dBA DNL at property lines shared with noise-sensitive residential land uses, as defined in General Plan Policy EC-1.3. Noise control features such as acoustical enclosures and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL threshold. The acoustical study and recommended measures to demonstrate compliance with General Plan Policy EC-1.3 shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement (PBCE) or Director's designee for review and approval prior to issuance of any building permits.

Finding: Implementation of Mitigation Measure NOI-1.1 would result in a less than significant impact from the increase in ambient noise levels in the project area due to operation of mechanical equipment on-site. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: Specifications for mechanical equipment are not known at this time and will not be known until plans for the building permit application are prepared. Noise levels from mechanical equipment could exceed the City's 55 dBA DNL threshold at the property lines of future noise-sensitive receptors adjacent to the southern boundary of the project site. To comply with MM NOI-1.1, the applicant would be required to submit a detailed acoustical study prepared by a qualified acoustical engineer that demonstrates the mechanical equipment and related noise attenuation measures would reduce noise below the City's threshold of 55 dBA DNL at property lines shared with noise sensitive land uses. The acoustical study will be reviewed and approved by the Director of PBCE or Director's designee prior to the issuance of any grading or demolition permits. Implementation of Mitigation Measure NOI-1.1 would reduce noise impacts to a less than significant level.

Impact: **Impact NOI-2:** Construction noise would exceed the City thresholds defined in General Plan Policies EC-1.2 and EC-1.7 of an increase in ambient noise levels by five dBA or more for a period of more than one year.

Mitigation: **MM NOI-2.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to reduce noise impacts on neighboring residents and other noise-sensitive uses. The noise logistic plan shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement (PBCE) or Director's designee prior to the issuance of any grading or demolition permits.

Consistent with the Downtown Strategy 2040 FEIR, the construction noise logistics plan shall include but is not limited to the following measures:

- Construction will be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of the City of San José PBCE that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- The project contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The unnecessary idling of internal combustion engines shall be prohibited.
- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible).
- The surrounding neighborhood within 500 feet shall be notified early and frequently of the construction activities.
- A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

Finding: With implementation of Mitigation Measure NOI-2.1 the proposed project would have a less than significant construction noise impact. **[Less Impact than Approved Project (Significant Unavoidable Impact)]**

Facts in Support of Finding: Table 3.6-2 of the SEIR identified that project-generated construction noise would result in a temporary five dBA increase in ambient noise levels at nearby land uses and the project would occur within 500 feet of existing residences and within 200 feet of existing commercial uses for a period of more than 12 months. Based on the analysis of construction noise in the Noise and Vibration Assessment prepared for the project (Appendix G of the DSEIR), with implementation of the noise reduction measures in Mitigation Measure NOI-2.1, the project-generated construction noise would be reduced to a less than significant level.

Impact: **Impact NOI-3:** Construction vibration levels would exceed the City’s threshold of 0.08 in/sec PPV threshold for historic buildings within 60 feet and the 0.2 in/sec PPV threshold for conventional construction buildings within 25 feet of the project site, as provided in General Plan Policy EC-2.3.

Mitigation: MM NOI-3.1: Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest, the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The Plan shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer (HPO) for review and approval prior to issuance of any demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

- A description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration monitoring locations.
- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) and the distance from adjacent structures (both sensitive historic and building of conventional construction, as applicable) to which the equipment is expected to operate shall be submitted to the Director of the City of San José PBCE or the Director's designee by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Based on review of the Plan, demolition, earth-moving, and ground impacting operations may be required to be phased so as not to occur during the same time period to reduce vibration levels to levels that would minimize potential vibration impacts to adjacent buildings.
- Use of heavy vibration-generating construction equipment shall be prohibited within 60 feet of any adjacent building (where possible).
- Document conditions at all historic structures located within 60 feet of construction and at all other buildings located within 25 feet prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

- Vibration limits shall be applied to vibration-sensitive structures located within 60 feet of any construction activities identified as sources of vibration levels that could damage surrounding buildings.
- Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities and all other buildings within 25 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.
- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approach the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities and during other construction phases, as necessary to reduce vibration limits to acceptable levels to protect the surrounding buildings.
- If vibration levels approach limits identified in the Plan, construction shall be suspended, and contingency measures shall be implemented to lower vibration or secure affected structures.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
- Conduct a survey on the structure after vibration-generating construction activities where either monitoring has indicated high levels or there have been complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. The survey shall be submitted to the Director of the City of San José PBCE, or Director's designee, and the City's HPO.

MM NOI-3.2: Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides

measures and procedures to protect nearby historic resources from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).

The HRRP shall be prepared by a qualified Historic Architect and reviewed and approved by the HPO or equivalent of the City of San José PBCE prior the issuance of any demolition, grading, or building permits, whichever occurs earliest. The project applicant shall ensure the construction contractor follows the HRRP while working near these historic resources. At a minimum, the plan shall include:

- Guidelines for operation of construction equipment adjacent to historical resources;
- Means and methods to reduce vibrations levels from excavation and construction;
- Requirements for monitoring and documenting compliance with the HRRP; and
- Education/training of construction workers about the significance of the adjacent historical resources.

MM NOI-3.3: The Historic Architect shall establish a “Monitoring Team” comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. The Monitoring Team shall monitor the adjacent historical resources and any changes to existing conditions shall be reported, including, but not limited to, expansion of cracks, new spalls, or other exterior deterioration during construction phase and any changes to the existing conditions shall be reported. In addition, the Monitoring Team shall prepare a site visit report documenting all site visits. The Monitoring Team shall submit the site visit reports and documents to the City’s Historic Preservation Officer no later than one week after each reporting period (or as defined by the HRRP). The City’s Historic Preservation Officer shall determine the frequency of the reporting period. The structural engineer shall consult with the Historic Architect if any problems related to the character-defining features of the historic resources occur. The Director of the City of San José PBCE or the Director’s designee and the City’s HPO may request any additional number of site visits at their discretion.

If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during construction, the Monitoring Team shall inform the project applicant (or the applicant’s designated representative responsible for construction activities), the

Director of the City of San José PBCE or the Director's designee, and the HPO of the potential impacts immediately. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would cause immediate damage to historic resources. In the event of damage to a nearby historic resource during construction, the project applicant shall ensure that repair work is performed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status. The Monitoring Report shall also include, but is not limited to, the following:

- Summary of the construction progress;
- Identification of substantial adverse impacts related to construction activities;
- Problems and potential impacts to the historical resources during construction activities;
- Recommendations to avoid any potential impacts;
- Actions taken by the project applicant in response to the problem;
- Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and
- Inclusion of photographs to explain and illustrate progress.
- In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the Director of the City of San José PBCE or the Director's designee and the HPO of the City of San José PBCE prior to the issuance of any Certificate of Occupancy (temporary or final).

Finding: With implementation of Mitigation Measure NOI-3.1 through NOI-3.3 the proposed project would have a less than significant construction vibration impact on historic buildings and buildings of conventional construction.
[Same Impact as Approved Project (Less than Significant Impact with Mitigation)]

Facts in Support of Finding: The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San

José, which was used to draft General Plan Policy EC-2.3. According to this Policy, a vibration limit of 0.2 inches/sec PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a limit of 0.08 inches/sec PPV is used to provide the highest level of protection.

The project site is located within the San José Commercial District. The buildings adjoining the project site to the west (e.g., 136 East Santa Clara Street, 126 East Santa Clara Street, 118 East Santa Clara Street, and 100 East Santa Clara Street) are contributors to the district. Additionally, the building located north of the site at 105 East Santa Clara Street is also a historic resource. The construction vibration impacts to these buildings were evaluated against the limit of 0.08 inches/sec PPV in General Plan Policy EC-2.3. All other buildings surrounding the site are buildings of conventional construction and would be subject to the 0.2 in/sec PPV threshold in General Plan Policy EC-2.3.

Table 3.6-4 of the SEIR identified project-generated vibration would exceed the 0.08 in/sec PPV threshold for historic buildings located within 60 feet of the site, and the 0.2 in/sec PPV threshold for buildings of conventional construction within 25 feet of the site. With implementation of Mitigation Measure NOI-3.1 through NOI-3.3, including restrictions on the use of vibration generating construction equipment, vibration monitoring, and structural surveys, impacts from the project-generated construction vibration on adjacent structures would be reduced to a less than significant level.

Tribal Cultural Resources

Impact: **Impact TCR-1:** Based on Assembly Bill (AB) 52 Consultation with Tamien Nation and the City of San José, the project area is highly sensitive for previously undocumented tribal cultural resources due to proximity to a Native American village site.

Mitigation: **MM TCR-1.1:** Tribal Cultural Awareness Training. Prior to issuance of any demolition or grading permit, whichever occurs first, the project applicant shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbance. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is

traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

Finding: Implementation of Mitigation Measure TCR-1.1 would reduce project impacts to undocumented tribal cultural resources to a less than significant level. **(Less than Significant Impact with Mitigation)**

Facts in Support of Finding: The project site is located 0.6 miles west of Guadalupe River, an area identified as highly sensitive for prehistoric and archaeological deposits including tribal cultural objects, thus project construction could result in impacts to unknown resources and tribal cultural objects. Implementation of Mitigation Measure TCR-1.1 would reduce tribal cultural resources impacts to a less than significant level.

SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL IMPACTS

Cultural Resources

Impact: **Impact CUL-1:** The Project would demolish the majority of a City Landmark building located at 142-150 East Santa Clara Street.

Mitigation: **MM CUL-1.1: Documentation:** The portions of the building that are proposed for demolition located at 142-150 East Santa Clara Street and the building at 130-134 East Santa Clara Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:

1. Drawings – Prepare sketch floor plans.
2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
3. Written Data – HABS written documentation in short form.

An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data.

The City of San José's Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the

San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits. All documentation shall be submitted on archival paper.

Relocation by a Third Party: The building at 130-134 East Santa Clara Street and the portions of the building that are proposed for demolition at 142-150 East Santa Clara Street shall be advertised for relocation by a third party. The project applicant shall be required to advertise the availability of the buildings for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant shall provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee that this condition has been met prior to the issuance of demolition permits.

If a third party does agree to relocate the building at 130-134 East Santa Clara Street and the portions of the building proposed for demolition at 142-150 East Santa Clara Street, the following measures shall be completed:

1. The City's Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building(s).
2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building(s) prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.
3. To protect the building(s) during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building(s) need to be reinforced/stabilized before the move.
4. Once moved, the building(s) shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In

particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and that all character-defining features were preserved. The project applicant shall submit a report to the City's Historic Preservation Officer documenting the relocation.

Salvage: If no third party relocates the building at 130-134 East Santa Clara Street or the portions of the building at 142-150 East Santa Clara Street proposed for demolition, the building(s) shall be made available for salvage-to-salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director's designee, together with the City's Historic Preservation Officer.

The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or the Director's designee, that this condition has been met prior to the issuance of demolition or grading permits, whichever comes first.

MM CUL-1.2: A qualified historian shall create a permanent interpretive program, exhibit, or display of the history of the property including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative interpretive program, exhibit, or display shall be determined in coordination with the City's Historic Preservation Officer.

Finding: With implementation of the identified mitigation measures, the proposed project would continue to have a significant unavoidable impact to the City Landmark building listed in the City's Historic Resources Inventory. **[New Significant Unavoidable Impact with Mitigation Incorporated (Less than Significant Impact)]**

Facts in Support of Finding: The Project would demolish the City Landmark's interior, roof, and west and south walls, which would result in the loss of the historic resource as a building and loss of its significance and eligibility as a City Landmark. With implementation of Mitigation Measure CUL-1.1 and CUL-1.2, impacts to resources listed on the City's Historic Resources Inventory

would be reduced, however, not to a less than significant level. As a result, the Project would have a significant unavoidable impact.

Impact: **Impact LU-1:** The Project would conflict with General Plan Policies LU-13.2, LU-13.6, LU-13.7, and LU-13.8 and is partially consistent with the 2003 Historic District Guidelines and Secretary of the Interior's Standards for Rehabilitation.

Mitigation: See MM CUL-1.1 and 1.2.

Finding: As discussed in Section 3.3 of the Draft SEIR, the Project would conflict with the City of San José's goals and policies for historic preservation and is only partially consistent with the principles and guidelines for rehabilitation and adaptive reuse with respect to the City Landmark at 142-150 East Santa Clara Street. The project would conflict with General Plan Policies LU-13.2, LU-13.6, LU-13.7, and LU-13.8 and is partially consistent with the 2003 Historic District Guidelines and Secretary of the Interior's Standards for Rehabilitation. As a result, the Project would conflict with existing land use policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect.

Facts in Support of Finding: The Project would demolish the City Landmark's interior, roof, and west and south walls, which would result in the loss of the historic resource as a building and loss of its significance and eligibility as a City Landmark. With implementation of Mitigation Measure CUL-1.1 and CUL-1.2, impacts to resources listed on the City's Historic Resources Inventory would be reduced, however, not to a less than significant level. As a result, the Project would have a significant unavoidable impact.

FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the Project is implemented and to try to meet as many of the Project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the Draft SEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. Four alternatives were explored, including a Location Alternative and Preservation Alternative 1 that were determined to

be infeasible and subsequently rejected. The following are evaluated as alternatives to the proposed Project:

1. No Project – No Development Alternative
2. Preservation Alternative 2: Complete Retention of the City Landmark Building at 142-150 East Santa Clara Street

1. No Project – No Development Alternative

- A. **Description of Alternative:** The No Project – No Development Alternative would retain the existing buildings as is. If the project site were to remain as is, there would be no new impacts.
- B. **Comparison of Environmental Impacts:** The No Project – No Development Alternative would avoid all of the project's environmental impacts.
- C. **Finding:** The No Project – No Development Alternative would avoid the Project's significant unavoidable cultural resources impacts as well as the project's significant but mitigable impacts from construction activities associated with the Project. The No Project – No Development Alternative would not meet any of the proposed Project's specific objectives because it would not meet any of the City's strategies and goals of the Downtown Strategy 2040 by redeveloping the site with a high-density mixed-use building.

2. Preservation Alternative 2: Complete Retention of the City Landmark Building at 142-150 East Santa Clara Street

- A. **Description of Alternative:** Under the Preservation Alternative 2, the entirety of the City Landmark building at 142-150 East Santa Clara Street would be retained on-site and the remainder of the site would be redeveloped. This alternative would avoid the significant unavoidable impact to the City Landmark building.
- B. **Comparison of Environmental Impacts:** The Preservation Alternative 2 would avoid the project's significant unavoidable impact to cultural resources because it would not alter the City Landmark building itself. Because the cultural resources impact to the building would be avoided, the land use impact from inconsistency with the Historic Preservation Ordinance and General Plan policies adopted for the purpose of avoiding or mitigating impacts to cultural resources would also be avoided. Construction impacts (from air quality, noise and vibration, and disruption of nesting birds) would be lessened due to the smaller size of the project and reduction in demolition activities. Potential impacts resulting from the exposure to soil and groundwater contamination and potential to encounter undocumented

historic-era and Native American archaeological resources and tribal cultural resources would be lessened due to the elimination of the proposed below-grade retail, but this alternative would still be required to implement all mitigation measures and Standard Permit Conditions identified for the proposed project.

- C. **Finding:** The alternative would meet project objectives 2, 3, 6, and 7: to achieve long-term pedestrian utilization in a Focused Growth Area of downtown, to create a commercial development project in the Downtown Focused Growth Area, to promote the City's goal of a multi-modal future, and to add economic development growth in a transit centric location. However, this alternative would not provide commercial development on an infill site because retention of the City Landmark building would make it unsuitable for infill development. The Preservation Alternative 2 would avoid the project's significant unavoidable cultural resources impacts, as well as the land use impact, and would result in similar impacts to air quality, biological resources, cultural resources, hazards and hazardous materials, noise and vibration, and tribal cultural resources. All other impacts disclosed in the Initial Study (refer to Appendix A) and Draft SEIR for the project would remain the same as the proposed project.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project Alternative because it would avoid all of the Project's significant environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." Therefore, in addition to the No Project Alternative, the Preservation Alternative 2 is the environmentally superior alternative because it avoids the project's significant unavoidable cultural resources impact and the potential impacts associated with exposure of soil and/or groundwater contamination and potential to encounter undocumented historic-era and Native American archaeological resources and tribal cultural resources would be lessened due to the elimination of below-grade retail.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to the provisions of CEQA, the City Council of the City of San José hereby adopts and makes the following statement of overriding considerations regarding the remaining significant and unavoidable impact of the Project as outlined above and the anticipated economic, social, and other benefits of the Project.

- A. **Significant Unavoidable Impact.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result in significant unmitigated or unavoidable impacts, as set forth above, associated with cultural resources and land use due to demolitions and alterations to a City Landmark building located at 142-150 East Santa Clara Street.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the project outweigh its significant adverse environmental impact of the project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, the Downtown Strategy 2040, and the Downtown Urban Design Guidelines.
- C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the project, and does hereby determine that implementation of the project as specifically provided in the project documents would result in the following substantial public benefits:

1. Envision San José 2040 General Plan Strategies, Goals, and Policies.

- Major Strategy #3 Focused Growth: The Project site is located within an identified Growth Area, as specified in the Envision San José 2040 General Plan. Construction of the project would increase Class-A office space on a downtown site in a pedestrian-friendly design and located in proximity to a variety of services, employment centers, educational institutes, and transit, including a planned Bay Area Rapid Transit station. Planning such sites for higher density mixed-use development enables the City to provide economic, employment, and residential benefits consistent with the community objectives of the Envision San José 2040 General Plan.
- Major Strategy #9 Destination Downtown and #11 Design for a Healthful Community: The Project will support the continued growth of the Downtown as a vibrant urban center for living and working by adding up to 63,461 square feet of office and 11,790 square feet of ground floor/basement retail.

The Project's location in the Downtown core will allow office workers, retail employees, and retail customers the opportunity to take advantage of a wide variety of commute options including walking, bicycling, bus and light rail. Focusing commercial growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals.

- General Plan Land Use Goals LU-1.2, LU-2, LU-3.1, LU-3.4, LU-5.7, LU-10.1, and LU-10.4: The Project will result in the development of up to 63,461 square feet of office and 11,790 square feet of ground floor/basement retail, which will aid in maximizing social interaction and furthering the vision of the *Envision General Plan*. Ground floor retail amenities will serve employees and other residents of the Downtown area. The Project's location in the Downtown will encourage walking for employees, which will minimize vehicular miles traveled. The Project is located approximately 650 east of the nearest Light Rail stop and is served by high-frequency bus service directly adjacent to the Project on East Santa Clara Street. The Project will focus new residential and employment growth in an identified Growth Area to maximize use of existing transit infrastructure, provide for more efficient delivery of City services, and foster the development of a more vibrant, walkable urban core.

2. Downtown Strategy 2040

The Project will advance the goals of the Downtown Strategy 2040, adopted in 2018 to facilitate the development of up to 14,360 residential units, 14.2 million square feet of office uses, 1.4 million square feet of retail uses, and 3,600 hotel rooms in Downtown by 2040. The Project will result in the addition of up to 63,461 square feet of office and 11,790 square feet of ground floor/basement retail within the Employment Priority Area overlay established by Downtown Strategy 2040. The purpose of the Employment Priority Area is for intensive job growth in close proximity to the future BART station.

3. Downtown Urban Design Guidelines and Policies

Downtown Urban Design Policy CD-6.1, CD-6.2, CD-6.6, CD-6.8: The Project will result in an increase in employment density. This increase in employment density will contribute to the Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The Project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as an urban center.

4. Pedestrian and Bicycle Improvements

The project applicant will construct bicycle and pedestrian improvements adjacent to the project site, improving the streetscape in a portion of downtown

with heavy vehicle and pedestrian traffic. Improvements include construction of a 22' wide sidewalk with a 7' wide bike lane along the site's North Fourth Street frontage; a 16' wide sidewalk with tree wells along the site's East Santa Clara Street frontage; and construction of a half-bulb out at the southwest corner of Fourth Street and East Santa Clara Street. These improvements will significantly improve pedestrian and bicyclist safety at an intersection with heavy traffic.

MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit "A" and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action.

LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City's Department of Planning, Building and Code Enforcement, San José City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and are also available for viewing electronically on the Department of Planning, Building and Code Enforcement website. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at the Director's office at 200 East Santa Clara Street, 3rd Floor Tower, San José California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

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ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

SuZaCo Mixed-Use Project
File Nos. H21-026, ER21-085 & HP21-005
October 2022




PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Supplemental Environmental Impact Report (SEIR) prepared for the SuZaCo Mixed-Use project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the SEIR concluded that the impacts from implementation of the project would be less than significant.

I, Edward McMahon, the applicant, on the behalf of Sunstone QOZB LLC, hereby agree to implement the mitigation measures described below which have been developed in conjunction with the preparation of an SEIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature  F7B3298C04D04BE...

Date 10/20/2022



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

SuZaCo Mixed-Use Project
File Nos. H21-026, ER21-085
& HP21-005

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Construction activities associated with the proposed project would expose the project maximum exposed individuals (MEIs) to cancer risk and PM _{2.5} emissions in excess of Bay Area Air Quality Management District (BAAQMD) significance thresholds of 10 cases per one million for cancer risk and 0.3 µg/m ³ for PM _{2.5} , respectively.					
<p>MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee for review and approval. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <ul style="list-style-type: none"> For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter (PM₁₀ and PM_{2.5}). If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions 	Submit a construction operation plan and a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards defined in MM AIR-1.1.	Prior to issuance of any demolition, grading, or building permits (whichever occurs first).	Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee.	Review and approve construction operations plan and letter for compliance with standards defined in MM AIR-1.1.	Prior to issuance of any demolition, grading, or building permits (whichever occurs first).

<p>control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 93 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.</p> <ul style="list-style-type: none"> • Use of alternatively fueled or electric-powered equipment. • Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment (e.g., stationary cranes and air compressors). • Limit generator use where feasible. <p>Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 93 percent or greater. The plan shall be accompanied by a letter signed by an air quality specialist and shall be submitted for review and approval by the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first).</p> <p>Implementation of the mitigations described above will reduce the impacts below BAAQMD significance thresholds of 10 cases per one million for cancer risk and 0.3 µg/m³ for PM_{2.5}, respectively.</p>					
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BIOLOGICAL RESOURCES

Impact BIO-1: Tree removal associated with construction of the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.

<p>MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.</p> <p>If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of</p>	<p>Avoid construction activities during nesting seasons. If construction activities cannot be scheduled outside of nesting season, conduct a pre-construction nesting bird survey by a qualified ornithologist in compliance with the survey timing defined in MM BIO-1.1, designate a</p>	<p>Prior to any tree removal, or issuance of any grading or demolition permits, whichever occurs first</p>	<p>Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Confirm that demolition and construction activities are scheduled outside of the nesting season, or review report indicating the results of the survey and any</p>	<p>Prior to any tree removal, or issuance of any grading or demolition permits, whichever occurs first</p>
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<p>the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the qualified ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.</p> <p>Prior to any tree removal, or issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit the report including the results of the survey and any designated buffer zones to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee for review and approval.</p> <p>Implementation of the mitigations described above will reduce significant impacts to loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.</p>	<p>construction-free buffer zone around any discovered nest.</p> <p>Qualified ornithologist shall submit a report indicating the results of the survey and any designated buffer zones.</p>			designated buffer zones.	
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CULTURAL RESOURCES

Impact CUL-1: The project would demolish the majority of a City Landmark building located at 142-150 East Santa Clara Street, which is a historic resource under the California Environmental Quality Act (CEQA).

<p>MM CUL-1.1: Documentation: The portions of the building that are proposed for demolition located at 142-150 East Santa Clara Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:</p> <p>1. Drawings – Prepare sketch floor plans.</p>	<p><u>Documentation:</u> Prepare and submit documentation of the portions of the building that is proposed for demolition located at 142-150 East Santa Clara Street in accordance with the guidelines established</p>	<p>Prior to prior to the issuance of demolition permits, whichever comes first.</p>	<p>Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee, and the City's</p>	<p>Review and approve documentation.</p>	<p>Prior to the issuance of demolition permits, whichever comes first.</p>
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<p>2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.</p> <p>3. Written Data – HABS written documentation in short form.</p> <p>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data.</p> <p>The City of San José’s Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits, whichever occurs first. All documentation shall be submitted on archival paper.</p> <p>MM CUL-1.2: Salvage: The portions of the building at 142-150 East Santa Clara Street proposed for demolition, shall be made available for salvage to companies or individuals facilitating the reuse of historic building materials, including local preservation organizations. Noticing for salvage opportunities shall include notification in at least one newspaper of general circulation and online platforms as appropriate including at a minimum the San José Mercury News (print and online), and the City of San José’s Department of Planning, Building, and Code Enforcement’s Environmental Review website. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and include a notice on each building proposed for demolition, that is no smaller than 48 x 72 inches and that is visible from the public right-of-way. The duration of the notice for materials salvage shall be 30 days.</p> <p>The project applicant shall provide evidence of compliance with the posting requirements and duration to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City Historic</p>	<p>for the Historic American Building Survey (HABS). Submit all documentation on archival paper.</p> <p>Architectural historian and historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs, and written data.</p> <p>File documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University.</p> <p>Salvage: The portions of the building at 142-150 East Santa Clara Street proposed for demolition, shall be made available for salvage to companies or individuals facilitating the reuse of historic building materials. Noticing shall be compliant with City Council Policy 6-30: Public Outreach Policy and include a notice on each building proposed for demolition as described in MM CUL-1.2.</p>	<p>Prior to prior to the issuance of demolition or grading permits, whichever comes first.</p>	<p>Historic Preservation Officer.</p> <p>Director of the City of San José Department of Planning, Building and Code Enforcement or Director’s designee, and the City’s Historic Preservation Officer.</p>	<p>Review evidence of advertisements and compliance with the posting requirements and duration.</p>	<p>Prior to the issuance of demolition or grading permits, whichever comes first.</p>
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<p>Preservation Officer, prior to the issuance of demolition or grading permits, whichever occurs first.</p> <p>MM CUL-1.3: Commemoration: A qualified architectural historian shall create a permanent interpretive program, exhibit, or display of the history of the property at 142-150 East Santa Clara Street including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative interpretive program, exhibit, or display shall be determined in coordination with the City's Historic Preservation Officer.</p> <p>The project applicant shall provide evidence that the commemorative interpretive program, exhibit, or display was created to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the certificate of occupancy.</p> <p>Implementation of the measures described above will minimize the identified significant and unavoidable impacts. However, the impact to the City Landmark building located at 142-150 East Santa Clara Street remains significant and unavoidable, due to demolition of the historic resource with the exception of the façade.</p>	<p><u>Commemoration:</u> Qualified architectural historian shall create a permanent interpretive program, exhibit, or display of the history of the property on-site.</p>	<p>Prior to certificate of occupancy.</p>	<p>Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee, and the City's Historic Preservation Officer.</p>	<p>Coordinate with the qualified architectural historian on the final design of the commemorative interpretive program, exhibit, or display.</p>	<p>Prior to certificate of occupancy.</p>
<p>Impact CUL-2: Construction activities on-site could impact previously undocumented historic-era and Native American archaeological resources, as the site is documented as being highly sensitive for historic-era archaeological resources and low to moderately sensitive for Native American archaeological resources.</p>					
<p>MM CUL-2.1: Monitoring. A qualified archaeologist, in collaboration with a Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall be present during ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping. The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee of any finds during monitoring.</p>	<p>A qualified archaeologist in collaboration with a Native American representative, registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall be present during ground-disturbing</p>	<p>During all ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping.</p>	<p>Director of the City of San José Planning, Building and Code Enforcement or Director's designee.</p>	<p>Receive and review notice of any finds during monitoring.</p>	<p>During all ground-disturbing activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping.</p>

<p>MM CUL-2.2: Evaluation. Any historic-era or Native American archaeological resources identified during monitoring required by MM CUL-2.1 shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the project archaeologist in collaboration with a Native American representative registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.</p> <p>Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and NAHC Sacred Land File (as applicable), and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation and plan for disposition and treatment of historic-era and Native American archaeological resources shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee.</p> <p>Implementation of the mitigations described above will reduce significant impacts to undocumented historic-era and Native American archaeological resources with the inclusion of mitigation measures TCR-1 below in the Tribal Cultural Resources section.</p>	<p>activities such as, but not limited to, trenching, initial or full grading, boring on site, or major landscaping.</p> <p>Any historic-era or Native American archaeological resources identified during monitoring required by MM CUL-2.1 shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. All documentation and recordation shall be submitted to the Northwest Information Center and NAHC Sacred Land File (as applicable), and/or equivalent.</p>	<p>Prior to the issuance of any occupancy permit.</p>	<p>Director of the City of San José Planning, Building and Code Enforcement or Director's designee.</p>	<p>Review evaluation and plan for disposition and treatment of historic-era and Native American archaeological resources.</p>	<p>Prior to the issuance of any occupancy permit.</p>
HAZARDS AND HAZARDOUS MATERIALS					
<p>Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers, the public, neighboring properties and the environment to hazardous materials in the form of impacted soil, soil vapor, and/or groundwater contamination above Regional Water Quality Control Board (RWQCB) environmental screening levels, due to historical use of the site. Fuel oil used for the boiler that was present on-site could have been stored on-site in above-ground and/or below-ground storage tanks, and</p>					

the former laundry, auto repair, cleaning and drying, dry cleaning, and printing businesses on-site could have used and/or stored petroleum-based solvents, organic solvents, dry cleaning solvents, and/or volatile organic compounds.					
<p>MM HAZ-1.1: Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs). If the Phase II results indicate soil, soil vapor and/or groundwater contamination above ESLs, the project applicant shall enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC). The project applicant shall meet with the regulatory oversight agency and perform additional soil, soil gas and/or groundwater sampling and testing, as required, to adequately define the known and suspected contamination. A Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan shall be prepared and submitted to the regulatory oversight agency for their approval. The plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Director of the City of San José Department of Planning, Building and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department for review.</p> <p>Implementation of the mitigation described above will reduce significant impacts to soil and/or groundwater contamination below applicable established regulatory ESLs.</p>	<p>Retain a qualified environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation. Enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC) if the Phase II results indicate soil, soil vapor and/or groundwater contamination above regulatory environmental screening levels.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>	<p>Director of the City of San José Planning, Building, and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.</p>	<p>Review Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan and proof of regulatory oversight if the Phase II results indicate soil, soil vapor and/or groundwater contamination above regulatory environmental screening levels.</p>	<p>Prior to the issuance of any demolition or grading permits.</p>
NOISE AND VIBRATION					
<p>Impact NOI-1: Mechanical equipment for the project has the potential to exceed the 55 dBA DNL threshold defined in General Plan Policy EC-1.3 by 11 to 19 dBA DNL (depending on noise control features) at adjacent noise-sensitive residential land uses.</p>					

<p>MM NOI-1.1: A detailed acoustical study shall be prepared by a qualified acoustical engineer prior to the issuance of any building permits to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to comply with the City's threshold of 55 dBA DNL at property lines shared with noise-sensitive residential land uses, as defined in General Plan Policy EC-1.3. Noise control features such as acoustical enclosures and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL threshold. The acoustical study and recommended measures to demonstrate compliance with General Plan Policy EC-1.3 shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee for review and approval prior to issuance of any building permits.</p> <p>Implementation of the mitigation described above will reduce significant noise impacts at adjacent properties resulting from the operation of mechanical equipment below the City's 55 dBA DNL threshold.</p>	<p>A qualified acoustical engineer shall prepare a detailed acoustical study to evaluate the potential noise generated by building equipment and demonstrate the necessary noise controls to comply with the City's threshold of 55 dBA DNL at property lines shared with noise-sensitive residential land uses. Submit the acoustical study and recommended measures for review.</p>	<p>Prior to the issuance of any building permits.</p>	<p>Director of the City of San José Planning, Building, and Code Enforcement or Director's designee.</p>	<p>Review and approve acoustical study and recommended measures.</p>	<p>Prior to the issuance of any building permits.</p>
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NOISE AND VIBRATION

Impact NOI-2: Construction noise would exceed the City thresholds defined in General Plan Policies EC-1.2 and EC-1.7 of an increase in ambient noise levels by five dBA or more for a period of more than one year.

<p>MM NOI-2.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and during construction to reduce noise impacts on neighboring residents and other noise-sensitive uses. The noise logistic plan shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits.</p> <p>Consistent with the Downtown Strategy 2040 FEIR, the construction noise logistics plan shall include but is not</p>	<p>Submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator.</p>	<p>Prior to the issuance of any grading or demolition permits.</p>	<p>Director of the City of San José Planning, Building and Code Enforcement or Director's designee.</p>	<p>Review and approve the noise logistics plan.</p>	<p>Prior to the issuance of any grading or demolition permits.</p>
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<p>limited to the following measures:</p> <ul style="list-style-type: none"> • Construction will be limited to the hours of 7:00 AM to 7:00 PM, Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. • The project contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • The unnecessary idling of internal combustion engines shall be prohibited. • Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet, where feasible). • The surrounding neighborhood within 500 feet shall be notified early and frequently of the construction activities. • A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site. <p>Implementation of the mitigation described above are considered to reduce significant impacts on ambient noise levels resulting from construction activities to less than significant levels.</p>					
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Impact NOI-3: Construction vibration levels would exceed the City's threshold of 0.08 in/sec PPV threshold for historic buildings within 60 feet and the 0.2 in/sec PPV threshold for conventional construction buildings within 25 feet of the project site, as provided in General Plan Policy EC-2.3.					
<p>MM NOI-3.1: Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest, the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The Plan shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer for review and approval prior to issuance of any demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • A description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) and the distance from adjacent structures (both sensitive historic and building of conventional construction, as applicable) to which the equipment is expected to operate shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds. • Based on review of the Plan, demolition, earth-moving, and ground impacting operations may be required to be phased so as not to occur during the same time period to reduce vibration levels to levels that would minimize potential vibration impacts to adjacent buildings. 	<p>Submit and implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities.</p> <p>All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods.</p>	<p>Submit the Plan for review prior to issuance of any demolition, grading, or building permits, whichever occurs earliest.</p>	<p>Director of the City of San José Planning, Building and Code Enforcement or Director's designee and the City's Historic Preservation Officer.</p>	<p>Review and approval of the Plan and post-vibration-generating construction activity survey.</p>	<p>Prior to issuance of any demolition, grading, or building permits, whichever occurs earliest.</p>

<ul style="list-style-type: none"> • Use of heavy vibration-generating construction equipment shall be prohibited within 60 feet of any adjacent building (where possible). • Document conditions at all historic structures located within 60 feet of construction and at all other buildings located within 25 feet prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically: <ul style="list-style-type: none"> ○ Vibration limits shall be applied to vibration-sensitive structures located within 60 feet of any construction activities identified as sources of vibration levels that could damage surrounding buildings. ○ Performance of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities and all other buildings within 25 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure. • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approach the limits. • At a minimum, vibration monitoring shall be conducted during demolition and excavation 					
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<p>activities and during other construction phases, as necessary to reduce vibration limits to acceptable levels to protect the surrounding buildings.</p> <ul style="list-style-type: none"> • If vibration levels approach limits identified in the Plan, construction shall be suspended, and contingency measures shall be implemented to lower vibration or secure affected structures. • Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. • Conduct a survey on the structure after vibration-generating construction activities where either monitoring has indicated high levels or there have been complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. The survey shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or Director's designee, and the City's Historic Preservation Officer. 					
<p>MM NOI-3.2: Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest, the project applicant shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect nearby historic resources from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage).</p> <p>The HRRP shall be prepared by a qualified Historic Architect and reviewed and approved by the Historic Preservation Officer or equivalent of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest. The project applicant shall ensure the construction contractor follows</p>	<p>Qualified Historic Architect shall prepare and implement a Historical Resources Protection Plan (HRRP) that provides measures and procedures to protect nearby historic resources from direct or indirect impacts during construction activities.</p>	<p>Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest.</p>	<p>Historic Preservation Officer or equivalent of the City of San José Department of Planning, Building and Code Enforcement.</p>	<p>Review and approve HRRP.</p>	<p>Prior to the issuance of any demolition, grading, or building permits, whichever occurs earliest.</p>

<p>the HRRP while working near these historic resources. At a minimum, the plan shall include:</p> <ul style="list-style-type: none"> • Guidelines for operation of construction equipment adjacent to historical resources; • Means and methods to reduce vibrations levels from excavation and construction; • Requirements for monitoring and documenting compliance with the HRRP; and • Education/training of construction workers about the significance of the adjacent historical resources. 					
<p>MM NOI-3.3: The Historic Architect shall establish a “Monitoring Team” comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process. The Monitoring Team shall monitor the adjacent historical resources and any changes to existing conditions shall be reported, including, but not limited to, expansion of cracks, new spalls, or other exterior deterioration during construction phase and any changes to the existing conditions shall be reported.</p> <p>In addition, the Monitoring Team shall prepare a site visit report documenting all site visits. The Monitoring Team shall submit the site visit reports and documents to the City’s Historic Preservation Officer no later than one week after each reporting period (or as defined by the HRRP). The City’s Historic Preservation Officer shall determine the frequency of the reporting period. The structural engineer shall consult with the Historic Architect if any problems related to the character-defining features of the historic resources occur. The Director of the City of San José Department of Planning, Building and Code Enforcement or the Director’s designee and the City’s Historic Preservation Officer may request any additional number of site visits at their discretion.</p> <p>If, in the opinion of the Monitoring Team, substantial adverse impacts related to construction activities are found during construction, the Monitoring Team shall inform the project applicant (or the applicant’s designated representative responsible for construction activities), the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director’s</p>	<p>Historic Architect shall establish a “Monitoring Team” comprised of at least one qualified Historic Architect and one structural engineer for the duration of the site monitoring process.</p> <p>Prepare a site visit report documenting all site visits and submit the reports and documents to the City’s Historic Preservation Officer no later than one week after each reporting period (or as defined by the HRRP).</p> <p>The Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities.</p>	<p>Submit the reports and documents to the City’s Historic Preservation Officer no later than one week after each reporting period (or as defined by the HRRP).</p> <p>Submit final documentation after completion of the construction activities prior to the issuance of any Certificate of Occupancy (temporary or final).</p>	<p>The Director of the City of San José Planning, Building and Code Enforcement or the Director’s designee and the Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement</p>	<p>Review reports after each reporting period and final documentation.</p>	<p>Receive monthly reports throughout the duration of construction.</p> <p>Receive final documentation prior to the issuance of any Certificate of Occupancy (temporary or final).</p>

<p>designee, and the Historic Preservation Officer of the potential impacts immediately. The project applicant shall implement the Monitoring Team's recommendations for corrective measures, including halting construction in situations where construction activities would cause immediate damage to historic resources. In the event of damage to a nearby historic resource during construction, the project applicant shall ensure that repair work is performed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall restore the character-defining features in a manner that does not affect the structure's historic status. The Monitoring Report shall also include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Summary of the construction progress; • Identification of substantial adverse impacts related to construction activities; • Problems and potential impacts to the historical resources during construction activities; • Recommendations to avoid any potential impacts; • Actions taken by the project applicant in response to the problem; • Progress and the level of success in meeting the applicable Secretary of the Interior's Standards for the Treatment of Historic Properties for the project as noted above for the character-defining features, and in preserving the character-defining features of nearby historic properties; and • Inclusion of photographs to explain and illustrate progress. • In addition, the Monitoring Team shall submit a final document associated with monitoring and repairs after completion of the construction activities to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer prior to the issuance of any Certificate of Occupancy (temporary or final). <p>Implementation of the mitigations described above will reduce significant construction vibration levels on nearby historic and conventional structures to below the City's thresholds.</p>					
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TRIBAL CULTURAL RESOURCES					
Impact TCR-1: Based on Assembly Bill (AB) 52 Consultation with Tamien Nation and the City of San José, the project area is highly sensitive for previously undocumented tribal cultural resources due to proximity to a Native American village site.					
MM TCR-1.1: Tribal Cultural Awareness Training. Prior to issuance of any demolition or grading permit, whichever occurs first, the project applicant shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbance. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Implementation of the mitigation described above, in addition to mitigations listed for Cultural Resources above will reduce potential impacts to previously undocumented tribal cultural resources.	Submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbance by a qualified archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.	Prior to issuance of any demolition or grading permits, whichever occurs first.	Director of the City of San José Planning, Building and Code Enforcement or the Director's designee.	Review evidence and evaluation.	Prior to issuance of any demolition or grading permits, whichever occurs first.

Source: City of San José. Draft SEIR (June 2022) and 1st Amendment to Draft SEIR (October 2022). SuZaCo Mixed-Use Project.