

Final Environmental Impact Report

3625 Peterson Way Office Project

File Numbers: PLN2015-13144 and CEQ2018-01050

SIGNAGE

Prepared by



In Consultation with



July 2020

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SECTION 1.0 INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (FEIR) for the 3625 Peterson Way Office Project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is intended to be used by the City of Santa Clara and any Responsible Agencies in making decisions regarding the project. The CEQA Guidelines advise that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the Draft EIR by making written findings for each of those significant effects.

According to the State Public Resources Code Section 21081, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- a) The public agency makes one or more of the following findings with respect to each significant effect:
 - 1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.
 - 2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - 3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

SECTION 2.0 DRAFT EIR RECICPIENTS

CEQA Guidelines Section 15086 requires that a Lead Agency consult with and request comments on the Draft EIR prepared for a project of this type from Responsible Agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies. The following agencies received a copy of the Draft EIR or Notice of Availability (NOA) for the Draft EIR from the City of Santa Clara or via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Health Care Services
- California Department of Parks and Recreation
- California Department of Transportation, District 4
- California Native American Heritage Commission
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Office of Emergency Services, California
- Office of Historic Preservation
- Resources Agency
- Resources, Recycling and Recovery
- San Francisco Bay Conservation and Development Commission
- State Water Resources Control Board, Division of Drinking Water
- California Native American Heritage Commission

SECTION 3.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of Santa Clara on the Draft EIR. Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that comment directly following. Copies of the actual letters and emails received by the City of Santa Clara are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below.

<u>Comment Letter and Date</u>	<u>Page of Response</u>
A. Native American Heritage Commission – March 18, 2020	3
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A. Native American Heritage Commission – March 18, 2020

Comment A.1: The Native American Heritage Commission (NAHC) has reviewed the Draft Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

- There is no information in the documents of any contact or consultation with all traditionally, culturally affiliated California Native American Tribes from the NAHC’s contact list.
- There does not appear to be evidence that possible mitigation measures were developed in consultation with the traditionally, culturally affiliated California Native American Tribes, for example when resources are found, avoidance or conservation easements.
- There does not appear evidence that a cultural assessment was completed.

Response A1: Assembly Bill 52 (AB 52) requires lead agencies to provide notice of non-exempt projects to tribes that are traditionally and culturally affiliated with the project area or local agency’s geographic area if they have requested to be notified. The City of Santa Clara has not been contacted for notification of projects in the area and, therefore, tribal consultation is not required for the project under AB 52. As stated in Section 3.18.2, page 193 of the Draft EIR, no tribal cultural resources have been identified on-site and any subsurface artifacts found on-site would be addressed with the implementation of mitigation measures MM CUL-2.1, CUL-2.2, and CUL-3.1 (refer to pages 53 and 54 of the Draft EIR).

The site is developed with an existing office building and parking lot and no cultural resources have previously been discovered on-site. A Cultural Resources Sensitivity Analysis was completed as a part of the City’s General Plan. Based on the cultural resources sensitivity map and records search for the City, no archaeological resources have been identified at the project site. Given that the site is currently developed, no archaeological resources have previously been identified on-site, and the information in the General Plan, a cultural resources assessment was not deemed necessary. In the event that archaeological resources and human remains are discovered during excavation and/or construction, mitigation measures MM CUL-2.1, CUL-2.2, and CUL-3.1 will be implemented to reduce the impacts to any unrecorded subsurface resources to less than significant.

Comment A.2: The California Environmental Quality Act (CEQA), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment. If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52 (AB 52). AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for “tribal cultural resources”, that now

includes “a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. Both SB 18 and AB 52 have tribal consultation requirements. Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 19668 may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled “Tribal Consultation Under AB 52: Requirements and Best Practices”.

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC’s recommendations for conducting cultural resources assessments is also attached.

Response A.2: The project site is developed with an existing office building constructed in 1979. Projects in the City are required to evaluate structures/potential resources over 50 years old to determine their eligibility for the City’s list of Architecturally or Historically Significant Properties. The existing building on-site is 41 years old (less than 50 years of age) and would not be eligible for listing under the California Register of Historic Resources (CRHR), National Register of Historic Places (NRHP), or the City of Santa Clara Historic Architecturally or Historically Significant Properties list. Therefore, the existing on-site building is not a historic resource. Given the age of existing buildings adjacent to the site are less than 50 years of age and are of common modern architectural style, none of the buildings adjacent to the site are considered historic resources.

As stated in Response A.1, AB 52 requires lead agencies to provide notice of non-exempt projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. The City of Santa Clara has not been contacted for notification of projects in the area and, therefore, tribal consultation is not required for the project under AB 52. Tribal consultation for this project is discussed on page 193 of the Draft EIR.

The proposed project would not require an amendment to a General Plan or Specific Plan and, therefore, the project is not subject to SB 18 requirements. The project is not receiving federal funding and, therefore, is not subject to NEPA review. Therefore, Section 106 tribal consultation is not required for the project.

B. Santa Clara Valley Transportation Agency– April 15, 2020

Comment B.1: VTA has reviewed the Draft Environmental Impact Report (DEIR) and Transportation Impact Analysis (TIA) for the proposed 676,310 square feet of office space and 13,370 square feet of amenity space, replacing an existing 218,375-square foot light-industrial building at 3625 Peterson Way in Santa Clara. VTA has the following comments.

Pedestrian and Bicycle Accommodations

VTA supports bicycling as an important transportation mode and thus supports the provision of 115 bicycle parking spaces (180 long-term and 60 short-term spaces), exceeding the City’s bicycle parking requirement.

Response B.1: Comment B1 has been noted. No further response is required since the comment is not related to the adequacy of the Draft EIR analysis.

Comment B.2: Congestion Management Program (CMP) Intersection Impacts

The TIA notes that the addition of project-generated traffic to the following CMP intersections, Bowers/Scott (AM and PM Peak), San Tomas/Scott (PM Peak), San Tomas/Monroe (PM Peak), and Oakmead-Corvin/Central (AM and PM Peak), will have a significant impact under Background Plus Project Conditions. The TIA makes recommendations for mitigating impacts at these intersections by identifying specific improvements from the Comprehensive County Expressway Planning Study for fair-share contributions. VTA recommends that the City and Project sponsor coordinate with the County of Santa Clara on those proposed improvements identified in the TIA, and that such improvements are consistent with the County’s policies on bicycle and pedestrian accommodations.

Response B.2: The project applicant will make a fair share contribution toward planned improvements identified for the Bowers Avenue and Scott Boulevard, San Tomas Expressway and Scott Boulevard, San Tomas Expressway and Monroe Street, and Oakmead Parkway and Corvin Drive intersections (described in mitigation measures MM TRN-1e, MM TRN-1f, MM TRN-1g, and MM TRN-1h, respectively, on pages 165 to 168). The City will coordinate with the County of Santa Clara to implement these planned improvements. The County’s policies bicycle and pedestrian policies were considered in the design of the planned improvements. Therefore, the proposed improvements for these intersections are consistent with the County’s policies regarding bicycle and pedestrian accommodations.

Comment B.3: Transportation Demand Management (TDM) and Trip Reduction

The DEIR/TIA assumes a 5% TDM Reduction. Section 8.2.1.2 of the VTA TIA Guidelines include procedures for claiming a TDM reduction in a TIA, and provides the list of financial incentives that would make a project eligible for such a reduction, which include the following (p. 35):

- Transportation allowance for alternative modes to driving alone
- Parking cash-out

- Pre-tax commuter benefits for biking, carpooling, vanpooling, and using transit
- Transit subsidies, such free transit passes or transit fare incentives

Further, the 5% reduction requires that the financial subsidy be offered to “all employees of the development on an ongoing basis” (TIA Guidelines, p. 35). The DEIR notes that “incentives for alternative modes for transportation (e.g., a pre-tax Clipper Card benefit for transit)” would be included as part of the TDM Plan (DEIR, p. 79). VTA recommends that this incentive is provided to all employees of the project on an ongoing basis as a Condition of Approval.

Response B.3: Implementation of measures provided in the TDM plan would result in a VMT reduction of 10 percent. TDM measure options which provide financial incentives include pre-tax commuter benefits that allows employees to exclude their transit expenses from their taxable income, subsidized transit passes (such as a Clipper Card), and reimbursement of vanpool expenses. VTA’s recommendation for the project applicant to provide employee financial incentives related to alternative modes transportation on an on-going basis is a potential option for a TDM measure. This recommendation will be taken into consideration by the decision makers at the time of approval of the final TDM plan.

C. Santa Clara Valley Water District – April 15, 2020

Comment C.1: The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed office buildings at 3625 Peterson Way, received on February 28, 2020, and has the following comments:

1) The DEIR Water Supply Assessment (WSA-Appendix G) notes that recycled water is adjacent to the site, but the WSA and DEIR never explicitly say that recycled water will be used for landscaping and other appropriate uses for the project. The project should be served by recycled water.

Response C.1: Based on the City’s Recycled Water System Map, a recycled water line is located adjacent to the site, on Peterson Way and Tannery Way.¹ The project would connect to the recycled water line, which would be utilized for the project’s irrigation/landscaping.

Comment C.2: 2) Valley Water records indicate six (6) destroyed wells located on the current property. Because the wells are considered properly destroyed, no action is necessary to protect them or to bring them into compliance with the District Well Ordinance. While Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. To protect groundwater quality and in accordance with Valley Water Well Ordinance 90-1, all existing wells affected by redevelopment of the site need to be identified and properly registered with Valley Water and either be maintained or destroyed in accordance with

¹ City of Santa Clara. Recycled Water System Map, City of Santa Clara, California. Accessed May 13, 2020. <https://www.santaclaraca.gov/home/showdocument?id=14883>.

the Valley Water's standards. Destruction of any well and the construction of any new wells proposed, including monitoring wells, requires a permit from Valley Water prior to construction. Property owners or their representative should contact the Valley Water Wells and Water Measurement Unit at (408) 630-2660, for more information.

Response C.2: Comment C.2 has been acknowledged. The project would not construct new wells and no wells are currently located on-site. If unknown wells are discovered on the project site during demolition/construction, the project applicant's contractor will contact Valley Water to obtain a permit to decommission the well. All existing wells affected by redevelopment of the site will be properly registered with Valley Water and either be maintained or destroyed in accordance with Valley Water's standards.

Comment C.3: 3) According to the Federal Emergency Management Agency's current Flood Insurance Rate Map No. 06085C0063H effective May 18, 2009, the site is in Zone X, areas with a 0.2 % chance of flooding, outside the regulated flood plain area.

Response C.3: Comment C.3 is noted. The Draft EIR describes the site's Federal Emergency Management Agency's zone (Zone X) in Section 3.10, Hydrology and Water Quality. The project site is outside of the 100-year flood hazard area.

Comment C.4: 4) Valley Water does not have any facilities or right of way within and adjacent to the project site; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the project.

Response C.4: Comment C.4 has been acknowledged. No further response is required since the comment is not related to the adequacy of the Draft EIR analysis.

SECTION 4.0 DRAFT EIR TEXT REVISIONS

Based on the comments discussed in Section 3.0, the 3625 Peterson Way Office Project Draft EIR does not require any text revisions.

Appendix A: Draft EIR Comment Letters

NATIVE AMERICAN HERITAGE COMMISSION

March 18, 2020

Debby Fernandez
City of Santa Clara

Governor's Office of Planning & Research

MAR 20 2020

Via Email to: dfernandez@santaclaraca.gov

STATE CLEARINGHOUSE

Re: SCH# 2018042014, 3625 Petersen Way Office Project, Santa Clara County, California

Dear Ms. Fernandez:

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

- There is no information in the documents of any contact or consultation with all traditionally, culturally affiliated California Native American Tribes from the NAHC's contact list.
- There does not appear to be evidence that possible mitigation measures were developed in consultation with the traditionally, culturally affiliated California Native American Tribes, for example when resources are found, avoidance or conservation easements.
- There does not appear evidence that a cultural assessment was completed.

The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52 (AB 52).⁴ **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"⁵, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷ Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your

¹ Pub. Resources Code § 21000 et seq.

² Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)



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project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

If you have any questions or need additional information, please contact me at my email address: Sarah.Fonseca@nahc.ca.gov.

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

cc: State Clearinghouse

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice. A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.⁴ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).⁵

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.⁶

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.⁷

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.⁸

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.⁹

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.¹⁰

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program**, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹¹

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).¹²

An environmental impact report **may not be certified**, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

⁴ Pub. Resources Code § 21080.3.1, subds. (d) and (e)

⁵ Pub. Resources Code § 21080.3.1 (b)

⁶ Pub. Resources Code § 21080.3.2 (a)

⁷ Pub. Resources Code § 21080.3.2 (a)

⁸ Pub. Resources Code § 21082.3 (c)(1)

⁹ Pub. Resources Code § 21082.3 (b)

¹⁰ Pub. Resources Code § 21080.3.2 (b)

¹¹ Pub. Resources Code § 21082.3 (a)

¹² Pub. Resources Code § 21082.3 (e)

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹³

This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor’s Office of Planning and Research’s “Tribal Consultation Guidelines,” which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a “Tribal Consultation List.” If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**¹⁴
- There is no Statutory Time Limit on Tribal Consultation under the law.
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,¹⁵ the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.¹⁶
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.¹⁷

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project’s APE.
 - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.

¹³ Pub. Resources Code § 21082.3 (d)

¹⁴ (Gov. Code § 65352.3 (a)(2)).

¹⁵ pursuant to Gov. Code section 65040.2,

¹⁶ (Gov. Code § 65352.3 (b)).

¹⁷ (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.¹⁸
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.¹⁹

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁰ In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

¹⁸ (Civ. Code § 815.3 (c)).

¹⁹ (Pub. Resources Code § 5097.991).

²⁰ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

From: [Cerezo, Melissa](#)
To: [Debby Fernandez](#)
Cc: [Michael Liw](#); [plan.review](#)
Subject: VTA Comments on DEIR/TIA for 3625 Peterson Way [SC1805]
Date: Wednesday, April 15, 2020 4:49:22 PM
Attachments: [image001.png](#)

Dear Debby,

VTA has reviewed the Draft Environmental Impact Report (DEIR) and Transportation Impact Analysis (TIA) for the proposed 676,310 square feet of office space and 13,370 square feet of amenity space, replacing an existing 218,375-square foot light-industrial building at 3625 Peterson Way in Santa Clara. VTA has the following comments.

Pedestrian and Bicycle Accommodations

VTA supports bicycling as an important transportation mode and thus supports the provision of 115 bicycle parking spaces (180 long-term and 60 short-term spaces), exceeding the City's bicycle parking requirement.

Congestion Management Program (CMP) Intersection Impacts

The TIA notes that the addition of project-generated traffic to the following CMP intersections, Bowers/Scott (AM and PM Peak), San Tomas/Scott (PM Peak), San Tomas/Monroe (PM Peak), and Oakmead-Corvin/Central (AM and PM Peak), will have a significant impact under Background Plus Project Conditions. The TIA makes recommendations for mitigating impacts at these intersections by identifying specific improvements from the Comprehensive County Expressway Planning Study for fair-share contributions. VTA recommends that the City and Project sponsor coordinate with the County of Santa Clara on those proposed improvements identified in the TIA, and that such improvements are consistent with the County's policies on bicycle and pedestrian accommodations.

Transportation Demand Management (TDM) and Trip Reduction

The DEIR/TIA assumes a 5% TDM Reduction. Section 8.2.1.2 of the *VTA TIA Guidelines* include procedures for claiming a TDM reduction in a TIA, and provides the list of financial incentives that would make a project eligible for such a reduction, which include the following (p. 35):

- Transportation allowance for alternative modes to driving alone
- Parking cash-out
- Pre-tax commuter benefits for biking, carpooling, vanpooling, and using transit
- Transit subsidies, such free transit passes or transit fare incentives

Further, the 5% reduction requires that the financial subsidy be offered to "all employees of the development on an ongoing basis" (TIA Guidelines, p. 35). The DEIR notes that "incentives for alternative modes for transportation (e.g., a pre-tax Clipper Card benefit for transit)" would be included as part of the TDM Plan (DEIR, p. 79). VTA recommends that this incentive is provided to all employees of the project on an ongoing basis as a Condition of Approval.

Thank you for the opportunity to comment. If you have any questions, please reach out to me directly.

Sincerely,
Melissa

Melissa R. Cerezo, AICP
Senior Transportation Planner
She/Her

Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San Jose, CA 95134-1927
WFH Cell: 408-780-8110 (call/text)
Phone **408-321-7572**





File: 33724
Calabazas Creek

April 15, 2020

Ms. Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: Draft Environmental Impact Report (DEIR) for two eight story office buildings at 3625 Peterson Way (APN: 216-30-049).

Dear Ms. Fernandez:

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed office buildings at 3625 Peterson Way, received on February 28, 2020, and has the following comments:

- 1) The DEIR Water Supply Assessment (WSA-Appendix G) notes that recycled water is adjacent to the site, but the WSA and DEIR never explicitly say that recycled water will be used for landscaping and other appropriate uses for the project. The project should be served by recycled water.
- 2) Valley Water records indicate six (6) destroyed wells located on the current property. Because the wells are considered properly destroyed, no action is necessary to protect them or to bring them into compliance with the District Well Ordinance. While Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water's records. If previously unknown wells are found on the subject property during development, they must be properly destroyed under permit from Valley Water or registered with Valley Water and protected from damage. To protect groundwater quality and in accordance with Valley Water Well Ordinance 90-1, all existing wells affected by redevelopment of the site need to be identified and properly registered with Valley Water and either be maintained or destroyed in accordance with the Valley Water's standards. Destruction of any well and the construction of any new wells proposed, including monitoring wells, requires a permit from Valley Water prior to construction. Property owners or their representative should contact the Valley Water Wells and Water Measurement Unit at (408) 630-2660, for more information.
- 3) According to the Federal Emergency Management Agency's current Flood Insurance Rate Map No. 06085C0063H effective May 18, 2009, the site is in Zone X, areas with a 0.2 % chance of flooding, outside the regulated flood plain area.



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April 15, 2020

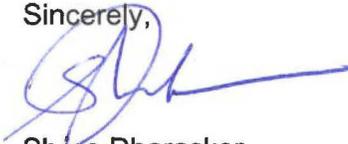
Ms. Debby Fernandez, Associate Planner
City of Santa Clara Planning Division

- 4) Valley Water does not have any facilities or right of way within and adjacent to the project site; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the project.

Please provide a copy of the Final Environmental Impact Report (FEIR) to Valley Water when available for public review.

If you have any questions, or need further information, you can reach me at (408) 630-3037, or by e-mail at sdharasker@valleywater.org. Please reference Valley Water File No. 33724 on future correspondence regarding this project.

Sincerely,



Shree Dharasker
Associate Engineer-Civil
Community Projects Review Unit

cc: U. Chatwani, C. Haggarty, S. Dharasker, M. Richert, M. Martin, File