

STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

## NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department  
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PLANNING DIVISION

April 25, 2017

Rosemarie Zuleta  
 City of Sunnyvale  
 456 W. Olive Ave.  
 Sunnyvale, CA 94088

RE: SCH # 2017032076 2016-7293 Mixed Income Transit Oriented Housing, Santa Clara Count

Dear Ms. Zuleta:

The Native American Heritage Commission (NAHC) has reviewed the Negative Declaration (ND) Mitigated Negative Declaration (MND) prepared for the project referenced above. The review included the Project Description/Introduction, the Project Summary, the Initial Study/ Environmental Checklist Section 3.5 Cultural Resources, and Appendix B Cultural Resources Survey, prepared for the City of Anaheim. We have the following concerns:

- There is no Tribal Cultural Resources section or subsection in the Executive Summary as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form,"
- 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 any evidence of what to do for inadvertent finds of Native American remains in accordance with Health and Safety Code 7050.5

The California Environmental Quality Act (CEQA)<sup>1</sup>, 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.<sup>2</sup> 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.<sup>3</sup> 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).<sup>4</sup> **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."<sup>5</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>6</sup> 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 1966<sup>8</sup> 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 Consultation 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](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.

<sup>1</sup> Pub. Resources Code § 21000 et seq.

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

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

<sup>4</sup> Government Code 65352.3

<sup>5</sup> Pub. Resources Code § 21074

<sup>6</sup> Pub. Resources Code § 21084.2

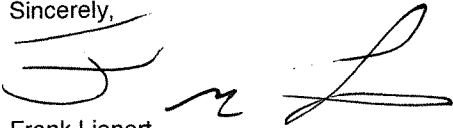
<sup>7</sup> Pub. Resources Code § 21084.3 (a)

<sup>8</sup> 154 U.S.C. 300101, 36 C.F.R. § 800 et seq.

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.

Please contact me at [frank.lienert@nahc.ca.gov](mailto:frank.lienert@nahc.ca.gov) or call (916) 373-3710 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Lienert', with a stylized flourish at the end.

Frank Lienert  
Associate Governmental Program 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,<sup>9</sup> 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).<sup>10</sup>

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.

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.<sup>12</sup>

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.<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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.<sup>16</sup>

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).

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

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code 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.<sup>18</sup>

***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.

<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)

<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>14</sup> Pub. Resources Code § 21082.3 (b)

<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>16</sup> Pub. Resources Code § 21082.3 (a)

<sup>17</sup> Pub. Resources Code § 21082.3 (e)

<sup>18</sup> Pub. Resources Code § 21082.3 (d)

- 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](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.**<sup>19</sup>
- **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,<sup>20</sup> 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.<sup>21</sup>
- **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.<sup>22</sup>

#### **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](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.
- 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.<sup>23</sup>
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>24</sup>

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

<sup>19</sup> (Gov. Code § 65352.3 (a)(2)).

<sup>20</sup> pursuant to Gov. Code section 65040.2,

<sup>21</sup> (Gov. Code § 65352.3 (b)).

<sup>22</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

<sup>23</sup> (Civ. Code § 815.3 (c)).

<sup>24</sup> (Pub. Resources Code § 5097.991).

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>25</sup> 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.

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<sup>25</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).



May 16, 2017

City of Sunnyvale  
Planning Division  
P.O. Box 3707  
Sunnyvale, CA 94088-3707

Attention: Rosemarie Zulueta

Subject: Atria

Dear Ms. Zulueta:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the site plans for replacement of a closed mobile home park with 108 residential units at 1008 El Camino Real, east of Poplar Avenue. The site plans were provided by Jay Coles of St. Anton Communities. We have the following comments.

Land Use

VTA supports the proposed land use intensification on this site, directly served by VTA Local Bus Line 22 and within 2000 feet of a VTA Rapid 522 stop, which VTA is planning to upgrade to Bus Rapid Transit (BRT) service in the future. Additionally, the addition of residential units within close proximity to the existing numerous shops, restaurants, and services nearby will increase opportunities for daily tasks to be accomplished by walking and biking, thereby incrementally reducing automobile trips and greenhouse gas emissions generated by the project.

This location is identified as a Corridor in VTA's Community Design & Transportation (CDT) Program Cores, Corridors and Station Areas framework, which shows VTA and local jurisdiction priorities for supporting concentrated development in the County. The CDT Program was developed through an extensive community outreach strategy in partnership with VTA Member Agencies, and was endorsed by all 15 Santa Clara County cities and the county.

Pedestrian and Bicycle Accommodations

VTA commends the developer for proposing upgrades to the existing pedestrian frontage along El Camino. The existing frontage along El Camino Real consists of approximately 5-foot attached sidewalks with no buffer strip. The proposed 15-foot setback along El Camino Real will provide a high quality walkable environment with a street tree buffer and planned active uses along the ground floor of the development. VTA also supports the frontage improvements along Poplar Avenue, including a wider sidewalk and proposed street tree buffer. These uses will encourage greater trips by walking, and improve access to transit. The site plan clearly displays



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the internal circulation network for pedestrian connections including secondary site access from Poplar Avenue for residents.

VTA supports bicycling as an important transportation mode and thus commends the developer for designing a project with high quality bicycle features, including short term bike racks, a bike wash station, bike lounge, tool station, elevator access for bicycles in the lobby and Class II long term bike parking for residents. It is unclear on the site plan where the long term bike parking will specifically be located and how many spaces will be provided; VTA suggests clarifying this in the site plan and project description. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from <http://www.vta.org/bikeprogram>.

#### Site Design

VTA is encouraged by many of the site design elements, including locating the building closer to the street, ground floor transparency along El Camino Real, reduction of curb cuts from two to one along El Camino and provisions for below ground parking. VTA looks forward to continuing its review of the project, in coordination with the developer and the City of Sunnyvale through its development review process, and recommends retaining these pedestrian and transit-supportive elements in the final site plan.

#### Transportation Demand Management (TDM) and Trip Reductions

In order to reduce the number of single occupant vehicle trips generated by the project, VTA recommends that the City and project sponsor consider a comprehensive Transportation Demand Management (TDM) program. VTA notes that such programs can be more effective when they include a vehicle trip reduction target, third-party monitoring of trip generation upon project completion and a Lead Agency enforcement/penalty structure. The project description explains that the developer is seeking a minor reduction in parking compared to the City of Sunnyvale parking requirements due to the number of low-income units provided by the development. To further enhance and support this effort VTA recommends the following effective TDM programs:

- \* Parking pricing, unbundled parking or parking cash-out programs
- \* Transit fare incentives such as free or discounted transit passes on a continuing basis
- \* Bicycle lockers and bicycle racks (proposed in development)
- \* Preferentially located carpool parking
- \* Parking for car-sharing vehicles

#### Bus Service

VTA provides bus service on El Camino and maintains a bus stop adjacent to the project site. VTA recommends that the project include the following improvements for the bus stop:

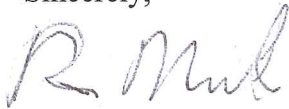
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- Install a 12'x75' PCC bus stop pavement pad with monolithic curb
- Provide a minimum 120' of parking restriction (red curb)
- Passenger pad (sidewalk) should be clear of any physical obstructions (i.e., tree wells should be located a minimum of 8' behind the curb at the bus stop)
- Replace the existing bus bench with a new bench and/or bus shelter
- Provide real-time transit information (e.g., Digital Bus Stop)

VTa has a Bus Stop Placement, Closures, and Relocation Policy. Prior to any construction or bus stop impact, please contact [bus.stop@vta.org](mailto:bus.stop@vta.org)

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,



Roy Molseed  
Senior Environmental Planner

cc: Jay Coles, St. Anton Communities

SU1704



**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4

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*Making Conservation  
a California Way of Life.*

June 2, 2017

04-SCL-2017-00174

SCL/82/PM 14.88

SCH# 2017032076

Ms. Rosemarie Zulueta  
Planning Division  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94088

Dear Ms. Zulueta:

**1008 E. El Camino Real/1314-1320 Poplar Avenue Mixed Income Transit Oriented  
Housing – Mitigated Negative Declaration**

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), Caltrans new mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans Strategic Management Plan aims to reduce vehicle miles traveled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Mitigated Negative Declaration (MND).

***Project Understanding***

This project is located on SR 82 (El Camino Real) in the southeast quadrant of the SR 82/Poplar Avenue intersection, between Poplar Avenue and Henderson Avenue. The project is situated within the El Camino Real Corridor Priority Development Area (PDA). The proposed project will replace an existing 44-unit mobile home park (30 occupied units) with a 108-unit apartment complex (one five-story building). This is an urban infill transit oriented housing development with 20 percent of units to be affordable to very low income households.

The site can be accessed by two existing driveways, one on Poplar Avenue and one on SR 82. Both driveways are unsignalized and the one located on SR 82 is restricted to right-in and right-out movement. The proposed project is providing 168 parking spaces combined, but 192 parking spaces are required. The proposed project is providing 24 less parking spaces than required, with the deficit being all unassigned parking spaces.

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Pedestrians can access the site by utilizing existing sidewalks on SR 82 and Poplar Avenue. These sidewalks connect to internal pedestrian pathways that circulate around the entire site. Bicycle pathways will be shared with the pedestrian pathways. A bicycle lounge is proposed, along with short-term bicycle parking (4 parking spaces). Additional bicycle storage is located below street level with access on the northeast and southeast corners of the site. The City of Sunnyvale (City) requires one secure bicycle parking space for every 4 residential units. This equates to 27 bicycle parking spaces. The proposed project provides a total of 96 bicycle parking spaces.

### ***Lead Agency***

As the lead agency, the City is responsible for all project mitigation, including any needed improvements to the STN and for VMT reduction. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

### ***Vehicle Trip Reduction***

Caltrans commends the City on providing affordable transit oriented housing and proposing fewer parking spaces than are required under the Sunnyvale Municipal Code (i.e., 169 parking spaces, instead of 192 spaces), thereby reducing vehicle trips and VMT. However, Caltrans recommends a further reduction in parking spaces, given the project's location in a close-in corridor with mixed-use development and frequent bus service. A reduced parking supply can encourage use of active transportation and transit, which can decrease VMT and reduce impacts to the STN.

To further reduce VMT, Caltrans recommends the project include:

- Membership in a transportation management association (TMA).
- Transit subsidies and/or EcoPasses on a permanent basis to all residents.
- Transit and trip planning resources.
- Bicycles for residents to access nearby destinations.
- Showers, changing rooms and clothing lockers.
- Fix-it bicycle repair station(s).
- Transportation and commute information kiosk.
- Kick-off commuter event at full occupancy.
- Bicycle route mapping resources.
- Decreased headway times and improved way-finding on bus lines Route 22 and Route 522 by working with the Santa Clara Valley Transportation Authority (VTA) to provide a better connection between the project, the Santa Clara Transit Center, and regional destinations.

Transportation Demand Management (TDM) programs should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan. Reducing parking supply can encourage active forms of



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transportation, reduce regional VMT, and lessen future transportation impacts on SR 82 and other nearby State facilities.

### ***SR 82/Poplar Avenue Intersection Operations***

Caltrans is concerned with the ability to contain left turning vehicles within the available storage at the intersection of SR 82/Poplar Avenue. A spillover of vehicles has the potential to create significant speed differentials and increase the number of conflicts. Another concern is the potential for queuing vehicles to encroach up on the upstream intersection, again creating the potential for significant conflict. The California Environmental Quality Act (CEQA) does not exempt these types of operational concerns from evaluation. The project should provide effective mitigation to eliminate the queuing back-up at this intersection. Caltrans recommends extending the left-turn pockets on SR 82 as one effective mitigation measure to address the queuing.

### ***Transportation Impact Fees***

Please estimate the costs of any public transportation improvements necessitated by the proposed project; viable funding sources such as development, transportation impact fees, and the VTA's latest Valley Transportation Plan (VTP) should also be identified. Caltrans encourages a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. Also, Caltrans strongly supports measures to increase sustainable mode shares, thereby reducing VMT.

### ***Cultural Resources***

Under Section 23. Historical and Cultural Resources on page 15, Mitigation Measures 1 and 2 should be included as part of the identification of historical resources and Tribal Cultural Resources to support the conclusions of the Initial Study. Caltrans recommends that the City have a field survey conducted of the project area by a qualified archaeologist and a qualified architectural historian. Additionally, pursuant to CEQA and Assembly Bill (AB) 52, Caltrans recommends that the City conduct Native American consultation with tribes, groups, and individuals who are interested in the project area and may have knowledge of Tribal Cultural Resources, Traditional Cultural Properties, or other sacred sites.

If an encroachment permit is needed for work within Caltrans right-of-way (ROW), Caltrans may require cultural resource technical studies be prepared in compliance with CEQA, Public Resources Code (PRC) 5024, and the Caltrans Standard Environmental Reference (SER) Chapter 2 (<http://www.dot.ca.gov/ser/vol2/vol2.htm>). Should ground-disturbing activities take place within Caltrans ROW and there is an inadvertent archaeological or burial discovery, in compliance with CEQA, PRC 5024.5, and the SER, all construction within 60 feet of the find shall cease and the Caltrans District 4 Office of Cultural Resource Studies (OCRS) shall be immediately contacted at (510) 622-1673.

### ***Traffic Control Plan***

A Caltrans-approved Traffic Control Plan (TCP) is required to avoid project-related impacts to the STN, if it is anticipated that vehicular, bicycle, and pedestrian traffic will be impacted during the construction of the proposed project requiring traffic restrictions and detours. The TCP must also comply with the requirements of corresponding jurisdictions.

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In addition, pedestrian access through the construction zone must be in accordance with the Americans with Disabilities Act (ADA) regulations (see Caltrans *Temporary Pedestrian Facilities Handbook* for maintaining pedestrian access and meeting ADA requirements during construction at:

[www.dot.ca.gov/hq/construc/safety/Temporary\\_Pedestrian\\_Facilities\\_Handbook.pdf](http://www.dot.ca.gov/hq/construc/safety/Temporary_Pedestrian_Facilities_Handbook.pdf)) (see also Caltrans Traffic Operations Policy Directive 11-01 "Accommodating Bicyclists in Temporary Traffic Control Zones" at: [www.dot.ca.gov/traffcop/policy/11-01.pdf](http://www.dot.ca.gov/traffcop/policy/11-01.pdf)). All curb ramps and pedestrian facilities located within the limits of the project are required to be brought up to current ADA standards as part of this project.

For further TCP assistance, please contact the Caltrans District 4 Office of Traffic Management Operations at (510) 286-4579. Further transportation management information is available at the following website: [www.dot.ca.gov/hq/traffops/trafigmt/tmp\\_lcs/index.htm](http://www.dot.ca.gov/hq/traffops/trafigmt/tmp_lcs/index.htm).

### ***Encroachment Permit***

Please be advised that any ingress-egress, work (e.g., construction, vegetation management, drainage improvement, etc.), staging, storage, or traffic control that is conducted within or adjacent to or encroaches upon the State ROW requires an encroachment permit that is issued by Caltrans. Where construction related traffic restrictions and detours affect the STN, a TMP or construction Transportation Impact Analysis (TIA) may be required. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process.

To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW as well as any applicable specifications, calculations, maps, etc. must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. It is important to note that, in order to uphold the Caltrans statutory responsibility to protect the safety of the traveling public, if this information is not adequately provided, then a permit will not be issued for said encroachments. See the following website for more information:

<http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Ms. Rosemarie Zulueta/City of Sunnyvale  
June 2, 2017  
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Should you have any questions regarding this letter, please contact Brian Ashurst at (510) 286-5505 or [brian.ashurst@dot.ca.gov](mailto:brian.ashurst@dot.ca.gov).

Sincerely,



PATRICIA MAURICE  
District Branch Chief  
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse – electronic copy  
Robert Swierk, VTA – electronic copy