

AB 52 Consultation – Meeting Summary
(File No: MP22-011/ER24-212)

September 20, 2024

Tamien Nation
Chairwoman Quirina Luna Geary
PO Box 8053
San José, CA 95155
Qgeary@tamien.org

Johnathan Costillas
Tribal Cultural Resource Officer
PO Box 866
Clearlake Oaks, CA 95423
Jcostillas@tamien.org

Sent via email only, as requested.

Dear Ms. Geary and Mr. Costillas,

On September 19, 2024, the City of San José and the Tamien Nation met to consult as required under AB 52 on the following project:

Project File Nos.:	MP22-011/ER24-212
Project Location:	525 N. Capitol Avenue, San José; APN 254-91-004
Project Description:	The site is a fenced, active construction site and contains a centrally located concrete building slab, with the remainder of the site undeveloped. The proposed project would consist of demolition of that existing concrete slab and subsequent development of a five-story, 142,700-square-foot (sf) apartment building, comprised of 160 housing units, various amenities, and areas for parking. This is a 100 percent affordable housing project.
Project Applicant	City of San José
Project Point of Contact	Reema Mahamood, Environmental Project Manager reema.mahamood@sanjoseca.gov (408) 535-6872

The presentation shared at the consultation meeting is attached to this letter. At the meeting Chairwoman Geary agreed with the City's determination that because previous cultural resources assessments for sites in the project area recommended construction monitoring, the City would include the following measures:

Mitigation Measure TR-1: Tribal Cultural Resources Awareness Training.

Prior to issuance of any demolition or grading permits, whichever occurs first, the City shall be required to submit evidence that Cultural Awareness Training has been provided to construction personnel prior to ground disturbance. The training shall be facilitated by a qualified project archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission 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. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Mitigation Measure TR-2: Archaeological and Native American Monitoring.

A qualified Native American Monitor, 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, in Mitigation Measure TR-1: Tribal Cultural Resources Awareness Training, shall be engaged to be present during all ground disturbing activities. An archaeological monitor will also be engaged to be present during all ground disturbing activities to ensure that no subsurface archaeological resources are impacted.

Mitigation Measure TR-3: Notification of Finds.

If tribal cultural resources are encountered during ground disturbance of the site, the City shall notify the Tribes who have requested consultation on this project of the discovery.

Because it is always possible for previously unknown subsurface Tribal resources to be unearthed during construction activities, the following Standard Permit Conditions will be required of the project:

- a. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission 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 examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- b. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD).

The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- ii. The MLD identified fails to make a recommendation; or
- iii. The landowner or their authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Please let us know if you agree with the information provided above. If the City does not receive a response within 14 days, the City will presume that you agree with the above and have declined further consultation on this project.

Please contact me if you have any questions or need additional information.

Sincerely,

Reema Mahamood

Reema Mahamood
Planner III, Environmental Review Team
Department of PBCE, Planning Division

Attachment: Power Point Presentation

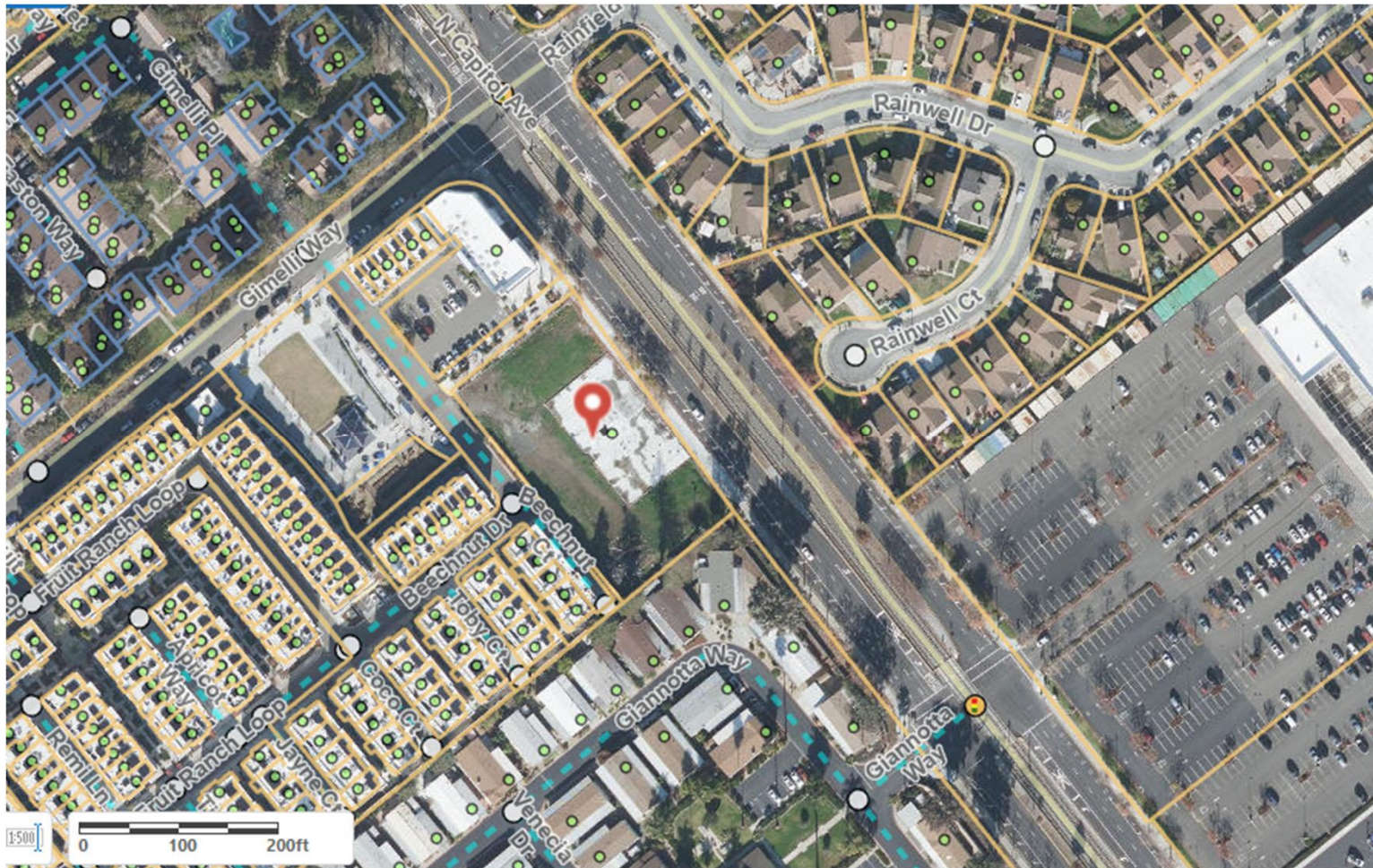
525 North Capitol Avenue
Affordable Housing Project
Presentation to Tamien Nation

525 North Capitol Avenue, San Jose

Planning File No. MP22-011

September 19, 2024

Site Location Map



Proposed Project

- Demolition of an existing concrete pad
- New construction of a 5-story mixed-use affordable housing project
- 160 affordable housing rental units
- 2,900 square feet of community-serving flex space
- 0.97 gross-acre site.

Previous Cultural Resources Assessment and Mitigation Measures

Previous Cultural Resources Assessment Summary

- No resources were identified in the project site area
- Construction monitoring by an archaeologist was recommended

The City will implement the following mitigation measures:

- Cultural sensitivity training for construction workers
- Construction period monitoring by a Tribal representative
- Notification to Tamien Nation if resources are encountered



**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION**

Armando Quintero, Director

Julianne Polanco, State Historic Preservation Officer

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December 3, 2024

Refer to HUD_2024_1025_001

Reema Mahamood, Planner III
City of San Jose
200 E. Santa Clara Street, T-3
San Jose, CA 95113

Re: Request for Section 106 Review of HUD project: 525 North Capital Avenue Affordable Housing, San Jose, CA.

Dear Reema Mahamood:

The California State Historic Preservation Officer (SHPO) received the consultation submittal for the above referenced undertaking for our review and comment pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR Part 800. The regulations and advisory materials are located at www.achp.gov.

Undertaking

The applicant would redevelop the existing construction site that is on the project parcel and demolish the existing concrete slab. The new development would consist of a five-story, 142,700-square-foot apartment building consisting of 158 affordable housing units and two market rate units, amenities, and parking.

Area of Potential Effects (APE)

The City of San Jose has delineated the APE as the project site, APN# 254-91-004, plus a 200-foot area surrounding the project site.

- Pursuant to 36 CFR § 800.4(a)(1), I have no comments on the City of San Jose's APE.

Identification of Historic Properties

The City of San Jose's efforts to identify historic properties included a records search and consultation with Native Americans. The records search from Northwest Information Center indicated that no archaeological or built environment sites have been previously recorded within the project's APE.

Tribal Consultation

A Sacred Lands File records search conducted by the Native American Heritage Commission was negative. The City requested formal consultation on August 5, 2022 with the Tribes that have a current or ancestral interest in the project area. The Amah Mutsun Tribal Band of Mission San Juan Bautista and Tamien Nation requested consultation. The Amah Mutsun Tribal Band of Mission San Juan Bautista agreed with the City's requirement of the standard Permit Conditions of Approval. Tamien Nation agreed with the City's requirement to also include the following Mitigation Measures: cultural awareness shall be provided to construction personnel prior to work commencing, a Native American monitor shall be present during ground-disturbing activity, and the City shall notify Tribes who requested consultation on this undertaking if cultural resources are discovered during ground-disturbing activities.

Finding of Effect

- Pursuant to 36 CFR § 800.5(b), the City of San Jose has made a finding of No Adverse Effect, with protection measures and monitoring as conditions. **I do not object.**

We appreciate the City of San Jose's efforts to comply with Section 106 of the National Historic Preservation Act. Please be advised that under certain circumstances such as unanticipated discovery or change in project description the City of San Jose may have additional future responsibilities for this undertaking under 36 CFR Part 800. If you have questions please contact Dr. Susan Negrete, State Historian II, with the Local Government & Environmental Compliance Unit at susan.negrete@parks.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Julianne Polanco', with a long horizontal line extending to the right.

Julianne Polanco
State Historic Preservation Officer

Cc: reema.mahamood@sanjoseca.gov