

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT NEW SIXTH APPELLATE DISTRICT COURTHOUSE

DATE: April 9, 2024
TO: Responsible and Trustee Agencies, Interested Parties, and Organizations
SUBJECT: Notice of Preparation of an Environmental Impact Report for the New Sixth Appellate District Courthouse

The Judicial Council of California (Judicial Council) will be the lead agency and will prepare an Environmental Impact Report (“EIR”) compliant with the California Environmental Quality Act (“CEQA”) for the proposed New Sixth Appellate District Courthouse (also referred to as “the Project” or the “the proposed Project”). An Initial Study has been completed which determined an EIR will be prepared for this Project (CEQA Guidelines Section 15063[a]); the findings of the Initial Study will inform the EIR analysis. In accordance with Section 15082 of the CEQA Guidelines, this Notice of Preparation (“NOP”) provides the Project location, a brief Project description, and a summary of the potential environmental impacts of the proposed Project.

The purpose of this NOP is to provide an opportunity to comment on the scope and proposed content of the EIR. The Judicial Council invites responsible and trustee agencies to provide information relevant to the analysis of environmental resources falling within the jurisdiction of such agencies. Specifically, input is requested on:

1. **Scope of Environmental Analysis** – guidance on the scope of analysis for this EIR, including identification of specific issues that will require closer study due to the location, scale, and character of the Project;
2. **Mitigation Measures** – ideas for feasible mitigation, including mitigation that would avoid or reduce potentially significant impacts to environmental resources; and
3. **Alternatives** – suggestions for alternatives to the proposed Project that could potentially reduce or avoid potentially significant or significant impacts.

As outlined in CEQA Guidelines Section 15082(b), each responsible and trustee agency must identify specific environmental issues, alternatives, and mitigation measures that should be explored in the EIR. If there is no response in 30 days, the Judicial Council will assume that there are no specific environmental issues, alternatives, or mitigation measures other than those identified in this NOP that the responsible and trustee agencies believe should be incorporated into the EIR.

Members of the public may provide input as well.

WRITTEN COMMENTS ON THE NOTICE OF PREPARATION

Please provide your written comments by May 9, 2024. Comments, along with the name and contact information of the appropriate person in your organization or the individual’s contact information, should be addressed to:

Mitch Vaccari, Judicial Council Project Manager
Judicial Council of California; Facilities Services
2860 Gateway Oaks Drive, Suite 400, Sacramento, CA 95833
916-643-6959
mitch.vaccari-t@jud.ca.gov

Information related to this Project is available for review on the Judicial Council's website at: <https://www.courts.ca.gov/76092.htm>.

The Judicial Council will hold a public scoping meeting on **Wednesday April 17, 2024, from 4:30 p.m. to 6:00 p.m.** at the following location:

Sunnyvale City Hall
456 W. Olive Avenue
Sunnyvale, CA 94086

Parking: Limited parking is located in the underground parking garage with surplus parking in the surrounding surface lots on All America Way and Charles Street.

Meeting: First floor, Adler Room #154. Please check-in at the first floor reception desk and they will direct you to the room.

Information related to the proposed Project, including how to access the Project documents and how to participate in the public review process will be provided at the scoping meeting.

PROJECT LOCATION AND SURROUNDING LAND USES

The Judicial Council of California is proposing to construct a new courthouse for the Sixth Appellate District of the Court of Appeal ("Sixth Appellate District") on the site of the former Sunnyvale Courthouse located at 605 West El Camino Real in Sunnyvale, California ("City") (Exhibit 1). This location was previously used by the Superior Court of Santa Clara County for trial court operations and the State of California, on behalf of the Judicial Council, retains ownership.

The 2.03-acre Project site is situated within Accessor's Parcel Number 165-02-004, which is located north of West El Camino Real between Mathilda Avenue and Pastoria Avenue (Exhibit 2). The Project site is located within the "El Camino Real Specific Plan Area" of the City's General Plan.

While the Judicial Council is not subject to local land use regulations¹, the use of the property for the proposed Project is consistent with the City's El Camino Real Specific Plan ("ECRSP"). The Project Site is in the El Camino Real – Public Facilities ("ECR-PF") District. The ECR-PF zoning district is reserved for the construction, use and occupancy of governmental, public utility and educational buildings and facilities, and other uses compatible with the public character of the district and does not permit residential development. Chapter 19.36 of city of Sunnyvale Municipal Code ("SMC") pertains specifically to the ECRSP District wherein the Project site is located and contains no policies or regulations which would conflict with the Project. Per section 19.36.060 of the SMC, as a facility used by government agencies for government purposes, the Project is a permitted use in the ECR-PF zoning district. As noted above, the Judicial Council is not subject to local land use regulations, and the above information regarding the City's General Plan, Specific Plan, and zoning is presented for context.

The previously disturbed proposed Project site currently contains an existing 19,994 square foot ("SF"), single-story building with a partial basement which was constructed in 1967 (Exhibit 2). The Project site has ample onsite parking and is located within the City of Sunnyvale's Civic Center² with easy access to public transit and vehicle freeway infrastructure (Exhibit 3). This location was selected based on the Judicial Council's project objectives and needs, as well as a feasibility study completed in May 2022, which determined that the existing Superior Court building (the former Sunnyvale Courthouse) has surpassed its useful life and the renovation that would be necessary for reuse is cost prohibitive.

¹ A state agency is immune from local regulations unless the Legislature expressly waives immunity in a statute or the California Constitution. (City of Malibu v. Santa Monica Mountains Conservancy (2002) 98 Cal.App.4th 1379, 1383.)

² The Master Plan for the Civic Center was approved in September of 2018, and features the construction of three new facilities: City Hall, Public Safety Emergency Operations Center Addition, and a Library. These buildings would be situated on the northern half of the Civic Center.

Surrounding land is predominantly zoned for Commercial use and is moderately to densely developed with shopping centers, hotels, office buildings, and supporting commercial services. Residential uses are located nearby on secondary streets. This neighborhood and its infrastructure are suburban.

PROJECT DESCRIPTION

The Project proposes the demolition of an existing building and the construction of a new Courthouse with additional parking to locate the Sixth Appellate District in a more practical and accessible infill location. Since it was established in 1984, the Sixth Appellate District, has operated in 43,758 SF of leased space in the Comerica Bank Building, located at 333 West Santa Clara Street within downtown San Jose, California. In 2006, the Sixth Appellate District's lease that was managed by the California Department of General Services was assigned to the Judicial Council. The current lease expires in January 2029 and has a final extension option through January 2034. Over the last years in Santa Clara County, as part of the greater Silicon Valley, rental rates have increased while vacancy rates have decreased, suggesting that the Appellate District may have difficulty negotiating a new lease at their current location and will need to pay more with limited options for a new location.

The Sixth Appellate District's current space on the 10th and 11th floors of the Comerica Bank Building includes one courtroom with support spaces, justice chambers, attorney offices, mediation operations, clerk operations, a law library, and court administration. This space is not contiguous and is distributed between the two floors. Additionally, there is currently no on-site parking available for any court user including the public and court staff. Only a small number of spaces are available for the Justices and the court executive officer. Parking for the public and court staff is accommodated offsite through public pay lots and very limited street parking. Approximately 60 parking spaces is estimated to be needed for the public and court staff, which cannot be achieved at the current leased property. The Project will decrease the current impact on available parking locally by adding new parking for the court staff and the members of the public who use the court facilities. Existing operations have been confined to the dictated leased-space floor plate such that adjacencies required for effective operations have not been fully realized, space shortfall exists, and anticipated future growth cannot be accommodated.

The purpose of the proposed Project is to relocate the Sixth Appellate District to a new permanent state-owned facility and thus eliminate lease uncertainties and provide a location accessible to the public that can accommodate anticipated future growth and provide enhanced services to the public, thereby increasing access to justice.

PROPOSED FACILITIES

The proposed new Courthouse would be constructed with an up to 50,000 SF footprint in an up to three-story facility. The facility would be equipped with one courtroom with support spaces, justice chambers, administrative and operations areas, a law library, mediation area, lobby, public entry, and building support within the same general footprint as the existing building on the Project site (Exhibit 4).

The Project will include a designated parking zone with seventeen (17) secured parking spaces for justices with solar power generation capability and approximately sixty (60) surface parking spaces for the public and the staff.

ACCESS AND UTILITIES

Access to the new Courthouse parking area would be within the existing footprint. The existing vehicle entrance to the parking area is established off El Camino Real. The Project site is well served by Valley Transportation Authority bus stops. The Sunnyvale Transit Center is situated seven blocks to the northeast and contains bus stops with connections to CALTRAIN. The Project site is less than 2.5 miles east of the California State Route 85 ("CA-SR-85") and southeast of CA-SR-237. The United States ("US") 101 and US-237 highways are also located within three miles. This nearby public transportation

and roadway infrastructure connects the property to the surrounding facilities and neighborhood, thereby ensuring public accessibility to the Courthouse.

The Project site includes mature trees located at the perimeter of the property where a 25-foot vehicle setback naturally occurs. Trees line the west side of the Project site, providing shade and privacy. On the east side of the property, two groups of three trees are centered with the building. The building is fronted on El Camino Real, where asymmetrical tree groupings frame the existing courthouse entrance. Mature trees located within the Project site will be retained during construction.

The Project site is served by existing utilities that will be expanded to support the operation of the new Courthouse. Utility needs of the proposed Project would not substantially differ from those currently available on the Project site.

CONSTRUCTION

Prior to construction of the new 50,000 SF, and up to three-story, facility Courthouse and associated parking, preparation of the Project site would take place. Preparation of the Project site would require the demolition of the existing 19,994 SF one-story building and approximately 45,000 SF of existing parking and surfacing to build a new Courthouse within the 2.03-acre site. The parking lot contains an unused structure that will be demolished and resurfaced for additional parking space.

Construction is planned to begin December of 2025 through September of 2028. Construction laydown yards and temporary workspaces are proposed to be contained within the existing footprint of the Project site.

PROJECT OBJECTIVES

The Judicial Council has identified the following Project Objectives to guide planning for the Project site, as well as the analysis included in the EIR:

- Provide a permanent home for the Sixth Appellate District.
- Eliminate lease uncertainties and ongoing expensive and escalating lease costs.
- A 5-year Project duration from the date of appropriation.
- Connect with the Sunnyvale Civic Center and surrounding neighborhoods.

REQUIRED APPROVALS

Approvals required for the proposed Project may include, but are not necessarily limited to:

- Judicial Council of California – approval of the Project
- San Francisco Regional Water Control Board – Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES) General Construction Permit/ Stormwater Pollution Prevention Plan (SWPPP)

ENVIRONMENTAL REVIEW

As required by CEQA, the EIR will describe existing conditions and evaluate the potential environmental effects of the proposed New Sixth Appellate District Courthouse and a reasonable range of alternatives, including the no-project alternative. It will address direct, reasonably foreseeable indirect, cumulative, and growth-inducing effects. The EIR will identify feasible mitigation measures, if available, to reduce significant and potentially significant impacts.

Consistent with Section 15063 of the CEQA Guidelines an Initial Study has been prepared for the proposed Project. The Initial Study determined there will be either no impact or a less than significant impact associated with the following environmental factors, and they will not be brought forth for

discussion in the EIR unless new information requires further analysis: Agriculture and Forestry Resources, Energy, Land Use/Planning, Mineral Resources, Population/Housing, Public Services, Recreation, Utilities/Service Systems, and Wildfire.

POTENTIAL ENVIRONMENTAL IMPACTS

The following environmental topic areas are preliminary anticipated to be evaluated in the EIR:

- **Aesthetics, Light and Glare** – The EIR will describe the existing visual conditions and will evaluate the potential impacts on scenic resources and visual character that may result from development of the proposed Project, as well as impacts related to light and glare. With regards to potential impacts on scenic highways, according the “California Scenic Highway Mapping System,” there are no state scenic highways located adjacent to, or within view of, the Project site. The Project site is currently developed and contains no unique geologic features.
- **Air Quality** – The EIR will discuss the regional and local air quality setting and quantify air pollutant emissions for construction and subsequent operation of proposed uses. The emissions estimates will be derived in consideration of recommended methods and significance thresholds developed by the Bay Area Air Quality Management District, and the EIR will explain how methods and thresholds are designed to assess potential human health effects.
- **Biological Resources** – The EIR will define the biological resources in the Project site, identify any existing habitats, and evaluate the Project’s potential effects on wetlands, other sensitive natural communities, and special-status plant and animal species, if present. The EIR will consider applicable measures to avoid, minimize, and offset covered species. The Project site is located within a heavily urbanized area on land currently developed and so biological resource impacts are anticipated to be minimal. There are no wetlands located within or in the vicinity of the Project site and a review of the National Wetlands Inventory Wetlands Mapper and National Hydrography Dataset indicated no wetlands have been previously documented on or adjacent to the Project Site.
- **Cultural Resources** – The EIR will describe any existing Cultural Resources and evaluate potential impacts on those resources, including the potential to affect undiscovered resources during excavation and grading.
- **Geology, Soils, Minerals, and Paleontology** – The EIR will briefly describe the geological setting and potential environmental effects related to geologic and soils hazards, and unique paleontological (fossil) resources. This section will outline design measures, best management practices, and regulatory requirements to minimize impacts on people or structures from geologic and soil hazards. The EIR will also identify any potential impacts to undiscovered fossils. Deposits of regionally or locally important mineral resources are not present at the Project site.
- **Greenhouse Gas** – The EIR will include a description of the current science surrounding climate change. The EIR will quantify greenhouse gas (GHG) emissions for construction and subsequent operation of the proposed courthouse. Emissions estimates will be evaluated for consistency with the State legislative framework for reducing GHG emissions reductions.
- **Hazards and Hazardous Materials** – The EIR will briefly summarize hazards and hazardous materials issues and evaluate potential Project impacts arising from demolition of the current structure, which was built in 1967 and thus has potential for the presence of asbestos containing materials and lead based paint. Additionally, potential impacts of the Project site’s historic use for agricultural purposes, between at least 1939 and 1956, and thus potential for agricultural chemicals will also be discussed. The Project site is not located on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5. A Phase I ESA was completed for the Project in November 2023 and did not identify any recognized environmental conditions,

controlled recognized environmental conditions, or business environmental risks associated with the Project site. Two historical recognized environmental conditions (“HRECs”) were identified. However, no additional assessment was recommended for either of the HRECs identified based on the proximity and upgradient hydrologic positions of the sites to the Project site and the closed regulatory status of the cases. The EIR will briefly discuss potential impacts from the transport, use, or disposal of hazardous materials; accidental releases of hazardous materials; emissions of hazardous or acutely hazardous materials, substances, or waste near a K–12 school. The Project site is not located within an airport land use plan or within two miles of a public or private use airport and is not located within the wildfire hazard zone as specified by the California Department of Forestry and Fire Protection Fire Hazard Severity Zone Viewer. The nearest school to the Project Site is Little Tree Montessori International School of Sunnyvale, located approximately 0.24 mile to the northwest.

- **Hydrology and Water Quality** – The EIR will briefly discuss hydrologic and water quality conditions and potential short-term construction-related effects on water quality from stormwater runoff, as well as potential long-term operational effects on stormwater drainage volume, peak flows, and maintenance effects on water quality. The Project site is not located in a FEMA 100-year flood hazard zone. This section will outline design features and best management practices included to minimize hydrology and water quality effects.
- **Noise** – The EIR will describe existing noise and vibration conditions and the potential impacts of construction and operation of the proposed development. Noise and vibration levels from construction, and noise levels from operation of the courthouse and associated parking, will be estimated and compared with existing ambient noise levels.
- **Transportation** – The EIR will summarize an analysis of vehicle miles traveled (“VMT”) related impacts of the proposed Project and explain that adverse physical environmental impacts associated with VMT are included in the air quality, greenhouse gas emissions, and other relevant topic sections of the EIR. The proposed Project site plan will be evaluated for access and on-site circulation, including interface with the public roadway network, emergency vehicle access and circulation, and pedestrian and bicycle access and circulation within and adjacent to the site.
- **Tribal Cultural Resources** – The EIR will describe any known Tribal Cultural Resources and evaluate potential impacts on those resources, including the potential to affect undiscovered resources during excavation and grading. Pursuant to Assembly Bill 52 (Gatto, 2014), California Native American tribes who have formally requested notification from the Judicial Council regarding CEQA projects in this area will be notified that the Judicial Council proposes to undertake the Project. The Judicial Council will consult with such tribes, if requested, to identify whether the proposed Project may have significant impacts on Tribal Cultural Resources and, if so, whether avoidance or preservation in place is feasible, or whether culturally appropriate mitigation measures need to be included in the Project.



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Exhibit 1. Site Location

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- Project Site
- New Civic Center Facilities

Aerial basemap from Google (8/30/2023), Retrieved March 22nd, 2024.



Project Location City of Sunnyvale Santa Clara County, California	Prepared by MME on 2024-03-22 TR by SET on 2024-03-22 Rt by LM on 2024-03-22
Client/Project	185806281

Judicial Council of California
Court of Appeals New Sixth Appellate District
Figure No.
2

Title
Civic Center Facilities

Notes
 1. Coordinate System: NAD 1983 StatePlane California
 II FIPS 0403 Feet
 2. Data Sources: Stantec 2023, City of Sunnyvale, 2023
 3. Background: World Ocean Reference: Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS
 Tiled service layer: © OpenStreetMap (and) contributors, CC-BY-SA
 World Ocean Base: Esri, GEBCO, Garmin, NaturalVue

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Exhibit 2. Civic Center Facilities

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■ Project Site
■ Proposed Demolition

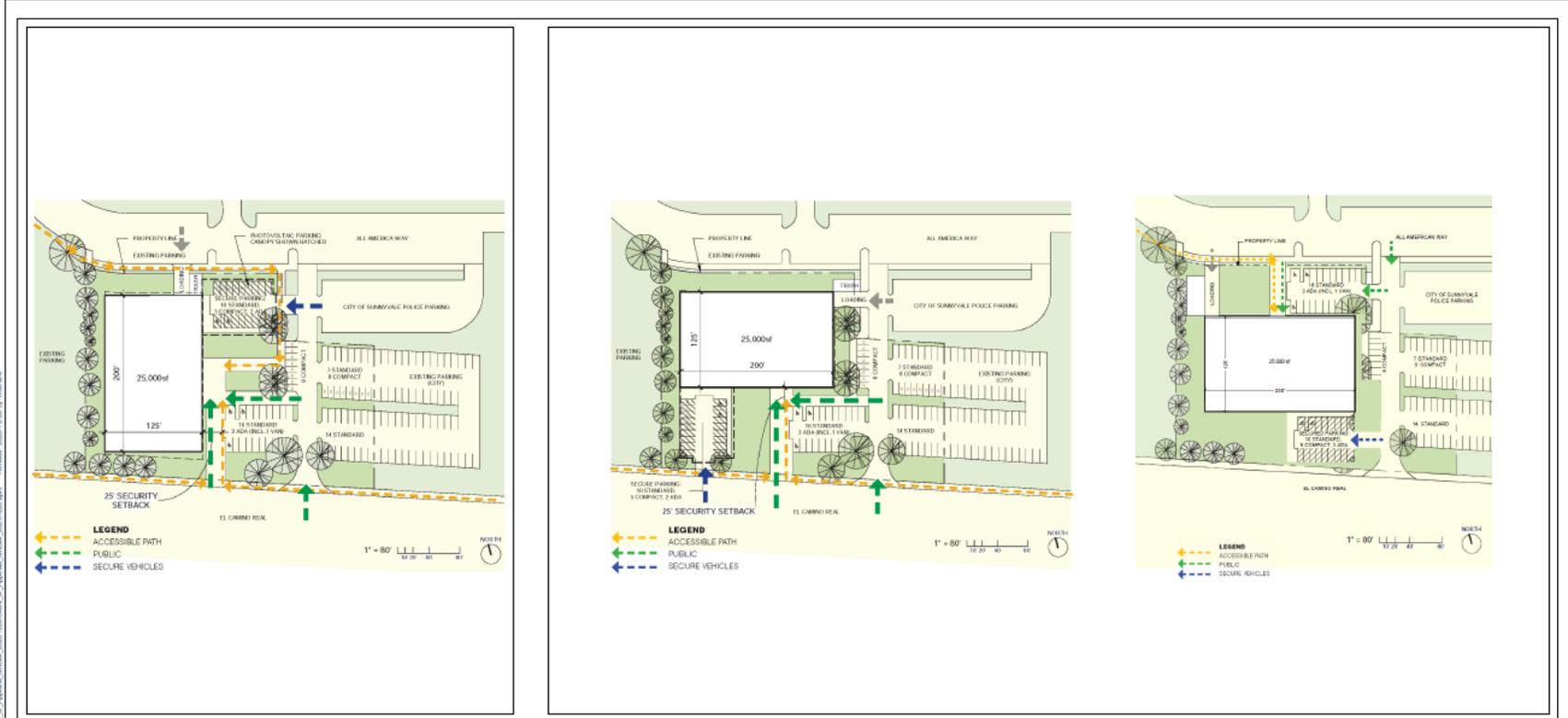



 Project Location: City of Sunnyvale, Santa Clara County, California
 Prepared by MMD on 2023-12-20
 TR by SET on 2023-12-20
 IR by LM on 2023-12-21
 Client/Project: 18506251
 Judicial Council of California
 Court of Appeals New Sixth Appellate District
 Figure No: 3
 Title: Proposed Demolition

Notes
 1. Coordinate System: NAD 1983 StatePlane California III FIPS 0403 Feet
 2. Data Sources: Stantec 2023, City of Sunnyvale, 2023
 3. Background: World Ocean Reference: Esri, Garmin, FAO, NOAA, USGS, EPA
 World Imagery: Maxar, Microsoft
 World Ocean Base: Esri, GEBCO, Garmin, NaturalVue

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Exhibit 3. Proposed Demolition



Note:
1. New Courthouse Feasibility Study (Final), Moore Ruble Yudof Architects, May 18, 2022.



Project Location: City of Sunnyvale, Santa Clara County, California
 Client/Project: Judicial Council of California, Court of Appeals New Sixth Appellate District
 Prepared by MMW on: 2023-12-20
 TR by SET on: 2023-12-20
 WJ by LM on: 2023-12-21
 185506291

Figure No.: 4
 Title: Proposed Courthouse Layouts

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Exhibit 4. Proposed Courthouse Layouts