

From: [Hill, Shannon](#)
To: [Elliott Schwimmer](#); [Hillary Gitelman](#); [Karl Heisler](#); [Linda S. Peters](#); [Meryka Dirks](#)
Cc: [Downtown West Project](#); [Keyon, David](#)
Subject: FW: Caltrain - Draft EIR Comment Letter
Date: Wednesday, December 9, 2020 8:17:34 AM
Attachments: [DTW DEIR Comment Letter \(Final\) 12-08-2020 esignmb.pdf](#)

Please refer to the attached comments on the DEIR from Aaron Akin, which includes comments on various chapters of the DEIR and the future DISC Concept Layout, sent on behalf of Caltrain.

Thanks,

Shannon Hill, Planner

Planning, Building & Code Enforcement | Environmental Review Section
City of San José | 200 East Santa Clara Street
Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

From: Aaron Akin <aakin@goodcityco.com>
Sent: Tuesday, December 8, 2020 5:14 PM
To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Subject: Draft EIR Comment Letter

[External Email]

Hi Shannon,

On behalf on Caltrain, please find the attached Draft EIR comment letter.

Thank you,

Aaron

--

Aaron Akin, AICP
Principal, Good City Company
(415) 845.8344

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



BOARD OF DIRECTORS 2020

DAVE PINE, CHAIR
DEVORA "DEV" DAVIS, VICE CHAIR
JEANNIE BRUINS
CINDY CHAVEZ
RON COLLINS
STEVE HEMINGER
CHARLES STONE
SHAMANN WALTON
MONIQUE ZMUDA

JIM HARTNETT
EXECUTIVE DIRECTOR

December 8, 2020

Shannon Hill, Planner III
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara Street, T-3
San Jose, CA. 95113

Delivered via email to: shannon.hill@sanjoseca.gov

RE: Downtown West (Google) Draft EIR Comments

Dear Ms. Hill:

Thank you for providing the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Downtown West Development (Google Project). Joint Powers Board staff (Caltrain) has reviewed the DEIR and associated development plans and provides the comments below for consideration. Please note that Caltrain may submit additional technical comments on the project itself outside the EIR process and looks forward to collaborating with the City, Google, and other stakeholders as the Google Project proceeds.

In general, Caltrain supports and recognizes the benefits of the proposed development, but respectfully requests consideration of the comments below:

Existing and Planned Transportation Facilities (Chapter 2)

As the City knows, a future reconstruction and expansion of Diridon Station is being planned as the Diridon Integrated Station Concept Plan (DISC Concept Plan) through the joint efforts of Caltrain, the City of San José, the Santa Clara Valley Transportation Authority (VTA), the California High-Speed Rail Authority (CHSRA), and the Metropolitan Transportation Commission (MTC). These "Partner Agencies" (except for MTC, who joined the Partnership in 2020) formed a public agency partnership via a Cooperative Agreement to develop the DISC Concept Plan in July 2018.

The Partner Agencies that entered into the partnership via the 2018 Cooperative Agreement (the City of San José, Caltrain, VTA, and CHSRA) mutually accepted a Concept Layout for the future Diridon Station in 2020 that defines a conceptual spatial layout for Diridon Station. The Concept Layout defines three guiding principles for the future Diridon Station:

- The station should be elevated.
- There should be station entrances at Santa Clara and San Fernando streets.
- Track approaches should generally stay within the existing northern and southern rail corridors.

Caltrain views Downtown West as integral to realizing the Partner Agencies' shared goals around the DISC program and greatly appreciates the ongoing coordination with the Downtown West development team.

Clarifications

In reviewing the Draft Environmental Impact Report (EIR) for Downtown West, Caltrain requests that the documents be updated to accurately represent the DISC effort and partnership:

The Project Description states that "the preferred Concept Layout is still preliminary" and "no dedicated funding is currently in place to construct the improvements." (p. 2-11). As stated above, the Partner Agencies mutually accepted the Concept Layout in 2020, and 100 million dollars of dedicated funding is included in Regional Measure 3's Expenditure Plan for Corridor-Specific Capital Projects for Diridon Station¹. The Partner Agencies request that the Downtown West EIR documents account for this information.

The Project Description lists BART as a DISC Partner Agency (p. 2-10); however, VTA represents BART in the DISC process. Also, MTC is not listed as a DISC Partner Agency (p. 2-10), but MTC joined the Partnership in 2020. The Partner Agencies request that the Downtown West EIR documents are updated to describe the partnership correctly throughout.

Better Account for Transit and DISC

The future Diridon Station will offer unparalleled regional access because of the convergence of multiple high-capacity transit modes, which, in turn, makes the surrounding area uniquely attractive for development. Accordingly, Caltrain requests that the Downtown West EIR documents more directly address transit generally and DISC specifically. Please update the Downtown West documents to support transit and DISC better per the recommendations below.

Downtown West should comply with the transit-supportive Goals and Policies of the Envision San José 2040 General Plan. For example, the following goal included in *Table 3.13-2 Land Use and Transportation Goals and Policies in the Envision San José 2040 General Plan* in section 3.13.2 Regulatory Framework of Downtown West's EIR (p. 3.13-21):

¹ https://mtc.ca.gov/sites/default/files/Final_RM3_Expenditure_Plan.pdf (accessed December 2nd, 2020)

- Goal TR-4 – Passenger Rail Service: Provide maximum opportunities for upgrading passenger rail service for faster and more frequent trains while making this improved service a positive asset to San José that is attractive, accessible, and safe.

Downtown West should also comply with the transit-supportive policies of the Envision San José 2040 General Plan², that are not included in *Table 3.13-2 Land Use and Transportation Goals and Policies in the Envision San José 2040 General Plan* in section 3.13.2 Regulatory Framework of Downtown West's EIR (p. 3.13-21):, including:

- Policy TR-3.5 – Work with the Valley Transportation Authority (VTA) and other public transit providers to increase transit frequency and service along major corridors and to major destinations like Downtown and North San José.
- Policy TR-4.2 – Work collaboratively with the California High-Speed Rail Authority to bring high-speed rail to San José in a timely manner.

In the Downtown West Design Standards and Guidelines (DWDSG), there are Mobility Objectives focused on creating walkable urban environments that encourage slow vehicle speeds (p. 237). Caltrain strongly supports walkable urban settings throughout the project site and designs that encourage slow vehicle speeds in most areas of the Project Site. Furthermore, Caltrain requests that the Downtown West project also encourage improved access, reliability, and speeds for transit – including transit-supportive design and by reserving space needed for transit. Accordingly, the Partner Agencies request that the Transportation Policies of the City of San José's General Plan³ (Chapter 6 - Land Use and Transportation, p. 37) mentioned above and the following Transportation Policies be included in *Table 3.13-2 Land Use and Transportation Goals and Policies in the Envision San José 2040 General Plan* in section 3.13.2 Regulatory Framework of Downtown West's EIR:

- Policy TR-1.8 – Actively coordinate with regional transportation, land use planning, and transit agencies to develop a transportation network with complementary land uses that encourage travel by bicycling, walking, and transit, and ensure that regional greenhouse gas emission standards are met.
- Policy TR-1.5 – Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Caltrain also requests that to be consistent with these General Plan Goals and Policies, a Mobility Objective be added in the DWDSGs to improve transit access, reliability, and speed and that Downtown West's EIR documents be updated to reflect this added Mobility Objective.

² <https://www.sanjoseca.gov/home/showpublisheddocument?id=22359> (accessed December 2nd, 2020)

³ ³ <https://www.sanjoseca.gov/home/showpublisheddocument?id=22359> (accessed December 2nd, 2020)

Account for the DISC Rail Alignment

While the Downtown West's development application, submitted in October 2019, accounted for space for the DISC rail alignment (represented by the hatching and notes included on *Figure 2.09 Illustrative Framework* of the development application⁴), Caltrain notes that *Figure 2.2: Downtown West Mixed-Use Plan* in the DWDSGs, which are part of Downtown West's Draft EIR, does not similarly account for space needed for DISC rail alignment. Caltrain requests that the City of San José and Downtown West continue to collaborate with the Partner Agencies to update the documents to account for the future DISC rail alignment by reserving adequate space for DISC rail alignment. This supports our shared goals for effective rail operations and feasible and high-quality station and development projects. It is critically important to reserve space for DISC rail alignment because heavy rail tracks are the least flexible element in a station design effort. Heavy rail lines can be brought to and through an urban environment in limited ways.

Caltrain supports the City's development goals and recognizes the City must make development decisions in the near term. Caltrain is also satisfied that an acceptable future rail envelope can be defined to allow for the advancement of near-term land-use decisions while also preserving the ability to deliver the DISC program in the future. However, without appropriate acknowledgment of, and accounting for, future rail needs, Caltrain is concerned that we cannot adequately assess the following:

- The DTW project's potential to prohibit Caltrain's Business Plan from being realized due to the build-out of the DTW project in conjunction with all adopted rail agency documents.
- The potential for future rail service disruption due to DTW construction.
- The potential for significant rail agency cost escalation due to the DTW build-out, which may jeopardize or delay the realization of DISC and adopted agency planning documents.
- The potential delay or down scoping of expanded rail facilities and services contemplated in DISC or other adopted rail plans. The potential for future community and land impacts as design and construction approaches are revised to address new space constraints. In other words, the construction of transit facility improvements contemplated in adopted documents may become much more difficult when proposed in a constrained space, resulting in additional impacts.

⁴ <https://www.sanJoseca.gov/home/showpublisheddocument?id=43691> (Accessed December 2nd, 2020)

Account for the Plazas included in the DISC Concept Layout

The DISC Concept Layout mutually accepted by Partner Agencies in 2020 also includes plazas that extend across Cahill Street. While the exact placement and size of the plazas are not finalized, they are intended to welcome people to Diridon Station and San José by being wayfinding gateways, right-sized stages for public life, and transition zones between travel and city life. *Figure 6.3: Street hierarchy by General Plan street typology* in the DWDSG (p. 245) proposes Cahill Street as a Local Connector, which prioritizes all modes equally and, accordingly, does not prioritize pedestrians. The Partner Agencies request that the typology for Cahill Street be updated in *Figure 6.3: Street hierarchy by General Plan street typology* in the DWDSG (p. 245) to a typology that reflects pedestrian priority to better phase for the plazas envisioned in the DISC Concept Layout. The Partner Agencies also request that the City of San José and Downtown West continue to collaborate with the Partner Agencies regarding Cahill Street's future, including decisions regarding typology assignment that reflects pedestrian priority and subsequent decisions regarding design and function of the street and adjacent development.

Account for DISC by accounting for Connections Across Tracks

Figure 2.8 Enhanced Connectivity Network in the DWDSG (p. 37) does not show all connections to adjacent neighborhoods that exist today and will be enhanced by DISC. The Partner Agencies request that all connections across the tracks that connect the Downtown West development to surrounding neighborhoods be shown in this diagram. Additionally, the documents should be accordingly updated to account for this change. The documents should show connections that exist today (e.g., San Fernando, San Carlos, and Julian streets) and the proposed enhancements when DISC is implemented, and the tracks are elevated.

Project Description (Chapter 2)

CEQA requires that an EIR describe the project's technical, economic, and environmental characteristics (Guidelines § 15124(c).) Although this EIR provides a conceptual land use plan that shows the general location of planned development (see Figure 2-3), the EIR provides no details about the specific orientation, location, size, or layout of physical structures proposed for construction. In other words, the EIR essentially provides an impacts envelope and worst-case-scenario environmental effects but does not provide specific details about the project description.

Unfortunately, without these details, Caltrain and other members of the public cannot fully understand the project's potential environmental effects. There is no way for Caltrain to determine whether structures will be oriented or clustered in a manner that will exacerbate effects on traffic, circulation, hydrology, utilities, or other aspects of the physical environment on Caltrain property or rail right-of-way. Without any specific

information about those activities' location and scope, it is difficult to determine the extent and severity of potential impacts to public transit infrastructure. It is also impossible to formulate realistic mitigation measures (e.g., tiebacks) to prevent or minimize potentially significant impacts from grading, excavation, shoring, or other subsurface construction activities.

According to the DEIR and process laid out by the City, further discretionary review is not required to construct buildings consistent with the plan and EIR. Consequently, there will be no additional opportunities for the public to review and understand potential impacts. Therefore, Caltrain respectfully requests that project-level details be added to the project description. This addition will allow Caltrain to comprehensively analyze potential impacts on Caltrain property, public transit infrastructure, and current and future rail operations.

Chapter 3: Land-Use

Caltrain requests responses to the following sections, most of which relate to the lack of a detailed project description and/or the need to address transit capacity.

3.0 – Land Use

CEQA guidelines state that an "EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans." The project description does not show setbacks or the precise location of the proposed residential development. It is therefore challenging to determine consistency with General Plan Policy CD-5.9, which requires the City to work with developers to "design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units" (See EIR at p. 3.9-38). The EIR should be revised to provide a more detailed and informative project description.

3.5 – Geology and Soils

The EIR concludes that "impacts of the proposed project related to unstable soils and their associated hazards would be less than significant" with the implementation of Mitigation Measure GE-3 ("Geotechnical Report"). (EIR at p. 3.5-24.) That report measures the preparation of grading and drainage plans for each proposed building or other improvements and is reviewed and approved by the City of San Jose's Director of Public Works. As noted above, this is a ministerial review, not a discretionary or public review process. Therefore, this future review does not allow neighboring property owners to review the grading or drainage plans. Also, there does not appear to be a process in place if an adjacent property owner determines the grading and drainage plans do not effectively mitigate potential impacts.

3.8 – Hydrology and Water Quality

The EIR concludes that the project will not substantially increase the rate or amount of surface runoff in a manner which would result in on-site or off-site flooding because "Mitigation Measures HY-1 and BI-1a [will] protect waterways and limit or minimize erosion, runoff, and/or siltation on-site or off-site." (See *the* analysis of Impact HY-3 at pp. 3.8-32 through 3.8-33.) These mitigation measures will undoubtedly help reduce the significance of impacts associated with pollutant discharges. Still, they do not provide specific design standards that mitigate incidental stormwater runoff or flooding at off-site locations (including the Caltrain right of way). We respectfully request that the EIR be revised to include additional mitigation measures that ensure all on-site stormwater runoff is channelized and directed away from sensitive infrastructure adjacent to the Project site.

3.10 – Noise and Vibration

General Plan Policy EC-2.1 requires noise impacts to be mitigated when new development is close to rail lines: "Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration-sensitive uses would not exceed these guidelines." (EIR p. 3.10-22.) Here, because the project description does not reveal the precise location of new buildings, it is impossible to determine the full severity of noise impacts and the full extent of mitigation required to address these impacts.

The EIR characterizes the impacts of rail lines on proposed residential development as a "non-CEQA significant impact." Consequently, due to the assumed non-applicability of CEQA to receptors introduced by the project, the EIR does not include the typical cumulative noise impact analysis. The noise technical report states: "cumulative non-CEQA noise and vibration impacts of future rail operations are speculative." We respectfully disagree that the impacts are too speculative to analyze. The EIR should use reasonable assumptions based on the DISC recommended concept layout to disclose the range of potential noise impacts on proposed developments and parks. This disclosure of the anticipated future noise environment adjacent to rail lines is integral to the appropriate local review of a project that will add 5,900 residential units to the study area. Relying on the City's interior noise standard for residential development to address the issue after the CEQA process is complete is not appropriate since the analysis at the final building permit review stage will not be subject to a public review process. The DEIR also does not address the issue of noise exposure outdoors in open space areas, parks, and balconies associated with the proposed development.

Chapter 3: Transit Capacity & Transportation Demand Management

3.1 – Air Quality

The project will implement Mitigation Measure AQ-2h: Enhanced Transportation Demand Management (TDM) Program to mitigate air quality impacts. (See *also* analysis of Impact AQ-2.) This mitigation measure will encourage individuals working and living at the Project site to utilize public transportation, including Caltrain's system. The EIR ultimately concludes that projected future Caltrain capacity will be sufficient to accommodate future Project users because increased ridership will not exceed Caltrain's comfortable crowding level of 135 percent of maximum capacity. Specifically, cumulative build-out levels, Caltrain's maximum will be 132 percent. (See Appendix J2 at pp. 139-140; see *also* EIR at pp. 3-13.33 through 3-13.35.).

The EIR must address the following two issues related to the 135% "comfortable crowding" level:

First, and most importantly, the 135% threshold is not an adopted Caltrain threshold or standard. While it has been used for certain illustrative planning purposes, it is not an appropriate measure in the context of an EIR. We request that City transportation staff and your consultant team work closely with Caltrain staff to determine the appropriate threshold to use within the EIR. When the appropriate threshold is selected, the TDM analysis should be revised to determine if Caltrain will have the capacity to support this development. Also, the Air Quality analysis, and any other technical analysis that relied on the TDM Program and 135% threshold, must be revised.

Secondly, historically, Caltrain ridership is not evenly distributed throughout the day or across all trains. The EIR analysis assumes the perfect spreading of demand across all peak trains. This spreading is an unrealistic assumption in practice, and Caltrain has documented that demand is typically not spread evenly. For example, in its March 2019 Business Plan, Caltrain showed that "Baby Bullet trains are usually beyond their seated capacities (averaging 115%), while Limited trains are typically near capacity (averaging 92%)." (Business Plan at p. 52.). As with the point above, we request that City Transportation staff and your consultant team work closely with Caltrain staff on this issue. The EIR's analysis should be refined to determine whether express trains can accommodate increased ridership after the cumulative Project build-out. This refined analysis will allow decision-makers and the general public to determine whether Mitigation Measure AQ-2h is feasible and whether additional mitigation is needed.

3.6 – Greenhouse Gas Emissions

To mitigate impacts associated with greenhouse gas emissions, the project will implement Mitigation Measure AQ-2h: Enhanced Transportation Demand Management Program. (EIR at p. 3.6-66.) As noted above in our comments regarding air quality impacts, it is unclear whether Caltrain will have sufficient capacity to accommodate

anticipated future ridership on express trains. Additional research is needed to determine the feasibility of this mitigation measure.

3.13 – Transportation

As noted above in our comments regarding air quality impacts and Greenhouse Gas Impacts, it is unclear whether Caltrain will have sufficient capacity to accommodate anticipated future ridership. Additional research is needed to determine the feasibility of this mitigation measure. (See EIR at pp. 3-13.33 through 3-13.35.)

Los Gatos Creek Bridge Replacement Mitigation Area

Caltrain's NOP comments noted that a compensatory mitigation site is located within the JPB right-of-way at the Los Gatos Creek Railroad Bridges. Residential development on Block H3 proposes buildings of up to 290 feet tall on this site, which may result in adverse impacts relating to shading of riparian vegetation. DEIR Appendix L: Shadows Analysis is focused on major parks and does not disclose the extent of shading on JPB's mitigation site or the Los Gatos riparian corridor. Section 3.2 of the DEIR identifies a significant adverse impact on riparian vegetation related to shading from new buildings. However, the discussion is very general, and the degree of impact to specific areas of the Los Gatos Creek riparian corridor cannot be ascertained. We request that the Appendix L shadow analysis be expanded to include a quantitative assessment of the extent of shadows on the JPB mitigation area during each analysis time period and how the shading would affect the riparian vegetation success. JPB is legally required by permit conditions to ensure the mitigation plantings remain successful.

Figure 2-7 of the DEIR shows parkland described as the "Los Gatos Creek Connector," and the text describes this as the location for a multi-use trail. However, no trail is shown in this location in Figure 2-7 adjacent to Block H3. Please clarify the intended use of the Los Gatos Creek Connector adjacent to Blocks H3 and H2 and whether a trail would be located in this area.

New Section 4(f) Parkland Properties

The Proposed Project includes creating several new public parks and recreational facilities adjacent to Caltrain property: Los Gatos Creek Park, St. John Triangle, and Northend Park (DEIR Figure 2-7). The presence of such parkland presents a potential barrier to potential future track capacity expansion or realignment because of the protections afforded such properties under Section 4(f) of the Department of Transportation Act. Most Caltrain capital projects include U.S. DOT funding sources triggering substantive requirements in Section 4(f), which prohibit parkland use unless there is a feasible and prudent avoidance alternative or certain limited exemptions can be found to apply. Even if no permanent acquisition is required from the parks, minor temporary access through the parks for constructing a capital project within the right-of-

way triggers Section 4(f) coordination and cost burdens to JPB. The new parks could also be an obstacle to implementing the Diridon Integrated Station Concept Plan (the EIR acknowledges consistency with the DISC plan has not been assessed). To address this issue, JPB recommends that the City coordinate with the DISC partner agencies to estimate the potential footprint of future rail improvements and to reserve land in each park to account for these requirements, including possible temporary construction access requirements. This approach would satisfy the "joint planning" exemption from Section 4(f) and allow critical infrastructure investments to proceed unimpeded (see 23 CFR 774.11(h)). The coordination must occur before the parkland is formally dedicated, and the details of the reserved land must be documented in a written agreement as a public record.

Thank you for considering Caltrain's comments on the Draft EIR. Once again, Caltrain generally supports the City of San Jose's proposed land-use vision and the DTW project and looks forward to working with the City of San Jose, Google, and other stakeholders in the area. If you have any questions, feel free to reach out to me at bouchardm@samtrans.com.

Sincerely,

Michelle Bouchard
Chief Operating Officer, Rail