

From: [Moua, Louansee](#)
To: [DowntownWestD6](#)
Subject: Fw: Letter on Item 10.2: Downtown Strategy 2040 and implications for future Google development
Date: Monday, May 24, 2021 12:12:58 PM
Attachments: [DT Strategy 12_18_2018.docx](#)
[DT Strategy 12_18_2018.docx](#)

From: Jeffrey Buchanan <jeffrey@wpusa.org>

Sent: Tuesday, December 18, 2018 10:14 AM

To: Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Rocha, Donald <Donald.Rocha@sanjoseca.gov>; Khamis, Johnny <johnny.khamis@sanjoseca.gov>; Diep, Lan <lan.diep@sanjoseca.gov>; Nguyen, Tam <Tam.Nguyen@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

Cc: Herbert, Frances <frances.herbert@sanjoseca.gov>; Torres, Omar <Omar.Torres@sanjoseca.gov>; Ramos, Christina M <christina.m.ramos@sanjoseca.gov>; McGarrity, Patrick <Patrick.McGarrity@sanjoseca.gov>; Sandoval, Vanessa <vanessa.sandoval@sanjoseca.gov>; Ramirez, Lucas <lucas.ramirez@sanjoseca.gov>; Fong, Mason <Mason.Fong@sanjoseca.gov>; Gomez, David <David.Gomez@sanjoseca.gov>; Ponciano, Frank <Frank.Ponciano@sanjoseca.gov>

Subject: Letter on Item 10.2: Downtown Strategy 2040 and implications for future Google development

Greetings:

Please see the attached letter ("DT Strategy 12_18_2018.docx") on today's item 10.2 on the EIR and General Plan amendments for the Downtown Strategy 2040.

In the letter we raise concerns about the impacts of these planning amendments and the Environmental Impact Review on Google's future development in the Diridon Station Area and how this aligns with the City's commitment to a transparent and comprehensive approach to planning and environmental review for Google's future development as a part of Council's December 4th vote approving our Memorandum of Understanding with Google.

Given the ways these GPAs and the EIR related to Google specifically, we encourage the City Council to ensure staff accounts for the value of any legislative changes under the Downtown Strategy 2040 for Google's future development and ensures our negotiations capture that value within the Google's Community Benefits Plan process identified within our MOU with Google.

For the record, I am also attaching Working Partnerships USA's earlier October 2018 letter commenting on the Draft EIR.

Thank you for your consideration.

Best,

Jeffrey

Jeffrey Buchanan
Director of Public Policy
Working Partnerships USA
Office: 408.809.2135
Cell: 408.221.3570
www.wpusa.org

WORKING PARTNERSHIPS USA

12/18/2018

Mayor Sam Liccardo and Members of the City Council
City of San Jose
200 East Santa Clara St., 3rd Floor
San Jose, CA 95113

Dear Mayor Liccardo and Councilmembers,

Subject: GP17-010/GPT17-002/PP15-102 - Proposed Downtown Strategy 2040 and related City-initiated General Plan Amendments.

On behalf of Working Partnerships USA, I would like to share the following comments and suggestions about the Downtown 2040 Strategy and specifically to recommend that the City Council directs staff to accounts for the value of this legislative change to Google's future development within the Google Development Agreement's Community Benefits Plan.

On October 22nd, 2018 Working Partnerships USA submitted a letter (see attached) expressing concerns that the Downtown 2040 Strategy ("the Strategy") did not take adequate steps to address the unmitigated development and environmental impacts that adding 3 million square feet of office space downtown would have on rising housing costs, residential displacement, traffic and traffic related air quality, particularly when it comes to accounting for the thousands of low wage service workers likely to work within the operations of these new offices. Service worker wages have remained stagnant in San Jose as housing costs continue to climb, creating pressure for many to move to the Central Valley in search of more affordable housing and generating even more vehicle miles traveled and environmental impact. While the City has taken steps towards a commercial linkage fee which could help mitigate some of these impacts, more can and should be done within our planning to ensure future development and plans address environmental impact of such displacement.

Furthermore, we raised concern about how the planning amendments and the approval of an environmental impact review for the Strategy would benefit Google's future development without a transparent, public discussion of the relationship between the Strategy and Google's prospective plans. The City of San Jose's vote on December 4th to enter into a Memorandum of Understanding with Google laid out the process for future planning amendments and environmental reviews in relation to Google's forthcoming development application. With the Council planning to consider the Downtown 2040 Strategy as a consent calendar item, where Google's name is not even mentioned in the memorandum, raises additional questions about transparency on planning changes related to the Google project.

During that December 4th Council vote, the staff and Council expressed a commitment to a transparent and public process to consider the environmental impacts and any future General Plan amendments regarding Google's future development. The staff memo also stated, "The City anticipates that all the necessary planning, design, and regulatory plans and policies necessary for Google's master plan project approval (including the Development Agreement) will be presented together for Planning Commission review and recommendation, and then for City Council consideration." Now, just two weeks after approving this memo, General Plan amendments and the approval of an EIR are being considered without adequate noticing or debate about the impact of these decisions on Google's future plans.

The Strategy included General Plan amendments and an environmental impact review detailing program and project level impacts, which the Strategy explicitly states are relevant to Google's presumed future project. Surprisingly, Google and the Google Transit Village are referenced 24 different times within the Strategy's Draft EIR. The Strategy provides a number of benefits to a future Google plan:

- By making amendments to the Envision San Jose 2040 General Plan adding commercial office growth to the Downtown Area, which includes most of the land where Google has acquired property to date and will likely develop its future campus, Google may no longer need to seek such amendments within its own Development Application.
- Approving a program-level EIR benefits future developments by analyzing likely environmental impacts from different types of development within existing land use within a geographic area, providing a baseline of environmental impact that is already mitigated and approved under the California Environmental Quality Act. An approved program-level EIR makes the CEQA process less onerous for future developments in terms of environmental impact already be accounted for within program level analysis. While the Strategy is clear that projects within the area will need to conduct their own EIRs, projects like Google's will benefit from being able to "tier" off the Strategy's initial impact analysis, potentially requiring their own plan to mitigate fewer impacts and making their CEQA process that much easier. Having greater certainty and fewer impacts to address in the CEQA process provides a direct financial benefit to a developer through a potentially less lengthy and less contentious environmental review process in the future, allowing developments to move forward more quickly. Some specific ways in which this EIR likely overlaps with the future Google project include:
 - The EIR includes an alternative for "Intensification of West of SR 87" citing that "Google is considering proposing a transit oriented development project (commonly referred to as the Google Village Project) in the DSAP area" as rationale for reviewing an alternative which would add an additional 1.2 million square feet of commercial growth capacity to areas that overlap with Google's recently acquired property. Google's future EIR will almost certainly tier off this specific scenario, including its traffic analysis.
 - In addition to program level review of a broad range of impacts, the Strategy accounts for project-level impacts of traffic and traffic-related air quality and noise impacts of Downtown development projects. The EIR is clear that the future Google project would see similar impacts in relation to traffic-related air quality and noise impacts as those reviewed in the Strategy.

Additionally, we find the timing of the development of these planning amendments to transfer growth within the General Plan from Coyote Valley to Downtown (which now includes Diridon Station Area¹) raises further questions. The original Notice of Preparation for the Strategy was posted October 6, 2015 and did not include additional commercial office or residential growth Downtown. It was not until after the City began secret negotiations with Google, which included 18 City officials signing Non-Disclosure Agreements (NDAs) with the company, including former Director of Planning Harry Freitas signing his NDA on February 9, 2017, that a proposal to add growth to Downtown above what was include in the Envision San Jose 2040 Plan emerged.

We now know, as the EIR states, that Google intends to build a 6—8 million square foot commercial, mixed-use development within a roughly 50 acre footprint in and around the Diridon Station Area. The Diridon Station Area Plan only plans for 5 million square feet of total office development across its entire 240 acre area, most of which

¹ On November 28, 2017 the City Council approved adding the Diridon Station Area to the Downtown Growth Area under the General Plan.

is contained within the planning area of the Strategy. The Planning Department amended the Notice of Preparation for the Strategy on March 10, 2017 adding 3 million square feet of additional commercial office development to Downtown, and later referenced within its EIR, circulated on September 7, 2018, Google's intentions for development as emblematic of growing office demand Downtown. These decisions, and the City's failure to release correspondence between Planning Department and Google before or after these NDAs were signed, raises questions on the relationship between this policy's development and the City's private negotiations with Google.²

Setting aside questions on transparency on how Google's negotiations with the City of San Jose and the development of this policy intersect, it seems clear that Google's future proposed development process will likely benefit from any legislative decision to approve the Strategy's General Plan amendments and its environmental impact review. If the City Council chooses to approve the Strategy, it should direct staff to ensure it accounts for the value of this legislative change to Google's future development within the Google Development Agreement's Community Benefits Plan.

The City's MOU with Google stated, "The City's expectation of a community benefit contribution would be premised on, among other factors, the additional value Google receives as a result of the legislative changes that may be approved by the City Council that enhance the value of both the City Properties and the Google Properties..." It is important for the City Council to ensure staff includes the full range of public policy decisions made to benefit Google within this value capture analysis in order to negotiate a community benefits package that both reflects the full benefit Google's development will receive from public decisions and investments and to ensure enough resources to mitigate the project's future impact on our working families. Decisions that clearly benefit Google need to be included in this analysis, and staff should be keeping track of these items as the development process continues.

Furthermore, we encourage the City Council to direct Google to account for displacement impacts identified in Working Partnerships USA's October 22, 2018 letter in any future project-level EIR conducted towards its proposed Development Agreement. Tech development's reliance on low wage service subcontractors and tech-driven growth will create large numbers of low wage workers who in turn are likely to feel displacement pressures. Google's future plan and its EIR should account for these factors.

Sincerely,

Jeffrey Buchanan

Director of Public Policy
Working Partnerships USA
Office: 408.809.2135
Cell: 408.221.3570
www.wpusa.org

² The City has failed to turn over documents, including correspondence between Planning Department and Google, in a timely fashion, and to respond with the legally required determination(s), to California Public Records Act requests by both the First Amendment Coalition and Working Partnerships USA over the course of 2018, as set forth in the Verified Petition for Writ of Mandate filed by FAC and WPUSA in Santa Clara County Superior Court on November 9, 2018 (*First Amendment Coalition et al v. San Jose*, Santa Clara Superior Court Case No. 18cv338053)