

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Letter re SSE comments to DTW CIMP's
Date: Thursday, May 27, 2021 4:11:22 PM
Attachments: [Letter to City Attorney re Comments on DTW CIMP's \(5-21-21\) \(10605135xD701E\).pdf](#)
Importance: High

From: Lucy Lofrumento <lal@lmallp.com>
Sent: Friday, May 21, 2021 10:23 AM
To: Frimann, Nora <nora.frimann@sanjoseca.gov>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Cc: Jonathan Becher <jbecher@sjsharks.com>; Jon Gustafson <jgustafson@sharksice.com>; Jim Goddard (jgoddard@sapcenter.com) <jgoddard@sapcenter.com>; Morley, Sean <sean@morleybros.com>; Ken Caveney <KCaveney@SJSharks.com>; Anna C. Shimko (ashimko@bwslaw.com) <ashimko@bwslaw.com>; Steve Roland (sroland@bwslaw.com) <sroland@bwslaw.com>; Klein, Nanci <Nanci.Klein@sanjoseca.gov>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Zenk, Jessica <Jessica.Zenk@sanjoseca.gov>
Subject: Letter re SSE comments to DTW CIMP's
Importance: High

[External Email]

Attached is our third and final letter concerning specific substantive changes that we are requesting be made to the DTW entitlement documents, in advance of the City Council's May 25 hearing.

We look forward to discussing all of our requested substantive changes at the meeting this afternoon, which has been moved to 4:00. Nanci – please include the cc's listed above from our team in the meeting request.

Thanks very much,
Lucy



Lucy Lofrumento

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From: Lucy Lofrumento

Sent: Thursday, May 20, 2021 1:25 PM

To: Nora Frimann (nora.frimann@sanjoseca.gov) <nora.frimann@sanjoseca.gov>; Johnny Phan (Johnny.Phan@sanjoseca.gov) <johnny.phan@sanjoseca.gov>

Cc: Jonathan Becher <jbecher@sjsharks.com>; Jon Gustafson (jgustafson@sharksice.com) <jgustafson@sharksice.com>; Jim Goddard (jgoddard@sapcenter.com) <jgoddard@sapcenter.com>; Sean Morley (sean@morleybros.com) <sean@morleybros.com>; Ken Caveney <KCaveney@SJSharks.com>; Anna C. Shimko (ashimko@bwslaw.com) <ashimko@bwslaw.com>; Steve Roland (sroland@bwslaw.com) <sroland@bwslaw.com>; Nanci Klein (nanci.klein@sanjoseca.gov) <nanci.klein@sanjoseca.gov>; Cameron Day (Cameron.Day@sanjoseca.gov) <Cameron.Day@sanjoseca.gov>; Jessica Zenk (jessica.zenk@sanjoseca.gov) <jessica.zenk@sanjoseca.gov>

Subject: Letter re SSE additional comments to revised DTW project documents

Importance: High

Hi Nora and Johnny,

Attached are the following documents for your consideration:

1. Letter regarding SSE's additional comments to the DTW project documents
2. Redlined draft of Exhibit K, reflecting our requested changes
3. The Arena Parking Design Criteria, to be attached to Exhibit K

For your convenience, I have also attached WORD versions of the last two items.

Please note that we may have additional comments regarding construction mitigation, following today's 3:00 meeting. We may also have additional technical or conforming changes as we continue to review the documents.

Our team is all set to meet with the City to discuss the items in this letter and the May 17 letter, on Friday at 2:00. Nanci, will you be sending an invite for that meeting?

Thanks very much to everyone for all your efforts.

Lucy



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From: Lucy Lofrumento

Sent: Monday, May 17, 2021 8:00 PM

To: Nora Frimann (nora.frimann@sanjoseca.gov) <nora.frimann@sanjoseca.gov>; Johnny Phan (Johnny.Phan@sanjoseca.gov) <johnny.phan@sanjoseca.gov>

Cc: Jonathan Becher (<jbecher@sjsharks.com>); Jon Gustafson (jgustafson@sharksice.com) <jgustafson@sharksice.com>; Jim Goddard (jgoddard@sapcenter.com) <jgoddard@sapcenter.com>; Sean Morley (sean@morleybros.com) <sean@morleybros.com>; Ken Caveney (<KCaveney@SJSharks.com>); Anna C. Shimko (ashimko@bwslaw.com) <ashimko@bwslaw.com>; Steve Roland (sroland@bwslaw.com) <sroland@bwslaw.com>; Nanci Klein (nanci.klein@sanjoseca.gov) <nanci.klein@sanjoseca.gov>; Cameron Day (Cameron.Day@sanjoseca.gov) <Cameron.Day@sanjoseca.gov>

Subject: Letter re SSE initial comments to revised Rezoning, DA and VTM approval documents

Dear Nora and Johnny,

Please see the attached letter regarding SSE's initial comments and requested changes to the revised Rezoning, Development Agreement and Vesting Tentative Map approval documents that were posted in the last few days. Please let us know as soon as possible whether our proposed changes are acceptable.

We are reviewing additional documents (including exhibits), and will provide additional comments as soon as we can.

It would probably be helpful for us to have a conference to review the open issues – should we try to schedule a meeting for Wednesday? Our regular Thursday 3:00 meeting is already planned for discussion of construction mitigation.

Thanks very much,
Lucy



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May 21, 2021

Nora Frimann, City Attorney
Johnny Phan, Chief Deputy City Attorney
City of San Jose
200 E. Santa Clara St., 16th Floor Tower
San Jose, CA 95113

Re: **SSE Comments on Construction Impact Mitigation Plan (CIMP) for City Council Hearing of May 25, 2021 - Downtown West Mixed-Use Project**

Dear Ms. Frimann and Mr. Phan,

This letter supplements our letters of May 17, 2021 and May 20, 2021 concerning SSE's specific requests for changes to the Downtown West Mixed-Use Project documents. In the May 20, 2021 letter, we reserved further comments on construction mitigation until completion of our scheduled meeting on that topic with City staff, which occurred yesterday afternoon.

While we appreciate staff's efforts to keep us informed about the timeline and scope of discussions between the City and Google (and VTA), we continue to have serious concerns that the effects of these massive construction activities on SAP Center have not been adequately addressed. This is particularly disappointing given that we have spent so much effort over the past several years to inform the City and project sponsors of specific measures and criteria necessary to protect the Arena's unique operations and patron experience.

The Municipal Code requires that each Construction Impact Mitigation Plan (CIMP) be approved by the City Council. The CIMP proposed for adoption by the City Council with respect to the Project, however, is merely a template to be used at the Project horizontal, open space and vertical development stages. As currently proposed by the Project entitlements, the CIMPs for horizontal development will be subject to Conformance Review, while the CIMPs for open space and vertical development will not be reviewed until the building permit stage.

Nora Frimann and Johnny Phan
Office of City Attorney
May 20, 2021
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In order to allow for vital public input into all CIMPs, we request that the CIMP for each open space and vertical development also be required to be submitted and approved at the Conformance Review stage.

Furthermore, we request that each CIMP for the Project be subject to Arena protective criteria that would address such items as scheduling around major events, hours of activity within 1/3 mile of the Arena, equipment staging and construction worker parking, vehicular and pedestrian access, and more. We can work with City staff near-term on developing such Arena protective criteria for incorporation into the Project requirements.

Although SSE's construction management concerns go well beyond the matters described above, we believe that revising the entitlement documents to incorporate basic arena protection provisions, and to allow for greater public participation and input into the approval of CIMPs for vertical and open space development (in line with the procedures for horizontal development), are important steps in helping to ensure that SSE's unique needs will be taken into consideration. The changes requested above will also help meet the City's obligations under the AMA to coordinate with SSE regarding developments that could adversely affect transportation and parking near the Arena.

We look forward to discussing our requests with you at our meeting this afternoon. Please reach out to me if you wish to discuss any issues in advance.

Sincerely,

/s/ Lucy Lofrumento

Cc: Nanci Klein
Cameron Day