

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Letter re SSE additional comments to revised DTW project documents
Date: Thursday, May 27, 2021 4:12:28 PM
Attachments: [Letter to City Attorney re Additional Comments to DTW Project Documents \(5-20-21\) \(10605086xD701E\).pdf](#)
[REDLINE of Exhibit K to Development Agreement \(Revised 5.20.21\) \(10605088xD701E\).pdf](#)
[Arena Parking Design Criteria \(5-20-21\) \(10605089xD701E\).pdf](#)
[Exhibit K to Development Agreement \(Revised 5.20.21\) \(10605065xD701E\).docx](#)
[Arena Parking Design Criteria \(5-20-21\) \(10605051xD701E\).doc](#)
Importance: High

From: Lucy Lofrumento <lal@lmallp.com>
Sent: Thursday, May 20, 2021 1:25 PM
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@bwsllaw.com) <ashimko@bwsllaw.com>; Steve Roland (sroland@bwsllaw.com) <sroland@bwsllaw.com>; Klein, Nanci <Nanci.Klein@sanjoseca.gov>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Zenk, Jessica <Jessica.Zenk@sanjoseca.gov>
Subject: Letter re SSE additional comments to revised DTW project documents
Importance: High

[External Email]

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



Lucy Lofrumento

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: lal@LMALLP.com | Web: www.LMALLP.com

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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



Lucy Lofrumento

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: ll@LMALLP.com | Web: www.LMALLP.com

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ARENA PARKING DESIGN CRITERIA
For Parking Structures Providing Shared Use Parking for Arena Events

Updated May 20, 2021

1. Use 8.5' x 17' standard stall size, with a 26' wide drive aisle, to achieve a minimum 60' bay width for double loaded parking and 90-degree circulation. If one-way circulation is provided, use industry standard bay width for selected angle of parking. Align parking bays in the predominate direction of pedestrian travel.
2. Provide safe and efficient traffic operation both within the garage and at the entrances and exits during both the arrival and departure peak hours for SAP Center events. For the arrival peak period, ensure that there is adequate queuing space and that entering traffic is not disrupted or delayed by vehicles exiting during this period. For the departure peak period, ensure that motorists can exit within a 30 minute window after the end of an event. All the above operational provisions should be demonstrated through calculations using industry standard methodologies. Design facilities for pay upon entry and free flow for exit.
3. If the garage has a capacity of more than 500 spaces the ability to connect to more than one street or have two different entrance/exit locations should be considered if at all possible, in order to provide redundancy.
4. The number of lanes at a driveway entry/exit should take into consideration the movements on the street it connects to. Lanes into and out of a facility should provide access to more than one path to parking stalls upon entry to facilitate redundancy of flow. Preferably drive entry and exits shall be part of an intersection with the street to enhance visibility and the ability to control traffic.
5. Exits should be designed with appropriate sight distance triangles that allow drivers approaching the exit to see pedestrians on the sidewalk and vehicles on the street. Entries and exits should be designed to minimize curvatures, merges and weaving, all of which reduce the capacity of traffic flow. The width of entry and exit lanes should not be constrained to where flow will be reduced. Visibility to other vehicles and to the path of travel shall be prioritized.
6. Provide ramping systems that efficiently accommodate peak traffic flows, including no parking on ramps and minimizing the number of turns and parked vehicles that a car must pass by to get to other floors. Ramps connecting a maximum of 3 levels in one path is assumed to be the best for accommodating high peak flows. Redundant ramps to facilitate flow should be considered in any facility that exceeds 500 spaces. Ramps that exit to the street should be designed per the City of San Jose Department of Public Works typical driveway profiles for below grade parking at a minimum (**see attached Figure 1**) or meet an approved solution that flattens out the ramp at the top to provide views of pedestrians crossing on the sidewalk for cars exiting the ramp. This may

include a flat section at the top of approximately 25 ft. before using an internal ramp slope, which design has been approved by the City on other projects (**see attached Figure 2**). Internal ramps should be designed with an 18% maximum slope with 9-10% blends at the top and bottom.

7. Provide high level of safety and security, including use of security cameras. If a stand alone structure utilize glass back elevators and open stairs for safety.
8. Utilize materials that meet a standard for high quality façade, high durability and ease of maintenance.
9. Provide high quality interior ambience, e.g. enhanced lighting, painted interiors, and satisfactory floor to floor height.
10. Provide restrooms, which are open and monitored during events.
11. Provide number and size of elevators and stairs to effectively accommodate peak pedestrian flows. Vehicles coming to an event typically have an average of 3 people per vehicle.
12. Locate pedestrian entries, lobbies, elevators and stairs to conveniently accommodate pedestrian movements between parking facility and SAP Center, and avoid conflicts between major pedestrian movements and major vehicle movements at intersections and driveways.
13. Use long span design if parking is in a stand-alone parking garage. If under a building and using a short span design add 1'-0" to stall width adjacent to columns to make it easier for cars to pull in and out, speeding up the flow.
14. Use moment frames if parking is in a stand-alone parking garage. Avoid moment frame columns at locations where cars need to turn. If under a building and shearwalls are used, avoid walls within 30 ft. of the end of drive aisle or where it would block a driver's view at a turn. Avoid columns that impact turning maneuvers.
15. Provide concrete slab on grade.
16. Collect real-time parking space occupancy data (utilizing sensors, loop detectors, or equivalent technology) and make such data publicly available via a parking app (or other appropriate means) and a sign at the entrance to the parking facility.

Figure 1

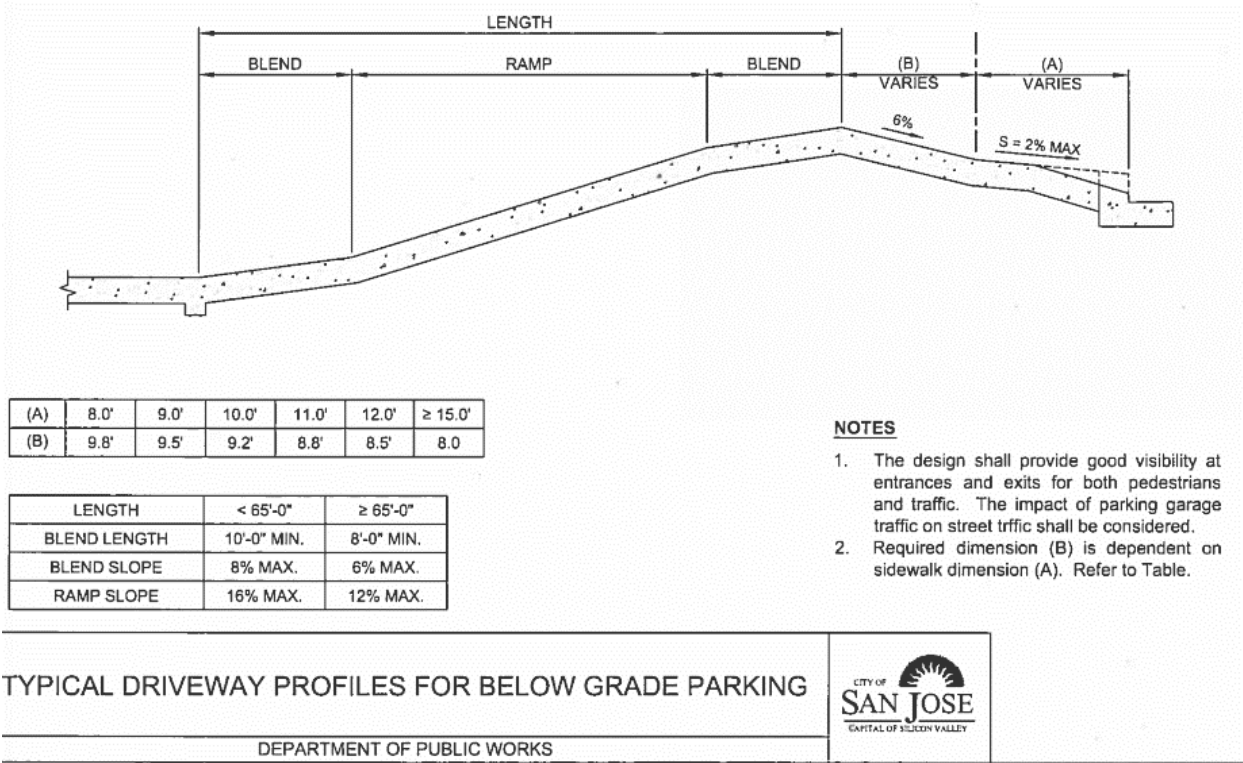


Figure 2

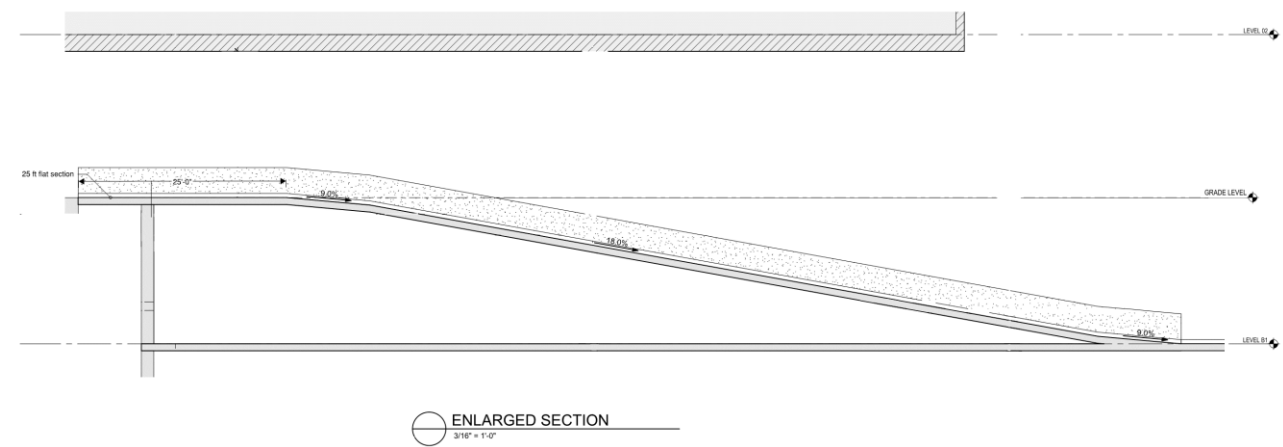


Exhibit K

Downtown West Parking Requirements

Recitals:

- A. This Exhibit is intended to ensure that sufficient parking is publicly-accessible within the Project site for the Project uses, and that those publicly-accessible spaces will provide sufficient “Available” parking (defined below) for the SAP Center, to help ensure consistency with the City's obligations under the Arena Management Agreement.
- B. Developer and the City anticipate the replacement of approximately 2,850 existing publicly-accessible (and “Available”) surface parking spaces on property that will be redeveloped as part of the Downtown West project, and the development of at least 1,150 additional spaces (for a total of at least 4,000 publicly-accessible parking spaces) at full buildout of office space within the Downtown West project, which spaces will all be located within 1/3 mile of the south entrance to the Arena. These 4,000 parking spaces include the parking spaces existing and/or to be developed on the property known as “Lots ABC” adjacent to SAP Center, which currently contain 1,422 “Available” parking spaces, but exclude up to 2,360 residential parking spaces to be included in the project.
- C. The project will target 85% of said 4,000 publicly-accessible parking spaces (3,400 at full buildout) to be “Available” as defined below, which will count towards the total 4,825 “Available Parking Spaces” required under the Arena Management Agreement to be provided by the City within 1/3 mile of the south entrance to the Arena. This would help ensure the long-term sustainability of the SAP Center.¹
- D. Unless otherwise indicated, terms that are used but not defined in this Exhibit shall have the meanings given such terms in the body of the Development Agreement to which this Exhibit is attached. For purposes of this Exhibit K, a publicly-accessible parking space is “Available” if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.²

Parking Requirements:

- 1. Overall Requirements: Over the course of the development of the Project, Developer shall be required to provide publicly-accessible off-street parking spaces serving new office development at a cumulative ratio between 0.5 and 0.645 spaces for each 1,000 square feet of Floor Area (which shall mean eighty-five percent (85%) of the total gross floor area) of such office buildings (the “Required Parking Ratio”). At the point of full build out of office space within the Downtown West project, the Required Parking Ratio shall be 0.645 spaces, and the project shall provide at least 4,000 publicly-accessible spaces within 1/3 mile of the south entrance to the arena.

¹ The difference between the number of “Available Parking Spaces” required by the AMA and the number of “Available” parking spaces provided by the project (1,425 spaces) will need to be provided by other projects outside of the Downtown West project boundaries but within 1/3 mile of the south entrance to the SAP Center.

² This definition varies slightly from the definition of “Available Parking Space” used in the Arena Management Agreement.

- a. Once 4,000 publicly-accessible parking spaces are operational and in compliance with these terms, the Required Parking Ratio will no longer apply provided that the 4,000 publicly-accessible spaces shall be maintained as described herein.
- b. Developer may construct up to 4,800 publicly-accessible parking spaces at its discretion; this parking would be reviewed as part of the Conformance Review process.
- c. The required Parking Ratio represents a reduction from standard City parking requirements, which would require as many as 15,500 spaces at Downtown Commercial parking ratios (2.5 spaces per 1,000 square feet of Floor Area), or 6,600 spaces with application of available standard parking reductions (1.06 spaces per 1,000 square feet of Floor Area). The City Council has determined that a Required Parking Ratio of 0.645 spaces per 1,000 square feet of Floor Area is warranted given the area's rich transit and mixed-use environment, sustainability and air quality imperatives, traffic reduction and City's multimodal goals, the fact that this parking is available to the public, and transportation demand management requirements.
- d. The Required Parking Ratio is critical to serve the needs of the Project, as well as to replace parking currently utilized by transit riders and SAP Center patrons. With this in mind, the commercial parking spaces will be publicly-accessible and priced to allow for maximum efficiency to support the SAP Center, as well as the multimodal goals of the City and Project.
 - i. Developer shall use diligent, good faith efforts to ensure that at least 85% of the publicly-accessible commercial parking spaces provided by Developer will be "Available" (as defined above) for SAP Center patrons.
 - ii. At 4,000 publicly-accessible commercial parking spaces, the project targets 85% of such spaces (3,400) to be Available for SAP Center event use
- e. If, over the course of the Development Agreement, some parking is found to be no longer warranted, the Director of PBCE may, in its sole discretion, reduce the Required Parking Ratio and/or overall amount without requiring an amendment to the Development Agreement or to this Exhibit.
- f. Notwithstanding any reduction in the Required Parking Ratio approved by the Director as described above, the project must at all times provide at least 2,850 "Available" commercial spaces within 1/3 mile of the south entrance to the SAP Center, including existing parking.
- g. As an option to satisfy the requirement for the 2,851 to 4,000 publicly-accessible parking spaces set forth above (Section 1), Developer may deliver this parking either within the 1/3-mile radius of the south entrance to the SAP Center or through an Alternative Parking Arrangement.

- i. Alternative Parking Arrangement: If Developer determines that it will not provide any number of the remaining required parking spaces within 1/3 mile of the south entrance to the arena, then, in order to meet the Required Parking Ratio, the City shall have the right to designate additional land owned by the City and within 1/3 of a mile of the south entrance to the SAP Center (the "Additional Parking Property") for Developer to build additional parking spaces; Developer would then be required to build additional spaces on the Additional Parking Property, subject to obtaining appropriate environmental clearance and any discretionary approvals, as well as ensuring compliance with any contractual obligations of the City; provided, however, in no event would Developer be required to build parking spaces on the Additional Parking Property that, when aggregated with the publicly-accessible spaces located within the Project boundary, would exceed the greater of the Required Parking Ratio or 4,000 total spaces, as described above.
 - ii. In the event the Alternative Parking Arrangement results in designation by the City of certain parcels located at St. John and N. Montgomery Streets north of the Arena (known as "Lot E") for the development of additional parking by Developer, subject to any necessary environmental clearance, nothing in this Exhibit shall preclude the City from complying with its obligations under the Arena Management Agreement with respect to Lot E, including regarding parking priority being provided for SAP Center event-related parking, and management of the Lot E parking by the manager of SAP Center, and/or any option agreements to purchase that property.
- h. The City's Department of Transportation will review the design of parking facilities as part of a Vertical Conformance Review Application and may require one or more future Focused Local Transportation Analysis (Focused LTAs) to provide building specific analysis as defined in the Conformance Review Implementation Guide.
 - i. Developer shall also review the Arena Parking Design Criteria attached to this Exhibit, and submit a narrative as part of the Conformance Review Application explaining how such Arena Parking Design Criteria were considered in connection with the preparation of the design drawings for the development proposal.
- 2. Phasing: The requirements below are to ensure that sufficient parking exists, at any given specific time, for the continued operational needs of the SAP Center, as well as the multimodal goals of the City and Project.
 - a. Compliance with this requirement shall be evaluated during the Conformance Review process for each office Building, and verified prior to issuance of Building Permits for each office Building.

- i. Proposed parking spaces included as part of a previously approved Conformance Determination shall be counted to determine whether the Required Parking Ratio will be satisfied upon construction of the office building that is the subject of a Conformance Review. Surface parking spaces in the Project also shall be counted during the Conformance Review process to determine whether the Required Parking Ratio will be satisfied. For clarity, this means that, to determine whether the Required Parking Ratio will be satisfied, each Conformance Review for an office building shall account for (i) surface parking spaces in the Project, (ii) proposed parking spaces included in a previously approved Conformance Determination that have not yet been constructed, (iii) parking spaces already constructed as part of the Project, and (iv) the parking spaces included in the subject Conformance Review application. In the event a proposed office building or buildings would result in the elimination of existing surface parking spaces, the Conformance Review Application for that building shall not be denied for the temporary failure to satisfy the Required Parking Ratio during construction of the building or buildings if the Project would continue to provide a ratio of 0.5 spaces for each 1,000 square feet of Floor Area, and so long as the Required Parking Ratio is satisfied upon issuance of a Certificate of Occupancy for that office building or buildings.
 - ii. During the Conformance Review process, the Project will be required to confirm that at least 2,850 “Available” parking spaces will be maintained in aggregate within the Project boundary and within one-third ($\frac{1}{3}$)-mile radius of the south entrance to the SAP Center.
- b. If the Project will result in a temporary failure to satisfy the Required Parking Ratio, as described in Section 2.a.i, for a single period that will exceed three (3) years, the City shall verify that its obligations pursuant to the Arena Management Agreement to provide a minimum number of “Available Parking Spaces” (as defined in the AMA) continue to be met. If the City's obligations continue to be met, then the temporary failure of the project to satisfy the Required Parking Ratio may continue for another two (2) years, for a maximum of (5) years. After (5) years, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies as part of the Parking Delivery Plan during construction. If, however, it is determined after the initial 3-year period that the City will not meet its parking obligations under the Arena Management Agreement due to temporary failure of the project to satisfy the Required Parking Ratio, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies at that time.
- c. To the extent the Option Agreement for Lots A/B/C is exercised prior to 2040, the Developer must be in compliance with the Required Parking Ratio, subject to Section 2(a)(i), prior to beginning vertical development on Lots A/B/C. To the extent the existing Second Amended and Restated Arena Management Agreement between the City and San José Arena Management, LLC is terminated earlier than 2040 or at its scheduled expiration in 2040, Section 1d.i. and Section 2a.ii shall no longer apply.

ARENA PARKING DESIGN CRITERIA
For Parking Structures Providing Shared Use Parking for Arena Events

Updated May 20, 2021

1. Use 8.5' x 17' standard stall size, with a 26' wide drive aisle, to achieve a minimum 60' bay width for double loaded parking and 90-degree circulation. If one-way circulation is provided, use industry standard bay width for selected angle of parking. Align parking bays in the predominate direction of pedestrian travel.
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3. If the garage has a capacity of more than 500 spaces the ability to connect to more than one street or have two different entrance/exit locations should be considered if at all possible, in order to provide redundancy.
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include a flat section at the top of approximately 25 ft. before using an internal ramp slope, which design has been approved by the City on other projects (**see attached Figure 2**). Internal ramps should be designed with an 18% maximum slope with 9-10% blends at the top and bottom.

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Figure 1

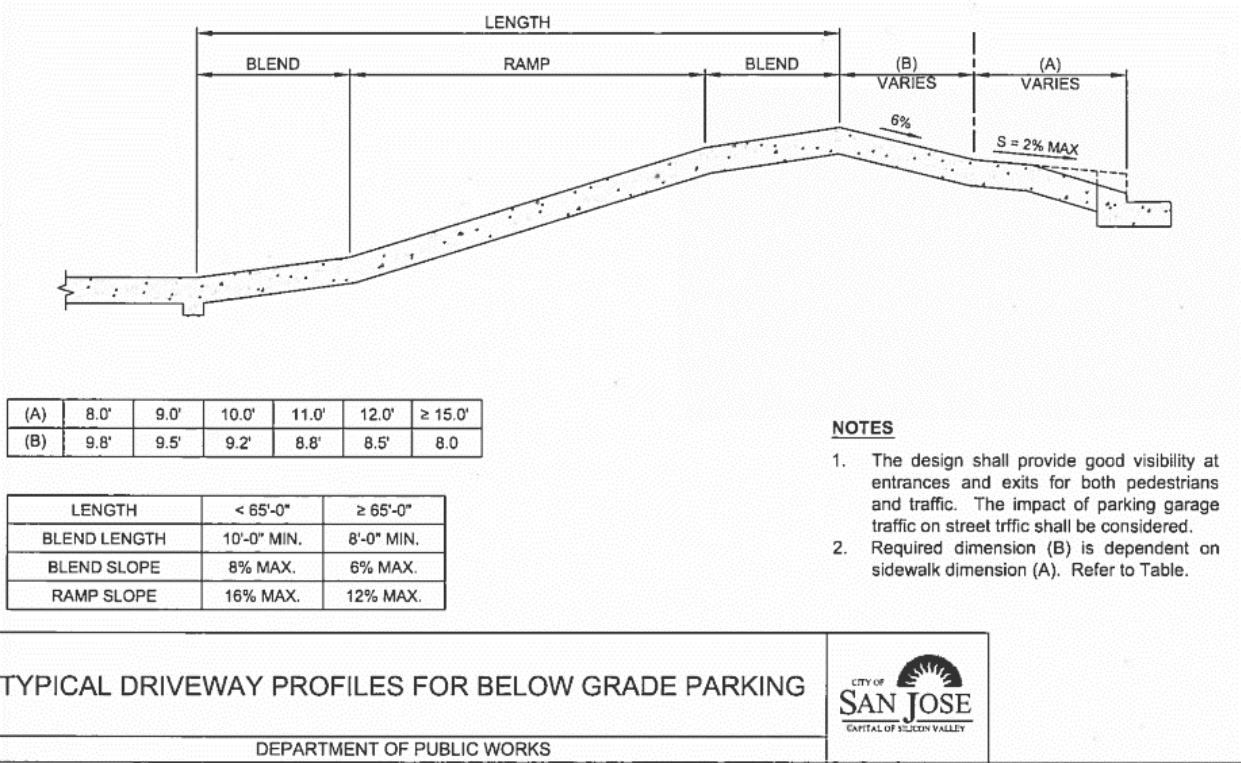


Figure 2

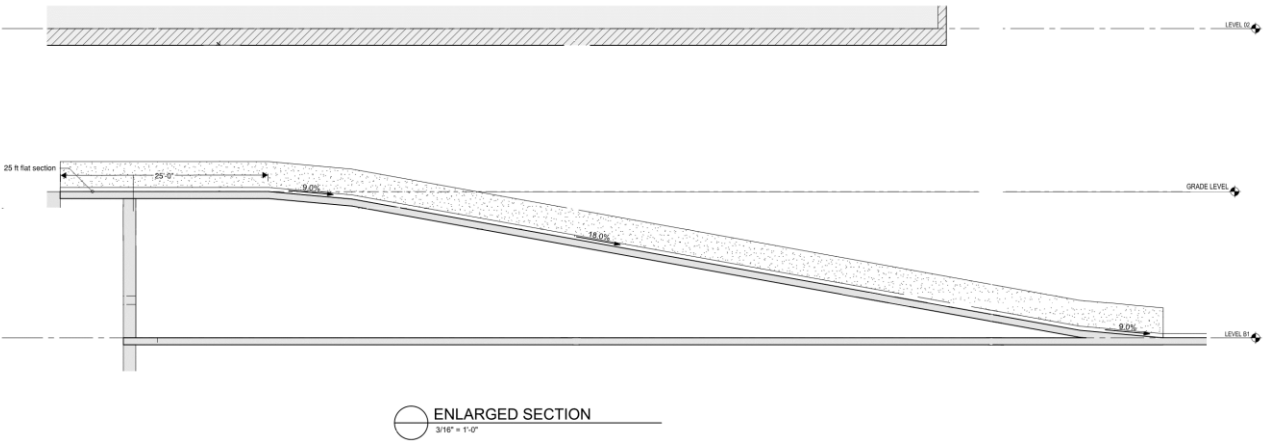


Exhibit K

Downtown West Parking Requirement

Downtown West Parking Requirements

Recitals:

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- B. Developer and the City anticipate the replacement of approximately 2,850 existing publicly-accessible (and "Available") surface parking spaces on property that will be redeveloped as part of the Downtown West project, and the development of at least 1,150 additional spaces (for a total of at least 4,000 publicly-accessible parking spaces) at full buildout of office space within the Downtown West project. ~~This would ensure the long-term sustainability of the SAP Center, which spaces will all be located with 1/3 mile of the south entrance to the Arena.~~ These 4,000 parking spaces ~~do not~~ include the parking spaces existing and/or to be developed on the property known as "Lots ABC" adjacent to SAP Center, which currently contain 1,422 "Available" parking spaces, but exclude up to 2,360 residential parking spaces to be included in the project. *Terms*
- C. The project will target 85% of said 4,000 publicly-accessible parking spaces (3,400 at full buildout) to be "Available" as defined below, which will count towards the total 4,825 "Available Parking Spaces" required under the Arena Management Agreement to be provided by the City within 1/3 mile of the south entrance to the Arena. This would help ensure the long-term sustainability of the SAP Center.¹
- D. Unless otherwise indicated, terms that are used but not defined in this Exhibit shall have the meanings given such terms in the body of the Development Agreement to which this Exhibit is attached. For purposes of this Exhibit K, a publicly-accessible parking space is "Available" if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.²

Parking Requirements:

1. Overall Requirements: Over the course of the development of the Project, Developer shall be required to provide publicly-accessible off-street parking spaces serving new office development at a cumulative ratio between 0.5 and 0.645 spaces for each 1,000 square feet of Floor Area (which shall mean eighty-five percent (85%) of the total gross floor area) of such office buildings (the "Required Parking Ratio"). At the point of full build out of office space

¹ The difference between the number of "Available Parking Spaces" required by the AMA and the number of "Available" parking spaces provided by the project (1,425 spaces) will need to be provided by other projects outside of the Downtown West project boundaries but within 1/3 mile of the south entrance to the SAP Center.

² This definition varies slightly from the definition of "Available Parking Space" used in the Arena Management Agreement.

within the Downtown West project, the Required Parking Ratio shall be 0.645 spaces, and the project shall provide at least 4,000 publicly-accessible spaces within 1/3 mile of the south entrance to the arena.

- a. Once 4,000 publicly-accessible parking spaces are operational and in compliance with these terms, the Required Parking Ratio will no longer apply provided that the 4,000 publicly-accessible spaces shall be maintained as described herein.
- b. Developer may construct up to 4,800 publicly-accessible parking spaces at its discretion; this parking would be reviewed as part of the Conformance Review process.
- c. The required Parking Ratio represents a reduction from standard City parking requirements, which would require as many as 15,500 spaces at Downtown Commercial parking ratios (2.5 spaces per 1,000 square feet of Floor Area), or 6,600 spaces with application of available standard parking reductions (1.06 spaces per 1,000 square feet of Floor Area). The City Council has determined that a Required Parking Ratio of 0.645 spaces per 1,000 square feet of Floor Area is warranted given the area's rich transit and mixed-use environment, sustainability and air quality imperatives, traffic reduction and City's multimodal goals, the fact that this parking is available to the public, and transportation demand management requirements.
- d. The Required Parking Ratio is critical to serve the needs of the Project, as well as to replace parking currently utilized by transit riders and SAP Center patrons. With this in mind, the commercial parking spaces will be publicly-accessible and priced to allow for maximum efficiency to support the SAP Center, as well as the multimodal goals of the City and Project.
 - i. Developer shall use diligent, good faith efforts to ensure that at least 85% of the publicly-accessible commercial parking spaces provided by Developer will be "Available" (as defined above) for SAP Center patrons.
 - ii. ~~i.~~ At 4,000 publicly-accessible commercial parking spaces, the project targets 85% of such spaces (3,400) to be Available for SAP Center event use
- e. If, over the course of the Development Agreement, some parking is found to be no longer warranted, the Director of PBCE may, in its sole discretion, reduce the Required Parking Ratio and/or overall amount without requiring an amendment to the Development Agreement or to this Exhibit.
- f. ~~The parking requirement must be satisfied in part through~~ Notwithstanding any reduction in the Required Parking Ratio approved by the Director as described above, the project must at all times provide at least 2,850 ~~publicly-accessible~~ "Available" commercial spaces within ~~the Project Site~~ 1/3 mile of the south entrance to the SAP Center, including existing parking.
- g. As an option to satisfy the requirement for the 2,851 to 4,000 publicly-accessible parking spaces set forth above (Section 1), Developer may deliver this parking either within the

1/3-mile radius of the [south entrance to the](#) SAP Center or through an Alternative Parking Arrangement.

- i. Alternative Parking Arrangement: If Developer determines that it will not provide any number of the remaining required parking spaces within ~~the Project Site~~ [1/3 mile of the south entrance to the arena](#), then, in order to meet the Required Parking Ratio, the City shall have the right to designate additional land owned by the City and within $\frac{1}{3}$ of a mile of the [south entrance to the](#) SAP Center (the "Additional Parking Property") for Developer to build additional parking spaces; Developer would then be required to build additional spaces on the Additional Parking Property, subject to obtaining appropriate environmental clearance and any discretionary approvals, as well as ensuring compliance with any contractual obligations of the City; provided, however, in no event would Developer be required to build parking spaces on the Additional Parking Property that, when aggregated with the publicly-accessible spaces located within the Project boundary, would exceed the [greater of the](#) Required Parking Ratio or 4,000 total spaces, as described above.
 - ii. ~~•~~ In the event the Alternative Parking Arrangement results in designation by the City of ~~"Lot E"~~ [certain parcels located at St. John and N. Montgomery Streets north of the Arena \(known as "Lot E"\)](#) for the development of additional parking by Developer, subject to any necessary environmental clearance, nothing in this Exhibit shall preclude the City from complying with its obligations under the Arena Management Agreement with respect to Lot E, including regarding parking priority being provided for SAP Center event-related parking ~~at least until June 30, 2025, which entity would manage the,~~ [and management of the Lot E parking by the manager of SAP Center](#), and/or any option agreements to purchase that [property](#).
 - h. The City's Department of Transportation will review the design of parking facilities as part of a Vertical Conformance Review Application and may require one or more future Focused Local Transportation Analysis (Focused LTAs) to provide building specific analysis as defined in the Conformance Review Implementation Guide.
 - i. [Developer shall also review the Arena Parking Design Criteria attached to this Exhibit, and submit a narrative as part of the Conformance Review Application explaining how such Arena Parking Design Criteria were considered in connection with the preparation of the design drawings for the development proposal.](#)
2. Phasing: The requirements below are to ensure that sufficient parking exists, at any given specific time, for the continued operational needs of the SAP Center, as well as the multimodal goals of the City and Project.

- a. Compliance with this requirement shall be evaluated during the Conformance Review process for each office Building, and verified prior to issuance of Building Permits for each office Building.
 - i. Proposed parking spaces included as part of a previously approved Conformance Determination shall be counted to determine whether the Required Parking Ratio will be satisfied upon construction of the office building that is the subject of a Conformance Review. Surface parking spaces in the Project also shall be counted during the Conformance Review process to determine whether the Required Parking Ratio will be satisfied. For clarity, this means that, to determine whether the Required Parking Ratio will be satisfied, each Conformance Review for an office building shall account for (i) surface parking spaces in the Project, (ii) proposed parking spaces included in a previously approved Conformance Determination that have not yet been constructed, (iii) parking spaces already constructed as part of the Project, and (iv) the parking spaces included in the subject Conformance Review application. In the event a proposed office building or buildings would result in the elimination of existing surface parking spaces, the Conformance Review Application for that building shall not be denied for the temporary failure to satisfy the Required Parking Ratio during construction of the building or buildings if the Project would continue to provide a ratio of 0.5 spaces for each 1,000 square feet of Floor Area, and so long as the Required Parking Ratio is satisfied upon issuance of a Certificate of Occupancy for that office building or buildings.
 - ii. During the Conformance Review process, the Project will be required to confirm that at least 2,850 “Available” parking spaces will be maintained in aggregate within the Project boundary and within one-third ($\frac{1}{3}$)-mile radius of the [south entrance to the](#) SAP Center.
- b. If the Project will result in a temporary failure to satisfy the Required Parking Ratio, as described in Section 2.a.i, for a single period that will exceed three (3) years, the City shall verify that its ~~parking~~ obligations pursuant to the Arena Management Agreement [to provide a minimum number of “Available Parking Spaces” \(as defined in the AMA\)](#) continue to be met. If the City's obligations continue to be met, then the temporary failure of the project to satisfy the Required Parking Ratio may continue for another two (2) years, for a maximum of (5) years. After (5) years, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies as part of the Parking Delivery Plan during construction. If, however, it is determined after the initial 3-year period that the City will not meet its parking obligations under the Arena Management Agreement due to temporary failure of the project to satisfy the Required Parking Ratio, Developer shall develop and obtain agreement from the City for one or more interim parking management strategies at that time.
- c. To the extent the Option Agreement for Lots A/B/C is exercised prior to 2040, the Developer must be in compliance with the Required Parking Ratio, subject to Section 2(a)(i), prior to beginning vertical development on Lots A/B/C. To the extent the existing

Second Amended and Restated Arena Management Agreement between the City and San José Arena Management, LLC is terminated earlier than 2040 or at its scheduled expiration in 2040, Section 1d.i. and Section 2a.ii shall no longer apply.

Document comparison by Workshare 9 on Thursday, May 20, 2021 1:12:14 PM

Input:	
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Document 2 ID	file:///\\sjdc3-lma\WorkItems\LMADocs\21893\0074\CORRES\10605065.DOCX
Description	10605065
Rendering set	standard

Legend:	
<u>Insertion</u>	
Deletion	
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Style change	
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Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	42
Deletions	14
Moved from	2
Moved to	2
Style change	0
Format changed	0

Total changes	60
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Lucy A. Lofrumento
Attorney at Law
lal@LMALLP.com
Direct (408) 560-3665

May 20, 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 Initial Comments on Documents for City Council Hearing of May 25, 2021
Downtown West Mixed-Use Project**

Dear Ms. Frimann and Mr. Phan,

This letter supplements our letter of May 17, 2021 concerning SSE's initial comments on the Downtown West Mixed-Use Project documents. We have further reviewed the proposed entitlements, and request that additional changes be made as described below. We currently do not expect to request additional substantive changes other than as set forth in these two letters, except that we are reserving comment with respect to construction mitigation measures until after our meeting scheduled for 3:00 today (May 20). In addition, we may find the need for technical or conforming changes to the documents as we continue our review, in which case we will advise you of our suggested corrections.

Transportation

A. We very much appreciate the City recognition in items 6 and 7 of the City's most recent response letter that SSE should not bear any incremental increased cost of implementing the TPMP as a result of the Project or any other development. In order to document this critical understanding, we request that the City and SSE enter into a discrete modification to the AMA to document this business term prior to the second reading of approvals for the Project.

B. Please alter Condition 7.D.3 pertaining to the Vesting Tentative Map to read as revised below:

Dedicate and construct new public streets pursuant to the applicable standards set forth in the Project's Downtown West Design Standards and Guidelines, the City's Complete Street Design Standards and Guidelines (to the extent a standard or guideline has not been superseded by the DWDSG), and as shown on the plans. The standard street right-of-way, curb-to-curb, and sidewalk widths will be determined prior to improvement plans approval. The ultimate cross section, including lane configurations, number and direction of lanes, and design and use of dynamic lanes and flex space, will be finalized as determined by the City in its discretion at the improvement plan stage; provided, however, that (i) West Santa Clara Street shall have no fewer than two general traffic through lanes in each direction and there shall be no encroachment beyond the existing curb on the north side of the street, and (ii) Barack Obama Boulevard between Santa Clara and San Fernando shall include one through lane in each direction and a center left turn lane (in lieu of a dynamic lane along the west curb) for the full length of the block.

Parking

Please modify Exhibit K to the Development Agreement (Downtown West Parking Requirement) as shown on the redlined draft enclosed with this letter, and attach the enclosed Arena Parking Design Criteria to Exhibit K.

Events

A. We appreciate the City's clarification in item 8 of the City's most recent response letter that event/conference centers would have a maximum aggregate capacity of up to 2,000 attendees; however, the General Development Plan currently only limits auditorium uses on public land to 2,000 attendees. Accordingly, please alter the "Permitted Uses" section of General Development Plan Sheet 4.01 as follows:

Auditorium: Space set apart in a public building, such as a school, for the audience with an aggregate capacity for Auditorium and Event/Conference Center uses of up to 2,000 visitors or attendees.

Event / Conference Center: An Event / Conference Center is a facility owned, leased, or made available by a business entity for the purpose of events organized or funded by the business entity, including but not limited to product launches / announcements, corporate meetings, conferences, seminars, small conventions, and screenings with an aggregate capacity for Auditorium and Event/Conference Center uses of up to 2,000 visitors or attendees.

B. To further memorialize the concept of an aggregate 2,000-attendee capacity, please alter the “Auditorium” section of General Development Plan Sheet 4.02 as follows:

Auditorium(s) are permitted on block E1 or block F1-F6 in the Downtown West PD Zoning District, subject to an aggregate limit of 2,000 visitors or attendees. If contemplated in another location, an Administrative Permit shall be granted so long as all the venue(s) in the Project have a maximum aggregate capacity for Auditorium and Event/Conference Center uses of up to 2,000 visitors or attendees.

C. Please alter the “Coordination with Other City Departments” section of General Development Plan Sheet 4.05 as follows:

The Police Department (in coordination with OCA) and DOT shall promptly review the Security Plan and Access Plan, respectively. The Planning Department shall review both plans for potential conflicts with the Arena Management Agreement or arena access and operations. The Police Department, Planning Department, and DOT shall each provide the project sponsor with written comments, if any, within ten (10) business days of receipt of the Access Plan or Security Plan and shall endeavor to remedy any comments with the project sponsor no later than fifteen (15) business days after receipt of the Access Plan or Security Plan.

Downtown West Conformance Review Implementation Guide

A. Please add a new paragraph to subsection B (Submittal Requirements) of Section II (Vertical Conformance Review Application Submittal Requirements) as follows:

7. Arena Management Agreement Consistency Analysis. Consistency with the Arena Management Agreement shall be reviewed through the Vertical Conformance Review Application process. The Application will include a narrative explaining how the proposed improvements are consistent with the City’s obligations under the Arena Management Agreement, including, without limitation, the City’s obligations with respect to parking and transportation. The Director of PBCE shall not deny a Vertical Conformance Review Application under this paragraph unless the Director finds that the Vertical Conformance Review Application is materially inconsistent with City obligations under the Arena Management Agreement.

B. Please modify subsection 1.c of subsection B. (Submittal Requirements) of Section II (Vertical Conformance Review Application Submittal Requirements) as follows:

Design of parking facilities, which includes location of driveways and garage entrances, sight distance and location of pedestrian and bicycle crossing and access. Developer shall also review the Arena Parking Design Criteria attached to Exhibit K to the Development Agreement, and provide a narrative explaining how such Criteria were considered in connection with the preparation of the design drawings for the development proposal.

C. Please modify Appendix A (Vertical and Open Space Conformance Review Approval Form), Section B (Consistency Determination), subsection 2(e) to read as follows:

(e) If a Vertical Conformance Review Application includes office development, the development proposal described in the Application complies with the requirements of Exhibit K to the Development Agreement, as follows:

(1) The number of commercial/public parking spaces satisfies the Required Parking Ratio.

☐ Yes

☐ No

(2) The project sponsor has demonstrated that at least 2,850 "Available" parking spaces will be maintained in the aggregate within the Project boundary and within one-third (1/3)-mile radius of the south entrance to SAP Center. (As defined in Exhibit K, a publicly-accessible parking space is "Available" if it is unoccupied and accessible to SAP Center customers on weekends and after 6:30 PM on weekdays, on SAP Center event days.)

☐ Yes

☐ No

(3) The project sponsor has submitted a statement explaining how the Arena Parking Design Criteria were considered in connection with preparation of the design drawings for the development proposal.

☐ Yes

☐ No

Nora Frimann and Johnny Phan
Office of City Attorney
May 20, 2021
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We look forward to our meeting this Friday at 2:00 to discuss the issues raised above and in our letter of May 17. Of course, we are also available prior to that time to discuss any questions you may have.

Thank you again for the City's continuing efforts to address SSE's concerns regarding the adverse effects on the SAP Center's operations and patrons that would be caused by the substantial changes that the Project will bring to the area.

Sincerely,

/s/ Lucy Lofrumento

Cc: Nanci Klein
Cameron Day