

Attachment 1
Draft EIR Comment Letters

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

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December 8, 2020

SCH #: 2019080493

GTS #: 04-SCL-2019-00814

GTS ID: 17507

Co/Rt/Pm: SCL/87/5.81

Shannon Hill, Planner III

Department of Planning, Building and Enforcement

City of San Jose

200 E. Santa Clara Street, T-3

San Jose, CA 95113

Re: Downtown West Mixed Use Plan (Google Project) - Draft Environmental Impact Report (DEIR)

Dear Shannon Hill:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Downtown West Mixed Use Plan (Google Project). We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the October 2020 DEIR.

Project Understanding

The proposed project includes the development of up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling 130,000 GSF; logistics/warehouse(s) totaling 100,000 GSF; and 15 acres of open space, along with infrastructure, transportation, and public realm improvements.

The approximately 81-acre project site is within close proximity to Interstate (I)-280 and State Route (SR)-87, located within the Priority Development Area

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identified in the Plan Bay Area 2040 and within the Transit Priority Areas defined in the California Public Resources Code, Section 21099.

Travel Demand Analysis

Caltrans commends the lead agency in preparing a quantitative and thorough VMT analysis in the DEIR. Based on the VMT analysis, the project would have less-than-significant VMT impact. Caltrans also commends the lead agency in developing the Enhanced Transportation Demand Management Project to further reduce the project generated VMT, which is in support of helping achieve the State's VMT reduction goals.

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Highway Operations

Referring to the Local Transportation Analysis, for the intersection listed in Table 52 (Intersection, Turn-lane Queueing Analysis) within the State ROW and the off-ramps in Table 53 (Off-Ramp Queue Analysis), the "Background Plus Goal-Based Project Buildout" scenario may not sufficiently mitigate the queue spillback from the left-turn and right-turn pockets or onto the freeway mainline. While Caltrans agrees with not recommending non-capacity increasing mitigation measures, the Bird Avenue/I-280 bicycle and pedestrian multimodal connection from Diridon Station area to the Gardner community and the additional 9 percentage point trip reduction from the TDM Program and Monitoring Plan may not be sufficient to mitigate the potentially adverse impacts.

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For the on-ramp locations listed in Table 54 (On-ramp Capacity Analysis) where "Background Plus Project Buildout" queues spill out of on-ramp storage capacity, the existing metering rate should be used for evaluation instead of the maximum metering rate, which is 900 vehicle per hour per lane. If other non-capacity increasing mitigation measures cannot be accommodated, the State may then consider modifying the on-ramp metering rate, which would impact an already congested mainline freeway.

Fair Share Contributions

As stated in the Highway Operations section above, due to the potentially adverse impacts of the project on the intersections within the State ROW, the freeway off-ramps and the freeway segments identified in the DEIR and therefore, the City of San Jose, as the lead agency, is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully

A.3

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discussed for all proposed mitigation measures. Fair share fees should be allocated for the impacted freeway ramps due to added project traffic. The project applicant shall coordinate with the City of San Jose, Santa Clara Valley Transportation Authority and Caltrans for the proposed mitigation.

Fair share contributions should be considered to projects listed below:

- SR-87 Express Lanes: from I-880 to SR-85 (Plan Bay Area 2040, ID: 17-07-0082);
- SR-87 Technology-based Corridor Improvements (Plan Bay Area 2040, ID: 17-07-0009);
- SR-87 Corridor & Interchange Improvement Santa Clara (Plan Bay Area 2050, Project category: 2036-2050);
- I-280 Express Lanes: US 101 to Leland Avenue (VTP 2040, ID: H12);
- Part Time Lane projects identified in the VTA SR-87 Corridor Study within the proposed project area.

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cont.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov .

Sincerely,



MARK LEONG
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Karl Heisler

From: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Sent: Tuesday, October 13, 2020 11:51 AM
To: Elliott Schwimmer; Hillary Gitelman; Karl Heisler; Linda S. Peters; Meryka Dirks
Cc: Downtown West Project
Subject: FW: Downtown West Mixed-Use Plan (Google): Typo Comment

Hi All,

I'm forwarding a comment regarding a typo in the Transportation section to be addressed in the RTCs, and I already responded to Yunsheng that it was indeed a typo.

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: Luo, Yunsheng@DOT <Yunsheng.Luo@dot.ca.gov>
Sent: Thursday, October 8, 2020 12:00 PM
To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Subject: Downtown West Mixed-Use Plan (Google)

[External Email]

Hello Shannon,

This is Yunsheng Luo with Caltrans D4. We received a review request from SCH for the Downtown West Mixed-Use Plan (Google project). I just skimmed through the transportation section in the DEIR and have a clarification question. On page 3.13-59, it says that *"The project applicant would contribute to the Bird Avenue/I-80 Bicycle-Pedestrian multimodal connection from Diridon Station area to the Gardner community."* Did it mean **Bird Avenue/I-280**? Because I-80 is not located near the project site, based on my understanding of the purpose, I think it should have been I-280? Just want to make sure I understand it correctly.

B.1

Thank you!

Best,

Yunsheng Luo
Associate Transportation Planner
Local Development - Intergovernmental Review (LD-IGR)
Caltrans, District 4
Cell: 626-673-7057

For early coordination and project circulation, please reach out to LDIGR-D4@dot.ca.gov



December 8, 2020

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Shannon Hill, Environmental Project Manager
City of San José
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St., 3rd Floor Tower
San José, CA 95113-1905

Submitted via e-mail to shannon.hill@sanjoseca.gov

RE: Downtown West Mixed-Use Plan (Google Project)
File Nos: GP19-009; PDC19-038; PD19-029
Review of Draft Environmental Impact Report

Dear Ms. Hill:

Please accept this letter as the California High Speed Rail Authority's (Authority) comments to Google's proposed Downtown West Mixed-Use Rezoning and Development Plan (DTW Plan) Draft Environmental Impact Report (Draft EIR) to the City of San José dated October 7, 2020. We appreciate the ongoing partnership with the City of San José and your support for the delivery of high-speed rail passenger service to San José and the San Francisco Bay Area.

The Authority is supportive of the City of San José's efforts to develop the DTW Plan in the Diridon Station Area. The DTW Plan is consistent with Authority policy to attract employment and housing to downtown station areas. Implementation of the DTW Plan will advance city-regeneration and district-scale development consistent with our sustainability policies and vision for the integration of high-speed rail and local land use to transform California.

As discussed in more detail below, the Authority requests that the City of San José and Google consider the following specific revisions to the DTW Plan and coordination efforts:

- Inclusions to demonstrate conformity with the transit-supportive Goals and Policies of the Envision San José 2040 General Plan;
- Updates to the documents to account for the HSR rail alignment laid out in the Authority's San Jose to Merced Project Section Draft EIR/EIS;
- Further analysis to determine the impacts on high-speed rail ridership and modes of access/egress;
- Modifications to the design of the street network to meet the Authority's performance needs for station pick-up/drop-off (for all modes) and address functionality of dynamic lanes, bicycleways, and sidewalks for pick-up/drop-off in constrained right-of-way;

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- Guidance for the future site planning of the BART station to ensure seamless rail-to-rail connectivity to minimize travel times for HSR travelers;
- Recognize and support the intent of the Diridon Integrated Station Concept (DISC) to create a world-class center of transit and public life integrated with surrounding development, especially given the significant level of investment in rail transit serving the Diridon Station area; and,
- Inclusion of a Comprehensive Construction Coordination Plan to avoid and minimize impacts on HSR construction, utility, infrastructure and station access.

The Authority looks forward to working with the City of San José and Google to ensure the coordination necessary to ensure the successful implementation of the respective policies, goals and plans for the Diridon Station Area and downtown San José.

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Effects on the High-Speed Rail (HSR) Project Alternatives

On September 17, 2019, the Authority Board identified Alternative 4 as the Preferred Alternative for the San José to Merced Project Section for inclusion in the Authority's San Jose to Merced Project Section Draft EIR/EIS. Alternative 4 utilizes a blended at-grade high-speed rail/electrified Caltrain configuration through Diridon Station.

Although the Authority identified Alternative 4 as the Preferred Alternative for the San José to Merced Project Section, the final decision about the alternative to be implemented will not be made until after completion of the Final EIR/EIS for the San Jose to Merced Project Section. The EIR/EIS is considering three other alternatives (Alternatives 1, 2, and 3) that share a common aerial station design and aerial alignment through the San José Diridon Station area. Because it remains possible that an aerial alternative could be selected, the Authority has identified the following impact topics that affect all alternatives.

1) RAIL RIGHT-OF-WAY

The area around Diridon station is a constrained environment with plans for both rail upgrades and new development proposed in the DTW Plan Draft EIR. The Authority's planned rail right-of-way needs are laid out in the San Jose to Merced Draft EIR/EIS and would be impacted by the proposed project described in the DTW Plan Draft EIR. The Authority requests that the City of San José and Downtown West continue to collaborate with the Authority to update the documents to account for the HSR rail alignment laid out in the San Jose to Merced Draft EIR/EIS. 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 HSR to avoid challenging right-of-way negotiations in the future and the Authority stands ready to work with the City of San José and Downtown West on these issues. Please see the enclosed Table 1 Potential Right-of-Way and Temporary Construction Easement Impacts by Alternative. For the Authority's Preferred Alternative 4, development would impact planned ROW and preclude track, retaining structures, and temporary construction easements of the north approach to Diridon Station.

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

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- 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.
- 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.

Downtown West's development application, submitted in October 2019, accounted for space for a future rail alignment (represented by the hatching and notes included on *Figure 2.09 Illustrative Framework* of the development application). *Figure 2.2 Downtown West Mixed-Use Plan* in the Downtown West Design Standards and Guidelines (DWDSG) does not similarly account for space needed for a future rail alignment. The proposed right-of-way (ROW) boundaries identified in the DTW Plan Draft EIR do not include development setbacks for parcels B1, C1, C2, F5, and G1. The lack of setbacks in these locations could complicate and/or impede the construction and staging of the Authority's project. Additional information on the construction staging of the DTW project would be helpful in evaluating additional impacts on the Authority's project. The Authority stands ready to work with Downtown West and the City of San José to find solutions for the permanent and temporary ROW interfaces between the DTW Plan and the Authority's project.

We noted that deviations from the DWDSG are allowed following implementation of DISC, per approval by the City Director (p. 242). The likelihood of major deviations being needed could be greatly reduced by the Downtown West documents better accounting for the future rail alignment including both HSR plans and the DISC Concept Layout. The Authority requests that the Downtown West documents be updated to account for this.

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2) STATION ACCESS

The analysis in the DTW EIR requires further development and is insufficient to determine the impacts on high-speed rail ridership, modes of access/egress, and the implications for the transportation network (including all modes) around Diridon Station. The Authority's critical interaction with the DTW Plan is how high-speed rail passengers get to and from Diridon Station. The Authority's San Jose to Merced Project Section Draft EIR/EIS laid out a series of improvements around Diridon Station to improve access and ensure that passengers will be able to get from high-speed rail to other transportation modes, to the surrounding area, and to the entire service travel-shed surrounding Diridon Station. The DTW Plan proposes a variety of changes to the street network and various access points to the station that would impact the ability of high-speed rail passengers to use the station. Below is a list of specific areas that require further analysis and potential changes to ensure that high-speed rail and other passengers can get to and from Diridon Station. The DTW Plan EIR must ensure that the proposed modifications do not negatively impact high-speed rail passenger access as described in the San Jose to Merced Project Section Draft EIR/EIS.

The Authority supports creating urban walkable environments and requests that the Transportation Policies of the City of San José's General Plan (Chapter 6 - Land Use and Transportation, p. 37) be mentioned, and that the following Transportation Policies from *Table 3.13-2 Land Use and Transportation Goals and Policies in the Envision San José 2040 General Plan* be included in section 3.13.2 Regulatory Framework of Downtown West's EIR:

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- 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.

The Authority is highly supportive of DWDSG, Mobility Objectives:

“Improvements throughout this chapter are crafted to enhance transit access and ridership by leveraging the Project’s proximity to Diridon Station, which is served by multiple transit agencies, and where existing and new transit providers are planning future service enhancements.”

“Prioritize space for pedestrians and cyclists within streets to promote walkability and active mobility. Support walking, biking and public transit ridership with amenities that support non-vehicular choice to and from Downtown West.”

The Authority’s concerns regarding the DTW Plan are described below for each mode of access.

Pedestrians

The Draft Local Transportation Analysis (LTA) is underestimating pedestrian activity by omitting the consideration of the fact that all transit trips from the DTW development will require people to walk from transit to employment/housing. The analysis included only walk mode share trips generated by the project.

The Authority is particularly concerned about the assumption that all people going to the downtown area walk on the right side of the street and all people going to Diridon Station walk on the left side of the street, which undercounts the pedestrian flows, especially at intersections. The Authority recommends additional analysis that includes not only the walk mode share trip, but also the walk portion of the transit trips. Key areas for station access within the plan area are:

- Cahill Street and Santa Clara Street
- Cahill Street and Park Avenue
- Cahill Street and San Fernando Street
- Cahill Street and Post Street
- Montgomery Street and San Fernando Street
- Montgomery Street and Santa Clara Street

The DTW Plan shows excessive walking distances to cross Cahill Street to enter Downtown West, overloading pedestrian densities at Santa Clara Street, San Fernando Street and Park Avenue intersections. The DTW Plan creates two superblocks across Cahill Street from the station requiring pedestrians to walk over 1,000 feet to Park Avenue and Santa Clara Street, rather than a more walkable pattern of small city blocks with closely spaced intersections. The Authority requests street improvement plans with more frequent pedestrian crossings.

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Bicycles

The DTW Plan should provide street design plan drawings to show how bicycle lanes are configured at intersections, given the high number of commuters accessing the station by bicycle and the high density of onsite workers who will be using bicycles in the station area on a daily basis. The Authority acknowledges the value of considering the quality of user experience in designing bicycle facilities to attract a diversity of riders.

Transit

Downtown West should comply with the transit-supportive policies of the Envision San José 2040 General Plan, and include the following Policy from *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):

- 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.

The Authority requests that a Mobility Objective be added in the DWDSGs to improve transit access, reliability, and speed and that Downtown West's EIR documents, including through transit-supportive design by reserving space needed for transit.

Pick-Up/Drop-Off

The Authority recommends that the DTW Plan demonstrate how the design of the street network can meet the Authority's performance needs for station pick-up/drop-off. This is consistent with the following DWDSG Mobility Objective:

"Enable efficient, intuitive and safe movement of cars, buses and trucks through a redundant street grid that is right-sized to traffic volume, has separated space for pedestrians and bicyclists and slows vehicle speeds."

High-speed rail travel choice, compared to flying and driving for inter-regional trips, is sensitive to door-to-door travel times. The Authority's Draft EIR/EIS Alternative 4 uses local streets for curbside pick-up/drop-off at Cahill Street, Montgomery Street, Otterson Street, Stover Street, and Crandall Street. The Downtown West Plan conflicts with Alternative 4 station access improvements by making the following changes:

- Precludes extending Stover Street with development of Site D6
- Precludes extending Crandall Street with development of Site D7
- Reconfigures Cahill Street from San Fernando Street to Otterson Street
- Reconfigures Montgomery Street
- Closes Otterson Street with development of Site F1

Active Streetscapes

The Authority has the following concerns regarding the functionality of the proposed active streetscapes:

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- Location and width of dynamic lanes to serve station access and pick-up/drop-off
- Pedestrian/cyclist adjacency conflicts given highly constrained right-of-way
- Pick-up/drop-off conflicts with bikeways with inadequate sidewalk width between the curb and bikeways for safe pick-up/drop-off
- Inadequate sidewalk width for pedestrian through-movement
- Adequate buffer width for street trees

Per the Vesting Tentative Tract Map for Condominium Purposes PT20 - Downtown West, we want to highlight three examples:

- Exhibit TM-15, D Cahill Street Meander. DTW Draft EIR Alternative 3 is better for locating the bikeway on the east side of the street so that pick-up/drop-off can be located in front of the station. To accommodate a range of vehicles and use of the dynamic lane. For greater flexibility, they need to be 10 feet wide.
- Exhibit TM-15, N. Montgomery Street. Needs a third, new alternative with bikeway on east side of street to avoid conflicts with pick-up/drop-off serving the station on the west side of the street. Dynamic lanes need to be 10 feet wide. Alternatives 1 and 2 have pedestrian/bicycle conflicts when used for pick-up/drop-off.
- Exhibit TM-16, San Fernando Street F1 and F2. Both sections, at 55-foot and 60-foot right-of-way are too narrow to meet functional requirements, especially as the only cross street between two approximately 1,000-foot super blocks extending from Park Avenue to Santa Clara Street. Five-foot-wide sidewalks (after accounting for the one-foot transition) is not a functional width to serve a 280-foot-high building and primary access to the station. Sidewalks need to be at least 12 feet.

The Authority recommends continuing the on-going coordination with the Downtown West development team and the DISC Partner Agencies (defined below) to work together to review the multi-modal functioning of the street network to ensure street design meets the shared objectives of the Authority, DISC Partner Agencies and Downtown West.

3) CONSTRUCTION IMPACTS

Overlapping Construction Projects

A comprehensive construction coordination plan is needed to avoid and minimize impacts on HSR construction and station access during operations. The DTW Plan does not propose, and the EIR does not analyze, any solutions to the overlapping construction schedules for the HSR project, BART Silicon Valley Extension, and the DTW Plan to ensure that all projects can adequately meet their respective schedules and avoid substantial delays to these planned, critical transportation projects.

The DTW Plan proposes significant demolition, excavation and earth moving for utilities, district systems, street network changes and new buildings. Ten years of continuous construction is assumed starting in 2021 and continuing to 2031. Three phases of development are planned, and each phase includes development, utilities and street infrastructure to serve that increment of development.



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C.4



The development and implementation of a Construction Traffic Control Plan needs to have multi-agency coordination and oversight to ensure that the Project Sponsor and their General Contractor(s) minimize and avoid impacts to transit service and station access for transit, bicycles, pedestrians, and vehicles. This includes early notification to affected agencies to ensure adequate time to coordinate construction management and formulate traffic control plans.

Future Focused Local Transportation Analysis (LTA)

When future focused LTAs are developed, there needs to be a method for the Authority and transit agencies to review changes to multi-modal access to the station in the plan area. Per the DTW Infrastructure Plan, "future focused local transportation analysis (LTA) will be done to address site access and on-site circulation, in addition to evaluation of multimodal access in the Plan area. Improvement plans deemed acceptable so long as they substantially comply with street sections for typologies shown in the DWDSG." The City needs to ensure responsiveness to transit agency feedback on these plans to maintain access to transit services.

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4) BART AND DIRIDON STATION PASSENGER CONNECTIVITY

There is no information or guidance for the BART site in the DTW Plan. It is essential that the design of the BART Station and Diridon Station are seamlessly connected to minimize travel time between all rail services. The stations are inter-related projects. However, they have differing governance, funding, design parameters, construction timelines and service schedules. The DTW Plan should provide clear guidance to inform a future development application. The DTW Plan and DWDSG should include the urban design of this site, as well as consideration of implementation over time, including how the BART station connects passengers to: 1) the existing Diridon Station, 2) modifications of Diridon Station for HSR service, and 3) implementation of DISC.

This site is to be jointly developed between Google and BART as a P3 project for the BART station and up to 500 units of housing and 18,000 SF of ground floor retail. The project description Figure 2-4 shows existing and proposed changes to General Plan Land Use Designations shows the site as D1, with a downtown land use designation, however Tentative Map Exhibit TM-9A and the Downtown West Design Standards and Guidelines (DWDSG) show this site as NOT part of the project.

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5) DIRIDON INTEGRATED STATION CONCEPT

The Authority, City of San José, Caltrain, MTC and VTA (the Partner Agencies) entered into a 2018 Cooperative Agreement and mutually accepted a Concept Layout for the future Diridon Station in 2020 that defines a conceptual spatial layout for Diridon Station. The Concept Layout coordinates inter-related projects to realize the benefits from new Bay Area Rapid Transit (BART) service, new high-speed rail service, and additional Caltrain, Altamont Corridor Express (ACE), and Capitol Corridor service coming to Diridon Station. When BART, commuter rail, high-speed rail, light rail, and supporting bus services converge, Diridon Station will support more high-capacity transit connections than any other place in the Bay Area. The Partner Agencies' goal is to develop a world-class center of transit and public life that provides seamless connections between modes and integration with the surrounding neighborhoods.

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The Authority supports Downtown West's delivery of a transit-oriented center with new jobs, residences and active uses. The variety of the mixed-use core will promote transit ridership and create an active public realm. The Authority requests that the DTW Plan orient these active uses towards Diridon Station.

The DTW Plan, however, does not anticipate the spatial layout of DISC. Recognizing DISC design elements is an opportunity to achieve excellence in integrating development and transit.

As presented in DWDSG Figure 3.5. Minimum Required Ground Floor Active Use Locations there are no building entrances or active ground floor uses oriented towards the station. Every development block that is adjacent to the station turns away from the station: F1, F5, G1, D1 and C2. It is particularly concerning to not see any information on site D1, which is the BART Station site. Figures 4.3 Character Zones of Downtown West's Open Space Network and Figure 4.4 Natural to Urban Open Spaces are opportunities that could be explored to create more directly visible and accessible open spaces to the station. For example, building entrances could be better oriented toward the station to welcome passengers arriving to downtown San José.

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6) INFRASTRUCTURE

The DTW Draft EIR proposed several changes to the infrastructure in and around the Diridon station area. There is an ongoing need for the Authority and CSJ to communicate design evolution and coordinate construction sequencing, given the overlapping schedules. As the design of utilities and infrastructure continues to develop, there should be an emphasis on collaboration between the Authority, the City of San Jose and Google to eliminate conflicting information and simplify construction. The vision of the 2018 California State Rail Plan is to connect the most populous cities of the state together and integrate intercity and regional rail with high frequency service and competitive travel times for long distance and regional trips. High-speed rail will provide competitive travel times between major urban centers of California as well as high-capacity long distance regional and inter-regional travel. With integrated ticketing and fare coordination, high-speed and regional rail services is planned for seamless transfers.

C.7

7) HSR MODE CHOICE

The DTW Plan misses an opportunity to include HSR service as a commute travel mode choice as part of the travel analysis as part of TDM reduction strategies. There is no HSR ridership assumed, development period falls within planned HSR Service with Valley-to-Valley service in 2029 with up to 40 trains a day and with Phase 1 Service starting in 2033 with up to 148 trains by 2040. The vision of the 2018 California State Rail Plan is to connect the most populous cities of the state together and integrate intercity and regional rail with high frequency service and competitive travel times for long distance and regional trips. High-speed rail will provide competitive travel times between major urban centers of California as well as high-capacity long distance regional and inter-regional travel. With integrated ticketing and fare coordination, high-speed and regional rail services is planned for seamless transfers.

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Ms. Shannon Hill
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Thank you for your consideration of our comments. We look forward to our continuing collaboration with you and your staff. If you have any questions or concerns, please contact me at (916) 718-6981 or serge.stanich@hsr.ca.gov.

Sincerely,



Serge Stanich
Director of Environmental Services
(916) 718-6981
serge.stanich@hsr.ca.gov

cc: Boris Lipkin, Scott Rothenberg, Meg Cederroth, Gary Kennerley, Bryan Porter,
Chris Diwa, Bruce Fukuji

Enclosure: Table 1 – Potential Right-of-Way and Temporary Construction Easement Impacts
by Alternative

Table 1 – Potential Right-of-Way and Temporary Construction Easement Impacts by Alternative

Alternative	Right-of-Way and Temporary Construction Easement Impacts (Based on Figure 2-10 of DTW DEIR)
Alternative 4 (with 40mph design variant)	<ul style="list-style-type: none"> Parcel A1: ~0.11 ac impact to planned ROW, precluding UPRR MT0 track and retaining wall structures; Sta B3050 to B3054. (Approximately 0.17 ac additional impact to proposed TCEs adjacent to planned ROW south to Cinnabar St.) North-End Park: ~0.33 ac. impact to planned ROW, precluding UPRR MT0 track and retaining wall structures; Sta. B3058 to B3063. (Approximately 0.13 ac additional impact to proposed TCE need identified adjacent to planned ROW) Parcel B1: ~0.02 ac. impact to planned ROW, precluding UPRR MT0 track and retaining wall structures; Sta. B3064 to B3066, ~0.02 ac. (Approximately 0.04 ac additional impact to proposed TCE need identified adjacent to planned ROW) Parcel C1 and St. John Triangle: ~0.29 ac. impact to planned ROW, precluding UPRR MT0 track and retaining wall structures; Sta. B3066 to B3072. (Approximately 0.29 additional impact to proposed TCE need identified adjacent to planned ROW) Parcel C2: ~0.14 ac. impact to planned ROW, precluding UPRR MT0 track and retaining wall structures; Sta. B3072 to B3075. (Approximately 0.14 ac additional impact to proposed TCE need identified adjacent to planned ROW) Parcel C1: ~0.9 ac impact precludes replacing 116 displaced parking spaces and reconfiguring parking drive aisles and spaces to adjust to the planned ROW on SAP Center site.
Alternative 1 and 3	<ul style="list-style-type: none"> Development of Parcels A1, B1, C1 & C2 precludes planned ROW & proposed TCE's required to build the planned alignment in the northern approach to Diridon Station. Development of Parcel F5 impacts planned ROW for Diridon Station facilities. Development of Parcel G1, H2, H3 & H4 precludes planned ROW & proposed TCE's required to build the planned alignment in the southern approach to Diridon Station.
Alternative 2	<ul style="list-style-type: none"> Development of Parcels A1, B1, C1 & C2 precludes planned ROW & proposed TCEs required to build the planned alignment in the northern approach to Diridon Station. Development of Parcel F5 impacts planned ROW for Diridon Station facilities. Development of Parcel G1, H2, H3 & H4 precludes planned ROW & proposed TCE's required to build the planned alignment in the southern approach to Diridon Station.

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102



December 8, 2020

Shannon Hill
City of San Jose
200 East Santa Clara Street, T-3
San Jose, CA 95113

Re: Draft Environmental Impact Report (DEIR)
Downtown San Jose West Mixed-Use Plan (Google Project)
SCH# 2019080493

Dear Ms. Hill:

The California Public Utilities Commission's (Commission) Rail Crossing and Engineering Branch (RCEB) is taking this opportunity to address the City of San Jose's (City) Draft Environmental Impact Report/Environmental Impact Statement (DEIR) for the Google Downtown San Jose West Mixed-Use Project (Google Project). RCEB staff offers the following comments.

Commission Requirements and Policy

The Commission has jurisdiction over the safety of highway-rail crossings (crossings) in California. The Commission has exclusive power over the design, alteration, and closure of crossings, pursuant to Public Utilities Code Section 1201 et al. Based on Commission Rules of Practice and Procedure, Rule 3.9, an application to the Commission is required to construct a railroad across a public road. The Google Project is subject to several other rules and regulations involving the Commission. The proposed project's design criteria will need to comply with the California Manual on Uniform Traffic Control Devices (MUTCD) and Commission General Orders (GO's). The following GO's, among others, may be applicable:

- GO 26-D (regulations governing clearances on railroads and street railroads with reference to side and overhead structures, parallel tracks, the crossing of public roads, highways, and streets)
- GO 72-B (rules governing the construction and maintenance of crossings at grade of railroads with public streets, roads, and highways)
- GO 75-D (regulations governing standards for warning devices for at-grade highway-rail crossings)
- GO 88-B (rules for altering public highway-rail crossings)
- GO 95 (rules for overhead electric line construction)
- GO 118 (regulations governing the construction, reconstruction, and maintenance of walkways adjacent to railroad trackage and the control of vegetation adjacent thereto)

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- GO 143-B (safety rules and regulations governing light-rail transit)

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Specific Project Comments

- The Project site is bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, South Autumn Street, and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail line to the west.
- RCEB recommends any proposed new highway-rail crossings be grade-separated. Grade separated crossings provide a greater safety level for both the roadway users and railroad employees than at-grade highway-rail crossings.
- Caltrain, Union Pacific Railroad Company (UPRR), and the Santa Clara Valley Transportation Authority (VTA) own rail tracks within the project area. Caltrain, UPRR, or VTA concurrence is required for any modifications of existing highway-rail crossings.
- At-Grade Rail Crossing General Concerns:
 - The UPRR rail corridor has homeless encampments which can lead to an increased amount of train incidents and additional train horn noise. The City should work with UPRR to routinely keep the railroad right of way clear.
 - The City has sought to designate the entire corridor as a quiet zone; however, RCEB does not support quiet zones and believes train horns provide a substantial rail crossing safety benefit. The development is expected to increase the number of users at the crossings and adjacent to the railroad right of way, resulting in more noise pollution throughout the rail corridor. The FRA train horn rule allows train engineers to sound the horns at their discretion. Pedestrians tend to walk along the railroad right of way on the adjacent UPRR rail line. The train engineers will sound the train horns should they come across trespassers within the railroad right of way regardless of whether the area is a designated quiet zone or not.
 - RCEB recommends pedestrian approaches travel over the tracks at a 90-degree angle. Several of the existing at-grade rail crossings on this corridor have sidewalks skewed as they travel over the tracks. This condition results in a longer distance for pedestrians to travel over the tracks and can lead to wheelchair wheels getting stuck in the tracks.
 - Adjacent driveways and frontage roads to at-grade crossings can cause queues onto the tracks. RCEB recommends all nearby driveways and frontage roads be closed.
 - Existing railroad preemption should be reevaluated, and new railroad preemption timing sheets be provided to RCEB staff. RCEB recommends

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that advance railroad preemption be installed with advance pedestrian clearance at crossings with a high pedestrian traffic volume.

- All medians should be squared off on the trackside and have NO U-TURN signs installed to discourage motorists from making U-Turns on the tracks.
- RCEB recommends the project construct a grade-separated, highway-rail crossing to provide emergency vehicle access within the wye track. Currently, a train can block the sole crossing indefinitely, trapping the public inside the wye track.
- RCEB recommends any new proposed highway-rail crossings be grade-separated. For filing applications for new crossings, please refer to this link: <https://www.cpuc.ca.gov/General.aspx?id=2182>
- Modification of existing crossings requires GO 88-B application. Please refer to this link for details: <https://www.cpuc.ca.gov/General.aspx?id=2488>.
- Field Diagnostic meetings are required at all impacted or potentially new crossings. The Field Diagnostic Team consists of staff and representatives from the CPUC, the City, potentially Caltrans, and either Caltrain, UPRR, or VTA. This review includes a detailed analysis of the crossing. During the field diagnostic review, the Field Diagnostic Team evaluates appropriate hazard elimination recommendations and determines whether the project's development is feasible.

- Comments at specific rail crossings:

- The project impacts the following at-grade highway-rail crossings:

Crossing Name	CPUC No.	DOT No.	Railroad
N. Montgomery St	001DA-17.40	750151J	UPRR
Autumn St	082D-2.82	N/A	MTA
San Fernando Station Ped	082D-2.77-D	N/A	MTA
Delmas Ave	082D-2.70	N/A	MTA
San Fernando St	082D-2.66	N/A	MTA
Park Ave	082D-2.53	N/A	MTA
Auzerais Ave	105E-47.35	755097K	Caltrain

- North Montgomery Street: The crossing is the only entry point into the wye, and it was initially designed for industrial use. The project will be required to account for the change in the use of crossing due to the new development. The project should consider crossing modifications and pedestrian improvements.
- Autumn Street: RCEB recommends the pedestrian treatments be reevaluated at the crossing. The current configuration can trap pedestrians within the

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crossing when the gates are activated. Mitigation measures include relocating the Commission Standard 9 vehicle gates closer to the roadway and directing the sidewalks behind the gates and installing complete pedestrian treatments including separate Commission Standard 9 pedestrian gates and EXIT swing gates in the southeast and southwest quadrants. The existing Commission Standard 9 pedestrian gates in the northeast and northwest quadrants require substantial modifications to comply with modern design standards, including installing EXIT swing gates and pedestrian channelization.

- San Fernando VTA station pedestrian crossing: RCEB recommends Commission Standard 9 pedestrian gates be installed with EXIT swing gates and relocating the detectable warning strips outside the gates.
- Delmas Ave: RCEB recommends the detectable warning strips be relocated either before the automatic warning devices or 12 feet from the centerline of the tracks. The detectable warning strips are located too close to the tracks. RCEB also recommends reevaluating the existing railroad preemption. This crossing experiences tremendous volumes of pedestrian traffic during events at the SAP Center. The City should explore installing advance railroad preemption with advance pedestrian clearance at this crossing.
- San Fernando St: RCEB recommends the City of San Jose review whether the south sidewalk at the crossing meets Americans with Disabilities Act (ADA) width requirements. The measurements should be at least two feet behind the Commission Standard 9 gate for the counterweight. The detectable warning strips are located too close to the tracks. RCEB recommends the detectable warning strips be relocated either before the automatic warning devices or 12 feet from the centerline of the tracks. RCEB also recommends reevaluating the existing railroad preemption. This crossing experiences tremendous volumes of pedestrian traffic during events at the SAP Center. The City should explore installing advance railroad preemption with advance pedestrian clearance at this crossing.
- Park Ave: RCEB recommends the detectable warning strips be relocated further away from the tracks. The detectable warning strips are located too close to the tracks. There have been three incidents within the past three years at this crossing. Two of the incidents involved westbound bicyclists riding in the eastbound bike lanes and failing to yield to the light rail trolleys. The City should consider installing a railroad specific automatic warning device in the southeast quadrant or removing the trees in the dog park adjacent to the VTA right of way to improve sightlines.
- Auzerai Ave Caltrain crossing: RCEB recommends the City install complete pedestrian treatments consisting of Commission Standard 9 pedestrian gates, EXIT swing gates, channelization, and detectable warning in all four

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Shannon Hill
December 8, 2020
Page 5

quadrants. RCEB also recommends closing the existing driveway in the northeast quadrant.

The comments above are a cursory review of the at-grade crossings and should not be construed as a complete review.

The Commission is the responsible agency under CEQA section 15381 with regard to this project. As such, we much appreciate and thank you for the opportunity to work with the City to improve public safety as it relates to crossings in Downtown San Jose. We request that RCEB be kept informed of all developments associated with the Google Project. Meetings should be arranged with the Commission's RCEB staff to discuss relevant safety issues and conduct diagnostic reviews of any proposed and impacted crossing locations.

If you have any questions, please contact Ade Sogbesan via email at es3@cpuc.ca.gov.

Sincerely,



Ade Sogbesan
Utilities Engineer
California Public Utilities Commission
Rail Safety Division
Rail Crossings and Engineering Branch

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San Francisco Bay Regional Water Quality Control Board

November 18, 2020

Sent via electronic mail: No hardcopy to follow

City of San Jose
ATTN: Shannon Hill, Environmental Project Manager (shannon.hill@sanjoseca.gov)
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

Subject: San Francisco Bay Regional Water Quality Control Board Comments on the *Downtown West Mixed-Use Plan (DWMUP) Draft Environmental Impact Report* (File Nos.: GP19-009, PDC19-039, and PD19-029), *City of San Jose, Santa Clara County*
SCH No. 2019080493

Dear Shannon Hill:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Downtown West Mixed-Use Plan (DWMUP) Draft Environmental Impact Report* (File Nos.: GP19-009, PDC19-039, and PD19-029), *City of San Jose, Santa Clara County* (DEIR). The DEIR evaluates the potential environmental impacts associated with implementing the Downtown West Mixed-Use Plan (DWMUP; Project).

Project Summary. Google LLC, the Project applicant, is proposing the Project as part of the company's expansion of its workforce and business operations in the Bay Area. To accommodate workforce growth and create more efficient transportation linkages between Google workplaces and employees' homes, the Project is located largely in the area included in the City of San José's Diridon Station Area Plan (DSAP), which envisions a new high-density job center anchored by public transportation. The proposed project would include a mix of uses generally consistent with the DSAP, providing for a mixed-use Downtown neighborhood.

The project site is located in the western portion of Downtown San José, mostly in the DSAP area; it is generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, South Autumn Street, and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail tracks to the west.

The Project consists of the demolition of most existing buildings on the Project site and phased development of new buildings on approximately 81 acres on the west side of Downtown San José. The Project would require amendments to the General Plan and

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

DSAP, Planned Development Rezoning, a Planned Development Permit, including adoption of the Downtown West Design Standards and Guidelines; Vesting Tentative Map(s)/Tentative Map(s)/Final Map(s); and related entitlements from the City including, but not limited to, a Development Agreement and permits related to tree removal, demolition, grading, building, encroachment, solid waste, and historic preservation.

Summary. As is discussed below, we are concerned that the DEIR underestimates the Project's long-term impacts to riparian and aquatic habitat along Los Gatos Creek and the Guadalupe River; these water bodies provide Essential Fish Habitat (EFH) and critical habitat for central California coast steelhead. As we note below, the Project's long-term impacts to riparian and aquatic habitat may be mitigated significantly if the Project fully implements the San Jose Riparian Policy by implementing a full 100-foot riparian setback. Since the majority of the existing buildings in the Project area will be demolished, the Project provides a unique opportunity to re-establish a significant riparian corridor within the urban core. Implementing the full 100-foot riparian setback in the Project area will also set aside land that that will be necessary for the successful implementation of adaptive management measures if long-term negative impacts to riparian and aquatic habitat are observed in post-construction monitoring for the Project. We are also concerned that proposals for Habitat Enhancement Plans or adaptive management measures are not presented in sufficient detail in the DEIR.

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Comment 1. Project work to enhance flood conveyance in Los Gatos Creek will require a permit from the Water Board.

The discussion of flood control improvements in Section 2.11, *Flood Control Improvements*, includes discussion of a potential creek restoration program in Los Gatos Creek.

In addition to the West San Fernando Street bridge replacement, the applicant proposes a creek restoration project with ongoing maintenance within Los Gatos Creek to remove the debris, logjams, invasive species, and dead trees in the channel to improve floodwater conveyance. Engineered log structures or other equivalent bioengineered features would be installed in the waterway for fish habitat enhancement to improve ecological function. Ongoing periodic stream maintenance activities would also occur as part of the proposed project, in conjunction with Valley Water, to maintain the creek's capacity for conveying floodwaters. These improvements would require collaboration with and approval by other landowners and regulatory agencies.

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Please note that the proposed creek restoration program will require permits from the U.S. Army Corps of Engineers (Corps), the California Department of Fish and Wildlife (CDFW), and the Water Board, as well as consultation with the National Marine Fisheries Service (NMFS). Since the impacted reach of Los Gatos Creek contains Essential Fish Habitat (EFH) and is immediately upstream of critical habitat for the federally listed central California coast (CCC) steelhead, it is likely that the creek restoration program will require CEQA review before it can receive discretionary permits from State agencies.

Comment 2. Section 2.15.8 should include a reference to the State of California's Porter-Cologne Water Quality Act.

Section 2.15.8, *Other State, Regional, and Local Entities*, lists the Project activities that will require permits from the Water Board.

San Francisco Bay Regional Water Quality Control Board: Clean Water Act Section 401 certification for work in Los Gatos Creek, including the proposed new footbridge, the West San Fernando Street bridge replacement, any work on other bridges, and potentially permit approval if any trails or pathways were to be developed within the riparian habitat of Los Gatos Creek. The district water reuse facility or facilities would require approval from the San Francisco Bay Regional Water Quality Control Board under current regulations for on-site treatment and use of non-potable water.

Please revise this text to note that work in waters of the State will also require the issuance of Waste Discharge Requirements (WDRs), pursuant to the State's Porter-Cologne Water Quality Act. The Project will require Clean Water Action Section 401 Certification and/or WDRs from the Water Board for the replacement of stormwater outfalls, removal or construction of bridges, any dewatering necessary for in-channel work, and the proposed creek restoration program in Los Gatos Creek. The Porter-Cologne Act is discussed in Section 3.8.2 of the DEIR (see page 3.8-10).

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Comment 3. Please revise text in Section 3.2 to note that Consultation with the National Marine Fisheries Service (NMFS) is necessary for Project impacts that may impact salmonids.

In Section 3.2, *Biological Resources, Impacts and Mitigation Measures*, Impact BI-1 is discussed:

Impact BI-1: The proposed project could have a substantial adverse effect, either directly, indirectly, or through habitat modifications, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS (western pond turtle, central California coast steelhead distinct population segment, nesting birds, special-status bats). (*Less than Significant with Mitigation*)

Please note that NMFS is the federal agency that oversees projects that may impact CCC steelhead of EFH for Chinook salmon.

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Comment 4. The DEIR should acknowledge that Project work in the riparian corridor may impact fish species.

Impacts to special status fish are discussed in Section 3.2, *Biological Resources*. Text on page 3.2-33 states:

The potential for project construction to impact fish species is limited because most of the project site does not contain fish habitat. However, work in and adjacent to the Los Gatos Creek channel would be required to construct a new footbridge over Los Gatos Creek south of West Santa Clara

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Street; a pedestrian boardwalk within or adjacent to the creek's riparian corridor and a multi-use trail as close as 10 feet from the riparian corridor; and the West San Fernando Street replacement vehicle bridge over Los Gatos Creek.

Project work that impacts riparian vegetation will impact fish habitat. Loss of riparian vegetation may have long term impacts on special status fish, if the impacts result in increased in-stream temperatures. Also, as is noted on page 3.2-63, the shadowing effects of new buildings may have impacts on riparian habitat quality. To avoid impacts to special status fish species associated with both Project construction and the post-construction impacts of the Project, providing a full 100-foot riparian setback, as specified in the San Jose Riparian Policy; is likely to be the most effective way to protect special status fish species from impacts associated with implementation of the Project.

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Comment 5. Impacts to riparian habitat are not fully evaluated or mitigated in the DEIR.

Impacts to riparian habitat are discussed under Impact BI-2.

Impact BI-2: The proposed project could have a substantial adverse effect on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, regulations, or by CDFW or USFWS. (*Less than Significant with Mitigation*)

This section addresses impacts on riparian habitat and sensitive natural communities, including EFH and designated critical habitat for project elements in Los Gatos Creek and its associated riparian corridor. As described in Section 3.2.1, *Environmental Setting*, the study area is composed primarily of developed urban land. Although no critical habitat is present, the study area does include EFH, riparian habitat, and a sensitive natural community of creeping wild rye (*Elymus triticoides*).

As described under Impact BI-5, the project would conform to the City's Policy 6-34 (riparian corridor protection) (refer to Section 3.2.2, *Regulatory Framework*). In addition, the *Downtown West Design Standards and Guidelines* (Appendix M) include specific controls for protecting riparian habitat, such as riparian setbacks; additional plantings to extend the riparian corridor in select locations; a footbridge designed for minimal impacts on riparian habitat; replacement of chain-link fencing with wildlife-friendly fences; and control of the lighting adjacent to the riparian corridor.

As is noted below in Comment 9, the Project proposes to request exemptions from the San Jose Riparian Policy's 100-foot riparian setback. The Project site provides a unique opportunity to achieve a full 100-foot setback in the urban core of San Jose. A significantly restored, 100-foot riparian setback will benefit fish habitat in Los Gatos Creek, in particular by ameliorating Project impacts that raise the temperature of water in Los Gatos Creek. Moderating creek temperatures is essential to sustaining CCC steelhead in Los Gatos Creek and the Guadalupe River. Although the Project site does not contain critical habitat, critical habitat for CCC steelhead is located downstream of

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the Project site. Enhancement of riparian habitat at the Project site will benefit water quality for CCC steelhead downstream of the Project site.

As is discussed in Section 3.2.2, *Regulatory Framework*, the reaches of Los Gatos Creek and the Guadalupe River within the study area are designated as EFH. The DEIR discusses construction-related impacts to EFH at the Project site. The DEIR should be improved by discussing long-term impacts to EFH associated with impacts to riparian habitat. The DEIR acknowledges that the “project also has the potential to cause increases in water temperatures in Los Gatos Creek associated with the potential loss in riparian cover, which could directly impair EFH in the study area.” The DEIR should discuss the ways in which such impacts may be ameliorated by observing the full 100-foot riparian setback in the San Jose Riparian Policy.



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Comment 6. At locations where the Project will impact existing mitigation sites, additional mitigation will be required for impacting a mitigation site.

Text on page 3.2-59 discusses impacts associated with the replacement of a storm drain outfall at West Santa Clara Street:

An existing 18-inch-diameter storm drain outfall into Los Gatos Creek, currently located under the West Santa Clara Street overcrossing, would be replaced with a 33-inch-diameter pipe, headwall and apron, or riprap, on the west bank of Los Gatos Creek south of the Santa Clara Street overcrossing. The new outfall would include a larger flap gate. From the top of bank to approximately 12 feet below the top of bank, this area is vegetated with creeping wild rye, a sensitive natural community. Impacts on creeping wild rye are analyzed in detail later in this impact discussion under *Creeping Wild Rye Sensitive Natural Community*. An additional 20 to 25 feet of riparian vegetation extends from the lower edge of the creeping wild rye down the bank to the channel. CDFW determines the limits of riparian vegetation on a case-by-case basis, but generally defines it as the entire area between the two top-of-bank areas; therefore, for this analysis, the area of the top of bank down to the channel in the immediate area of creeping wild rye is considered riparian habitat.

The work at the outfall at the Santa Clara Street Overcrossing appears likely to impact permit-required mitigation plantings for the Stabilization of the Left Bank of Los Gatos Creek at 450 West Santa Clara Street (CIWQS Place ID No. 838800; CIWQS Reg. Meas. No. 415739). Mitigation plantings that are required by permits issued by the Water Board are expected to remain undisturbed in perpetuity. If the Project will impact mitigation plantings, then additional mitigation will be required to compensate for impacts to permit-required mitigation plantings. The DEIR should acknowledge that additional mitigation will be required when a prior mitigation site is impacted.



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Comment 7. More information is required to assess the Project's impacts on riparian habitat in Los Gatos Creek that will be associated with shade from taller buildings, and to sufficiently mitigate those impacts.

The discussion of *Operational Impacts* on page 3.2-63 of the DEIR includes a discussion of impacts associated with shading from new, tall buildings in the Project area:

Under existing conditions, the Los Gatos Creek riparian corridor adjacent to the project site receives minimal shade from buildings. Relatively few existing buildings are adjacent to (or within 100 feet of) the creek, and those that do exist are generally no more than two stories in height. Many existing structures near Los Gatos Creek are single-story buildings. However, as shown in the analysis in Appendix L, development of the proposed project would substantially increase building shadow on the riparian corridor of Los Gatos Creek, particularly during the six months between the fall equinox and the spring equinox. It is important to note that, within the project area, the Los Gatos Creek riparian corridor is composed of a fairly dense riparian canopy of mature trees, which shades the creek; however, the seasonal extent has not been quantified.

Increased water temperatures may result from a reduction in riparian cover due to the substantial increase in shading described above, which may increase the exposure of instream habitat to direct sunlight. In addition, increased water temperatures may result from heat radiation from the newly constructed buildings and hardscape environments. This increased exposure to direct sunlight and/or heat radiation from buildings, and the resulting potential increases in water temperature, could impair the riparian environment. Increased water temperatures may result in the exclusion of fish from this portion of Los Gatos Creek and may prevent steelhead from migrating upstream or dispersing throughout the Los Gatos Creek–Guadalupe River system.

Additional impacts on instream habitat may result from a loss of riparian cover, such as decreased prey availability for fish and a lack of cover for holding fish. Some aquatic insects, the primary source of freshwater prey for steelhead, feed on leaves and woody material that fall in the water; terrestrial insects utilizing riparian vegetation occasionally fall into the waterway as well, providing another source of food for fish.

For these reasons, the impact on riparian habitat from shading by adjacent buildings and from changes in water temperature caused by losses in riparian cover or heat island effects would be **potentially significant**.

To mitigation potential negative impacts on temperature in Los Gatos Creek, text on page 3.2-67 states that:

. . . the proposed project would implement the following mitigation measures to reduce potentially significant operational impacts on riparian habitat to **less than significant with mitigation incorporated**. These measures would reduce the impacts because they require monitoring water temperatures

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within Los Gatos Creek to ensure that steelhead are not exposed to harmful conditions (the threshold of concern is 71.6°F); monitoring riparian vegetation before and after building construction adjacent to the riparian corridor; establishing performance criteria for existing riparian vegetation; and, if performance criteria are not met, implementing habitat enhancement.

Mitigation Measure BI-2c: Monitor Effects of Shading and Heat Island on Riparian Vegetation and Stream Temperature

To evaluate the effects of building shading on riparian vegetation and water temperature in Los Gatos Creek, the project applicant shall implement an annual monitoring program that includes a baseline assessment and continues annually for 15 years following construction. Two or more unshaded reference sites shall be included for comparison to shaded areas to account for vegetation effects that are unrelated to the project, such as from drought. The following performance standards shall be used to evaluate vegetation and water temperature changes over time, and determine whether project-related shading is negatively affecting the riparian corridor, or whether the increased urban footprint is negatively affecting water temperatures in Los Gatos Creek.

One year of pre-Project monitoring is not likely to be sufficient to establish baseline temperatures and vegetation conditions, prior to tracking post-Project impacts on habitat quality in Los Gatos Creek. In light of the high inter-annual variability in weather in the Bay Area, three to five years of baseline monitoring should be conducted prior to construction to establish baseline conditions for riparian habitat and water temperature in Los Gatos Creek at the Project site.

The DEIR states that the proposed monitoring would consist of:

Aquatic monitoring. The project applicant shall use the following methodology to study water temperature in Los Gatos Creek during the 15-year monitoring period. Prior to project construction, water and ambient air temperature loggers shall be installed at three locations within and adjacent to the project site. One logger shall be installed in upstream Los Gatos Creek, one within the affected reach adjacent to building construction, and one downstream of the project site. Care shall be taken to ensure that each of these temperature loggers is installed in similar habitat types (e.g., pool, riffle, run) within similar habitat conditions (e.g., amount of cover, depth, flow rate). Loggers at these three locations shall record hourly water temperature values before, during, and after project construction. If the difference in water temperature between the upstream and downstream monitoring locations increases substantially over time, particularly above the threshold of concern (71.6 degrees Fahrenheit), then additional adaptive actions shall be implemented (e.g., riparian planting, increase in urban tree canopy, treatment of runoff) to compensate for any increase in stream temperature. All actions shall be consistent with the approved Habitat Enhancement Plan, described below.

More detail should be provided to demonstrate that the proposed monitoring would establish an appropriate baseline for pre-Project riparian vegetation and water

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temperature. In addition, the DEIR should include a more detailed monitoring protocol so that stakeholders can review it to assess its sufficiency for characterizing creek temperatures.

In addition, the DEIR should provide more defined “adaptive actions” to ameliorate any detected increases in water temperature in Los Gatos Creek. The proposed adaptive measures include additional riparian plantings. But additional riparian plantings will not be feasible if the Project site is built out up to the edge of the Project’s reduced 50-foot riparian buffer. The entire 100-foot buffer specified in the San Jose Riparian Policy should be preserved so that land is available for additional riparian plantings to mitigate any detected increase in water temperature in Los Gatos Creek. It is difficult to find land available for riparian plantings in urbanized San Jose, because of the high cost of land and the extent of existing development adjacent to Los Gatos Creek and the Guadalupe River. Mitigation for increased temperatures in Los Gatos Creek must be provided in a location that will mitigate the locally increased temperature. The most practical location for such riparian mitigation is in the full 100-foot setback specified in the San Jose Riparian Policy.

The DEIR proposes the following monitoring of post-Project riparian habitat:

Riparian monitoring. At a minimum, riparian vegetation shaded by project buildings shall meet the following performance standards by the 15th year of post-project monitoring:

- (1) The loss of absolute cover of riparian canopy and understory cover relative to baseline conditions is less than or equal to 15 percent. (If the loss of cover exceeds this criterion, then the change shall be compared with changes measured in the reference site[s] to determine whether on-site shading is the causal factor as opposed to other external regional factors such as climate change, drought, and alterations to reservoir releases.)
- (2) There is no more than a 5 percent reduction in native species relative to non- native species for tree and woody shrub species, measured both as species richness and relative cover.

The mitigation measure includes a detailed study of riparian habitat that may be impacted by Project implementation, and specifies the conditions that would trigger the need for mitigation measures. However, mitigation measures cannot be implemented if near creek land is not set aside in which mitigation measures can be implemented. In addition, the DEIR calls for the preparation of a draft Habitat Enhancement Plan, but does not provide a sufficient description of the contents of an effective Habitat Restoration Plan. At this point in the CEQA review process, a draft Habitat Enhancement Plan should be available for review by the resource agencies and other stakeholders. Without a draft Habitat Enhancement Plan, the Project team cannot anticipate the necessary land area that will be necessary to implement a successful Habitat Enhancement Plan. In the absence of a draft Habitat Enhancement Plan, a full 100-foot riparian setback should be established so that land is available for enhancement of riparian habitat as a part of a Habitat Enhancement Plan. At this time, the DEIR does not yet demonstrate that the Project’s shading impacts on riparian habitat can be mitigated to less than significant level.

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Comment 8. The DEIR only proposes mitigation for impacts to trees with diameters at breast height (DBH) of six inches or more, while regulatory agencies will require mitigation for all impacts to riparian habitat.

The Project's *Construction Impacts on creek habitat* are described on page 3.2-70:

To facilitate water conveyance, decrease flooding, and enhance habitat, the project would remove an estimated 4 dead trees and 7 live trees (non-native and native) from the riparian corridor, as well as 13 individual in-channel logs, 3 logjams, 2 logs lodged on the creek bank, and 13 aerial logs within a highly constrained stream reach from West Santa Clara Street to San Carlos Street.

Live trees larger than 6 inches diameter at breast height (dbh) removed by the project would be replaced at a minimum ratio of 3:1 (trees replaced: trees removed) for native species and 2:1 for non-native species. Removal of live trees with a dbh of 2 to 6 inches would be mitigated at a minimum of 1:1 for native trees, and no mitigation for non-native trees. No mitigation is proposed for the removal of invasive tree species regardless of dbh. Removal of dead trees would be mitigated at a ratio of 1:1 (refer to Appendix D2, the *Google Downtown San José Los Gatos Creek Enhancement Project Site Assessment Summary Report*). Replacement trees would consist of a combination of plantings of shade-tolerant riparian vegetation such as Oregon ash (*Fraxinus latifolia*), California buckeye (*Aesculus californica*), and other locally appropriate native species. With implementation of tree replacement at the ratios above, permanent impacts associated with tree removal would be less than significant.

The six-inch diameter threshold for requiring mitigation for removed riparian trees has no basis in regulations. The Water Board and CDFW usually require mitigation for all riparian trees removed by a Project.

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Comment 9. To avoid impacts to Riparian habitat that includes EFH and is immediately tributary to critical habitat for CCC steelhead, the Project should implement the full 100-foot riparian setback specified in City Policy 6-34.

The discussion of Impact BI-6 on page 3.2-85 states that the Project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.

As set forth in the discussion in Section 3.2.2, *Regulatory Framework*, the City is a Permittee of the *Santa Clara Valley Habitat Plan* (Habitat Plan), and the proposed project is within the Habitat Plan Permit Area.

Any project requesting a riparian setback reduction from City Policy 6-34 and the Habitat Plan's Condition 11 must be reviewed and approved by the City. For exceptions to the Habitat Plan's Condition 11, the stream and riparian setback requirement, an exception request is submitted to the City. The City could work with the project applicant to make any adjustments, and the City

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would then provide the exception request to the Habitat Agency, CDFW, and USFWS for a 30-day period for review and comment. At the conclusion of the 30-day review period, the City would consider any comments received from these agencies and may then consider the stream and riparian setback exception request for approval.

The Habitat Plan defines the standard setback for Los Gatos Creek, a Category 1 stream inside the existing urban service area, and with a slope class of 0–30 percent, as 100 feet. As described under Impact BI-2, the project proposes 50-foot building setbacks from Los Gatos Creek, consistent with a setback reduction that may be permitted under Policy 6-34. The project would also retain certain existing buildings along South Autumn Street (Blocks D8, D9, D10, D11, D12, and D13) that are currently within 50 feet of the riparian corridor. One or more of these buildings could also be replaced within existing building footprints if retention is determined not reasonably feasible, subject to City confirmation of consistency with Policy 6-34; such replacement would be required under the Downtown West Design Standards and Guidelines to maintain or reduce the existing building footprint within the City-mandated minimum 50-foot riparian setback. The project would remove certain hardscape areas and areas of disturbed landscape behind (on the Los Gatos Creek side of) at least two of these buildings on Block D that are adjacent to the top of the stream bank, would revegetate the formerly hardscape/disturbed areas with riparian plant species, and would then install sections of a raised pedestrian boardwalk along the edge of, and in some cases within, the riparian corridor. This boardwalk would provide continuous pedestrian access along Los Gatos Creek from the VTA rail tracks north to West Santa Clara Street. Where it would be along the edge of, or intrude into, the riparian corridor, the pedestrian boardwalk would travel exclusively above the formerly paved or disturbed areas to be revegetated. Similarly, the project would develop a pedestrian boardwalk on the east side of Los Gatos Creek between the VTA tracks and West Santa Clara Street, on Block E. This boardwalk would remain outside the riparian corridor.

With implementation of Mitigation Measure BI-2a, along with Mitigation Measures BI-1a, BI-1b, and BI-1c, the proposed project would have a less-than-significant impact on the riparian corridor and the riparian habitat that it provides. Because the identification of a significant impact under CEQA depends on the finding that a project would result in a physical change in the environment (CEQA Guidelines Section 15358(b), the fact that the project would provide less than the Habitat Plan's standard 100-foot riparian setback would not rise to the level of a significant unavoidable impact, given that mitigation for any adverse physical effects is feasible through implementation of Mitigation Measures BI-1a, BI-1b, BI-1c, and BI-2a and given that a reduced setback for any proposed construction would require approval by the City during Conformance Review to ensure conformance to the Habitat Plan's reduced setback provisions.

Requesting a riparian setback reduction is not completely compliant with the Habitat Plan, especially in a reach of Los Gatos Creek that contains EFH and is immediately

E.9
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upstream of a reach of the Guadalupe River that provides critical habitat for CCC steelhead. As we have noted above in Comments 5 and 7, mitigation measures in the DEIR are not yet sufficient to ensure that the Project would not have significant impacts to riparian habitat, EFH, and downstream critical habitat for CCC steelhead. It is also not clear in the DEIR why non-historic buildings are proposed to be retained within the reduced 50-foot riparian setback, when the Project description calls for the demolition of most buildings in the Project area. Please clarify the rationale for retaining these existing buildings, which compromise the integrity of even the proposed, reduced 50-foot riparian setback. The Project should prioritize enhancement of riparian habitat and remove existing non-historic buildings within the proposed riparian setback.

Variances from the 100-foot setback make sense in developed areas in which a one lot expansion of the riparian buffer has limited environmental benefit, when neighboring, existing structures are much closer to the top of bank. However, the DWMUP provides a unique opportunity to restore a full riparian setback within the urban core, since most of the existing buildings in the Project area will be demolished. Implementing the full 100-foot setback in the DWUMP redevelopment area will provide a significant enhancement of riparian habitat in the urban core; this full riparian corridor may prove especially beneficial to sustaining CCC steelhead in Los Gatos Creek and the Guadalupe River. Wider riparian corridors provide more robust insulation of creek water temperatures from the negative impacts of urban heat islands.

Implementing the full 100-foot riparian setback will also provide valuable opportunities for on-site riparian enhancement and/or mitigation. Onsite mitigation is especially valuable along salmonid streams, since off-site mitigation does not sufficiently mitigate onsite impacts to water temperature and water quality that may impair fish migration and fish spawning. To minimize impacts to riparian habitat, EFH, and critical habitat for CCC steelhead, we recommend using the full 100-foot riparian setback in City Policy 6-34. We also encourage the Project to construct trails outside of the riparian buffer, since humans and domestic animals are likely to disturb wildlife in the riparian corridor.

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Comment 10. The Project appears to be likely to impact special status species.

The discussion of cumulative impacts on page 3.2-87 asserts that the Project's impacts on special-status fish (i.e., CCC steelhead) and western pond turtle are limited to impacts from construction activity in or adjacent to Los Gatos Creek and the Guadalupe River. We do not concur with this conclusion. As is discussed in Comments 4, 5, 7, and 9, above, long-term impacts associated with impacts to riparian habitat are likely to have potentially significant impacts to special status fish.

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Comment 11. The DEIR should document that the Project is dedicating sufficient surface for use in Low Impact Development (LID) stormwater treatment.

Text in Section 3.8, Hydrology and Water Quality, Section 3.8.2, Regulatory Framework, describes the regulation of stormwater runoff under National Pollutant Discharge Elimination System (NPDES) regulations.

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Discharges of stormwater runoff from municipal separate storm sewer systems (MS4s) are regulated by the Municipal Regional Stormwater NPDES permit (MRP), under Order No. R2-2015-0049; NPDES Permit No. CAS612008, issued by the San Francisco Bay Regional Water Quality Control Board.

Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area, or 5,000 square feet or more of impervious surface area for regulated projects involving special land use categories (i.e., auto service, retail gasoline station, restaurant, and/or uncovered parking), are required to implement site design, source control, and Low Impact Development–based stormwater treatment controls to treat post-construction stormwater runoff. Low Impact Development–based treatment controls are intended to maintain or restore the site’s natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and for using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures be properly installed, operated, and maintained.

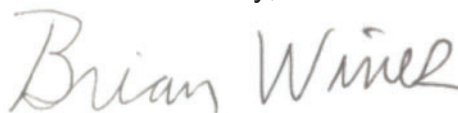
Post-construction monitoring and treatment controls, as required by MRP Provision C.3 and the Construction General Permit and pursuant to City Policy 6-29, would be implemented to ensure that the proposed project would not have ongoing adverse residual impacts on receiving waters.

The Water Board will review the stormwater control plan as part of reviewing applications for Certifications and/or Waste Discharge Requirements for the Project. The successful implementation of bioretention areas and other Low Impact Development (LID) measures to treat stormwater runoff requires that land be set aside within the Project area for the construction of these treatment measures, which have surface areas on the order of three to four percent of the impervious surface area that drains to the LID treatment measure. The DEIR should include procedures for ensuring that sufficient land area is set aside for stormwater treatment measures that are compliant with the MRP.

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If you have any questions, please contact me at (510) 622-5680, or via e-mail at brian.wines@waterboards.ca.gov.

Sincerely,



Brian Wines
Water Resources Control Engineer
South and East Bay Watershed Section

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)
CDFW, Kristin Garrison (kristin.garrison@wildlife.ca.gov)



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Connect with the
Bay Area Air District:



December 8, 2020

Shannon Hill

Department of Planning, Building and Code Enforcement

City of San Jose

200 East Santa Clara Street, 3rd Floor Tower

San Jose, CA 95113-1905

RE: Downtown West Mixed-Use Plan – Draft Environmental Impact Report

Dear Ms. Hill,

Bay Area Air Quality Management District (Air District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the Downtown West Mixed-Use Plan (Plan). The Plan requires a General Plan Amendment, Planned Development Rezoning, and Planned Development Permit for the redevelopment of approximately 81 acres of the Diridon Station Area Plan (DSAP) area in the City of San Jose. The project applicant, Google LLC, proposes the following uses for this Plan: up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses (e.g., retail, cultural, arts); up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; approximately 100,000 GSF for up to two event and conference centers; approximately 130,000 GSF for up to two central utilities plants; approximately 100,000 GSF for logistics warehouse(s); and approximately 15 acres of open space.

The Air District supports high-density mixed-use development projects near transit that have the potential to reduce air quality and greenhouse gas (GHG) emissions. Air District staff commends the City for incorporating several emissions and exposure reduction measures in the DEIR, including the installation of MERV 13 filtration in all new on-site buildings, the planting of vegetative buffers between sensitive receptors and sources of toxic air contaminants (TACs), and the requirement for electrification of all buildings, with the exception of commercial cooking. Even with the robust set of mitigation measures included in the DEIR, the Plan is expected to result in significant and unavoidable impacts to air quality. The Air District recommends the following measures that can further reduce air pollution emissions and limit exposure to pollutants.

Transportation

Since the majority of operational criteria emissions are due to mobile sources, Air District staff have included here recommendations to add to and expand performance standards and proposed measures for the Enhanced Transportation

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Demand Management (TDM) Program, Mitigation Measure AQ-2h in the DEIR. The Plan proposes up to 4,800 commercial parking spaces and up to 2,360 residential parking spaces. Air District staff recommend that the City decrease the number of parking spaces available and implement best practice parking strategies to discourage single occupancy vehicle travel, such as parking cash-out, reduced parking requirements, shared parking, paid parking, and car-share parking. The Plan proposes sound measures to support transit use, but, given that the Plan is located in a transit-rich area, including Caltrain, ACE train, planned BART service, and proposed high-speed rail, we believe the Plan should be as ambitious as possible in encouraging the use of public transportation and active transportation. Additional TDM measures could include improvements to pedestrian and bicycle facilities on site, which could be expanded to specifically incorporate comprehensive and safe bicycle and pedestrian route and path connections with nearby activity centers and transit facilities, secure bicycle parking, expanded bike share and bike share membership, bicycle repair station and maintenance services, a fleet of bicycles, and bicycle valet parking.

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In addition, the Plan proposes electric vehicle charging stations for 10 percent of the total number of parking spaces, with an increase to 15 percent with Mitigation Measure AQ-2g. Given the recent Executive Order N-79-20 to phase out gasoline cars and mandate 100 percent sales of new passenger vehicles to be zero-emission by 2035, as well as 100 percent of medium- and heavy-duty vehicles by 2045, it is critical that the Plan accommodate the electric vehicle charging infrastructure necessary to reduce emissions from the transportation sector and accelerate zero-emission technology. To align with this new Executive Order and to be able to support an influx of electric vehicles, Air District staff recommend increasing electric vehicle charging stations beyond 15 percent of the total number of parking spaces. In addition, Air District staff recommend that the Plan include additional requirements to increase EV ready spaces and EV capable spaces, as included in the [City of San Jose Ordinance No. 30311](#).

F.2

Health Risk

The Plan proposes that new sensitive uses, including potentially a childcare center, be located on the south end of the Plan boundary, which is 200 feet north of Interstate 280. Air District staff recommend that the City consider moving any sensitive receptors at least 500 feet away from freeways and other sources of toxic air contaminants. In addition to the inclusion of MERV 13 filters and the planting of vegetated buffers, Air District staff recommend the following best practices to reduce health risk, which can be found in Appendix B of the Air District's Planning Healthy Places Guidance ([https://www.baaqmd.gov/~media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en](https://www.baaqmd.gov/~/media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en)):

- Account for sensitive land uses when designing on-site housing, such as locating operable windows, balconies, and building air intakes as far away from any emission source as is feasible, and incorporating open space between buildings to improve air flow and pollution movement;

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- Limit ground floor use of buildings, to reduce exposure to local pollutants from a nearby at-grade highway or busy roadway; and
- Phase the construction period to further reduce exposure to fine particulate matter and toxic air contaminants.

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Backup Generators

The Plan proposes 47 diesel backup generators on the project site which will require Air District permits. Diesel combustion can cause local health impacts and contributes to GHG emissions. To meet State and regional climate goals, the Air District encourages projects go above and beyond current permitting requirements. In September 2018, the Air District launched the Diesel Free by '33 initiative to eliminate diesel emissions from Bay Area communities. Mayor Sam Liccardo of the City of San Jose signed Diesel Free by '33 to pledge the City's commitment to cut diesel use to zero by the end of 2033. To this end, the Air District recommends that the City compel the Project applicant to use the cleanest available technologies such as solar battery power, fuel cells, natural gas engines, or Tier 4 diesel generators. For more information on backup generator alternatives, please see CARB's web page for Emergency Backup Power Options: <https://ww2.arb.ca.gov/our-work/programs/public-safety-power-shutoff-psps-events/emergency-backup-power-options-commercial>.

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Additional Measures to Reduce Emissions

To further reduce significant and unavoidable impacts, Air District staff recommend the following:

- Increase the percentage of electric off-road equipment where feasible;
- Source 100 percent renewable energy, whether from San Jose Clean Energy, PG&E, or on-site renewable, as mentioned in the Plan;
- Wire buildings for electrical hook-ups to accommodate plug-in electric trucks and transportation refrigeration units; and
- Provide for electric commercial cooking equipment, in addition to the rest of the buildings on site that will operate with 100 percent electric energy.

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Jobs/Housing Balance and Environmental Justice

Given the significant, unmitigated impact due to this Plan's potential to exacerbate the jobs/housing imbalance identified in the 2040 General Plan, Air District staff is concerned about the associated increase in vehicle miles traveled (VMT), which may further exacerbate air quality in San Jose, which is disproportionately impacted by air pollution and as identified by the Air District's Community Health Protection Program and Community Air Risk Evaluation (CARE) Program. We strongly recommend that the Plan include more residential units, at all income

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Shannon Hill
Page 4

December 8, 2020

levels, in order to help address current and future jobs/housing imbalances and associated vehicle use and emissions.

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Air District staff is available to assist the City in addressing these comments. If you have any questions or would like to discuss Air District recommendations further, please contact Josephine Fong, Environmental Planner, at (415) 749-8637 or jfong@baaqmd.gov, or Kelly Malinowski, Senior Environmental Planner, at (415) 749-8673 or kmalinowski@baaqmd.gov.

Sincerely,



Greg Nudd
Deputy Air Pollution Control Officer

cc: BAAQMD Director Margaret Abe-Koga
BAAQMD Vice Chair Cindy Chavez
BAAQMD Director Liz Kniss
BAAQMD Chair Rod G. Sinks



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December 8, 2020

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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:

G.1

- 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.

G.1
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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.

G.2

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.

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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):

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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.

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

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.

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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.

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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

G.6

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.



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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.

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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.

G.9

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.

G.10

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.

G.11

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

G.12

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.)

G.12
cont.

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.

G.13

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-

G.14

Shannon Hill
December 8, 2020
Page 10 of 10

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.

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cont.

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



**City of
Santa Clara**
The Center of What's Possible

Community Development

December 8, 2020

City of San José
Department of Planning, Building and Code Enforcement
Attention: Shannon Hill, Environmental Project Manager
200 E. Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905

**Subject: Comments on Draft Environmental Impact Report for the
Downtown West Mixed-Use Plan**

Via email: shannon.hill@sanJoseca.gov

Dear Ms. Hill:

The City of Santa Clara has reviewed the Draft Environmental Impact Report (DEIR) prepared for the Downtown West Mixed-Use Plan (the "Google Project" or the "Project"). The Google Project involves demolishing numerous buildings within an approximately 81-acre Project site and development of up to 5,900 residential units, 7,300,000 gross square feet (GSF) of office space, 500,000 GSF of commercial retail space, 300 hotels rooms, 800 rooms for limited-term corporate accommodations, 100,000 GSF of event center space, 130,000 GSF for utility plants, and 100,000 GSF of logistics warehouse space over three phases. Governor Newsom certified the project under the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (AB 900) on December 30, 2019. It is unclear if AB 900 will be legislatively extended, thereby allowing the Project to avail itself of AB 900's judicial streamlining benefits. However, we understand that the Project applicant has committed to providing the environmental benefits required under AB 900 regardless of whether the statute's sunset date is extended.

The following comments are provided following our review of the DEIR.

1. Transportation and Circulation

Inaccuracies in Appendix J1, Table 2

Existing uses in Table 2 in Appendix J1 differ significantly from information provided elsewhere in the DEIR. It shows 2,436 existing residents and 4,078 existing jobs. However, the rest of the DEIR states that there is only one occupied residence and

H.1

approximately 650 jobs on the Project site currently. This should be revised to be consistent with the rest of the DEIR, and the FEIR should clarify whether these corrections alter other transportation related analyses.

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H.1
cont.

Project Trip Generation Analysis

Appendix J2 incorrectly and inconsistently characterizes Project growth under LTA Phase 1. Tables 5 and 10 both provide the Land Use Summary for LTA Phase 1 and Buildout. Table 11 then provides the LTA Phase 1 Person Trip Generation figures based on the amount of development assumed for LTA Phase 1 under Table 5. LTA Phase 1 corresponds with Scenario 2b which includes “traffic generated by the level of development constructed prior to the completion of BART to Diridon.” (Appx. J2, pp. 39, 50, 95.) As more explicitly explained on page 96: “The LTA analysis phases differ from the Project phases. LTA Phase 1 includes Project phases 1 and 2.” Therefore, for LTA Phase 1, Tables 5, 10, and 11 should reflect the amount of development associated with Project Phase 1 and Phase 2, but they do not. Table 10 only reflects Project Phase 1 growth; it includes no portion of Project Phase 2 growth although much of Project Phase 2 will be completed prior to completion of the BART extension. Table 5 (and thus Table 11) appears to include a portion, but not all, of the corporate accommodations and commercial space to be constructed during Project Phase 2. However, the number of residential units shown is *less than* those that will be completed during Project Phase 1. By underrepresenting Project development that will occur prior to completion of BART Phase 2, the analysis underestimates the number of gross person trips generated by the Project under Scenario 2b. As a result of this underestimation, the Scenario 2b analyses do not represent the full impact of Project growth on transit and congestion. Thus, these tables and related analyses must be corrected. If the updated analyses demonstrate there will be significant impacts to transit, the DEIR must be recirculated.

H.2

VMT Analysis

Regional VMT: The DEIR determined employment VMT significance based off a 15 percent reduction in regional per employee VMT. The City of Santa Clara maintains that for projects of this size, the City of San José (San José) should consider whether a more stringent threshold should be applied given the fact that 15 percent VMT reductions may prove inadequate for the State to achieve its climate goals. However, the City of Santa Clara recognizes that the Google Project’s per employee VMT is projected to be approximately 32 percent lower than the regional average and thus would adequately contribute to the State’s ability to meet its climate goals.

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Limited-term corporate accommodations VMT: The VMT analysis is unclear with respect to the limited-term corporate accommodations. Please clarify whether this use was included in the Project VMT analysis and the Cumulative VMT analysis. Additionally,

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please clarify whether it was evaluated as a residential use. It is likely this use would result in a lower per capita VMT than a permanent resident. Persons staying in the corporate accommodations would most likely only need to commute to a workspace on the Project site, allowing them to commute by foot. Further, they would be more likely to rely on transit or services like Lyft or Uber—which were not analyzed in the transportation analyses—than by personal vehicle like a permanent resident. Factors such as these would result in a low VMT and, if wrapped into the residential per capita VMT calculations, would improperly skew the residential VMT projections downward. Accordingly, if they were included in the residential VMT, the City of Santa Clara requests that analysis be rerun to only include permanent residents.

H.4
cont.

Event Space VMT: Appendix J1 concludes without analysis that the event space would have less than significant VMT. Analysis must be provided. The space will accommodate up to 2,000 people. Appendix J1 claims that most events would be targeted to onsite employees, meaning about 70 percent of attendees would already be in the Project area. However, that means as many as 600 people per event will be traveling from outside the Project area. VMT related to these attendees must be analyzed.

H.5

Roadway Expansion VMT: The project is proposing new street connections and SB 743 clearly states the requirements for disclosing induced VMT, impacts to multimodal transportation networks, and impacts to potential mixed-use developments. The Transportation section 3.13 within the CEQA document discusses the VMT due to the project roadway modifications and states the impact to be less-than-significant based on a qualitative discussion without any analysis. The CEQA document should include a discussion that quantitatively discloses what the VMT impact of the proposed project would be related to the roadway network changes. The travel demand model used for the transportation analysis can also be used to quantify these impacts.

H.6

Demands on Multi-Modal Transit

The DEIR states that the Google Project “would conflict with a transit-related program plan or policy if it would conflict with existing or planned transit services, or services or would decrease the performance or safety of such services.” However, the DEIR fails to adequately analyze whether the Google Project would degrade the performance of transit services, which could in turn induce an increase in vehicle trips and related impacts.

H.7

Transit Supply and Demand: The Google Project is anticipated to lead to the direct generation of 31,198 jobs at full buildout, up to 5,900 residential units, and indirectly lead to the generation of another 80,000 jobs. However, the DEIR only provides a conclusory determination as to whether transit demand generated by the Project would exceed each transit provider’s capacity and thereby avoids addressing whether mitigation is required.

If the Project causes capacity to be exceeded, it may induce travelers to travel by vehicle, including by services such as Uber or Lyft.

Rather than evaluate the impact of the Project on each route or transit provider, the DEIR aggregates Project demand for all VTA bus lines as well as the Monterey-Salinas Transit and Amtrak 17 Express by cardinal direction. Aggregating the demand obscures the extent of Project demand on each service and each individual line or route—minimal impacts on some routes would effectively cancel out significant impacts on other routes. Thus, each line and route should be analyzed separately to transparently reflect the Project's demand.

Further, the DEIR only provides a single analysis of the potential for the Project to exceed transit capacity—this is with respect to crowding on Caltrain. (Appendix J2, p. 140 [providing maximum load with and without the Google Project and analysis whether it exceeds the comfortable crowding level].)¹ For each other type of transit (VTA bus lines, VTA Light Rail, Capitol Corridor, and Altamont Corridor Express), the Project's demand is only given in the number of riders or the percent of capacity that the Project will use. This information gives no indication whether the Project will contribute to capacity being exceeded on any route or line. For instance, while Appendix J2 admits that the Project may lead to mild to moderate crowding on VTA services during peak hours, it is not clear what level of crowding will exist or what the Project's contribution will be. As with Caltrain, the "Maximum Load Without the Project" and the "Maximum Load with the Project" must be provided to determine how severely the maximum load may be exceeded and to what extent the Project contributes to the exceedance. Additionally, where the Google Project contributes to an exceedance, it must identify feasible mitigation to reduce the impact.

H.7
cont.

Regarding Project demand on the Altamont Corridor Express, we further note that Table 36 does not match the text in section 5.2.6.5, which states that the Project is expected to generate around 350 new trips, representing approximately half of peak hour capacity. The corresponding column for buildout in Table 36 shows 254 trips and 39 percent of peak hour capacity.

The analysis of the Project's impact on BART notes that BART reaches its max load point in the Transbay Tube. First, this ignores that excessive crowding already exists on BART during peak hours many stops before the Transbay Tube and thus the Project will likely contribute to excessive crowding even if, as Appendix J2 asserts, most Project riders will alight prior to reaching the West Oakland Station. Additionally, by focusing on the

¹ Additionally, this analysis appears inconsistent with the text of the DEIR. The DEIR states that the threshold for exceeding peak passenger loads is "120 percent of seated capacity for all transit modes except Express Bus, which is 100 percent of seated capacity." (DEIR, p. 3.13-34.) However, Appendix J2 inconsistently asserts crowding on Caltrain is acceptable up to 135 percent of capacity and thus finds 132% crowding is not excessive. (Appendix J2, pp. 139-140.)

Transbay Tube, it fails to analyze whether excessive crowding conditions may exist near the Diridon Station stop during peak hours. It is likely that a significant number of riders will pass through Diridon Station in either direction after BART Phase 2 is completed. If crowding conditions exist in either direction, it is unquestionable that the Project would contribute to those conditions.

H.7
cont.

Transit Delay (LTA): The Transit Vehicle Delay analysis only looked at intersection LOS impacts and excluded other impacts to transit delay such as dwell time. Because the Project will add a significant number of new passengers, it is likely to contribute to boarding delays which can create further system delays.

Further, there is no commitment to mitigate the impacts to transit delay. Appendix J2 states that transit signal priority and/or dedicated public service lanes have been identified as potential improvements to address transit delays. While Appendix J2 states that “the Project applicant will fund a study to evaluate the feasibility of a dedicated public service lane along Santa Clara Street/The Alameda between 17th Street and I-880,” the DEIR states that the conditions of approval *may* require the Project applicant to provide “funding for the study of a dedicated bus lane and/or other transit speed improvements (queue jumps, signalization, etc.) within existing right-of-way from 17th Street to I-880 along Santa Clara Street–The Alameda as part of the Development Agreement.” Thus, it is not definitive whether the Project applicant will fund the necessary study to determine the feasibility of the identified transit improvements. The Project applicant must be required to fund these studies and contribute its fair share of funding for feasible improvements.

H.8

Local Transportation/Congestion Management Analysis

Buildout assumptions: The scope of the LTA analysis for City of Santa Clara intersections is incomplete as it only analyzed LOS impacts under Baseline Plus Project buildout conditions. The LOS analysis should also address Santa Clara intersections under Cumulative Plus Project buildout conditions as well. The Santa Clara intersections should be analyzed under the Cumulative Plus Project buildout scenario as this is the most conservative analysis versus analyzing under the Cumulative Plus Goal-Based Project buildout scenario. Additionally, the “Plus Project Buildout” analyses for City of Santa Clara intersections as well as Congestion Management Program (CMP) facilities assumes that BART service at Diridon Station will be operational. Given the scope of the BART extension project, it is quite possible that it will not be timely completed in 2030, meaning the Google Project will be built out before the BART extension is completed. If the BART extension is not operational, it is likely there will be greater vehicle congestion, which should be reflected in the LOS analyses.

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City of Santa Clara Intersections: The City of Santa Clara appreciates that several intersections located in the City of Santa Clara were included in the LOS analysis. Based

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on the trip assignment figures contained within the Local Transportation Analysis (LTA) and the City using VTA's 10-trip rule, the following intersections need to be analyzed in the LTA:

- El Camino/Lafayette St.
- El Camino/Monroe St.
- Stevens Creek/Winchester Blvd.
- Stevens Creek/Cypress Ave. and,
- Stevens Creek/Henry Ave.

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cont.

Congestion Management Plan Intersections and Freeway Segments: The LOS analysis determined there would be impacts to a number of CMP intersections and freeway segments. For most of the CMP intersections, the LTA analysis determined that improvements were infeasible. Pursuant to the VTA Guidelines, San José is obligated to develop or implement a Multimodal Improvement Plan for impacts for which improvements are infeasible such as at the Central Expressway and De La Cruz intersection.

The LTA identified the following highway projects as relevant to (1) the Project's adverse freeway segment effects and (2) the exacerbated unacceptable operations at the intersection of De La Cruz Boulevard and Central Expressway:

H.11

- VTP ID H4: SR 87 Express Lanes (SR 85 to US 101)
- VTP ID H11: I-280 Express Lanes (Leland Avenue to Magdalena Avenue)
- VTP ID H15: I-880 Express Lanes (US 101 to I-280)
- VTP ID H25: US 101 Southbound/Trimble Road/De La Cruz Boulevard/Central Expressway Interchange Improvements.

While these improvements may be beyond the scope of an individual development project to fund independently, the Project should contribute its fair share towards these improvements since it will contribute to the adverse effects.

Event Center: More information should be provided with respect to the proposed event center. Although 70 percent of attendees are assumed to already be onsite, up to 600 attendees per event are projected to travel from out of the Project area as discussed above. It is not clear whether the DEIR analyzed their impacts on traffic and transit. This should be clarified, and the analyses of their impacts on traffic congestion and transit must be undertaken if not already included.

H.12

Growth reallocation inconsistencies: Page 42 of Appendix J2 states that, in addition to the 5,575 housing units and 6.3 million square feet of commercial/office uses to be reallocated for the Project, there would also be 469,000 gross square feet of retail uses

H.13

and 1,100 hotel rooms from other General Plan growth areas outside of Downtown reallocated to the Diridon Station Area Plan (DSAP). Elsewhere the DEIR states that there is already sufficient retail and hotel use availability for the Project such that reallocation of retail and hotel uses is not necessary. Thus, the statement that 469,000 gross square feet of retail uses and 1,100 hotel rooms will be reallocated to the DSAP is inconsistent with the rest of the DEIR. The FEIR must resolve this internal inconsistency.

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cont.

Santana West Settlement Agreement Compliance

The DEIR does not address the need for the Google Project to comply with the Santana West Settlement Agreement (Settlement Agreement). Per the terms of the Settlement Agreement, any impacts found at protected intersections, including Winchester Boulevard/Stevens Creek Boulevard, which will impact traffic in the City of Santa Clara, will require payment of fees to be used for transportation system improvements to alleviate the increased traffic congestion in the City of Santa Clara. San José must analyze impacts to the protected intersections and provide a clear explanation of how such impacts are analyzed and how traffic fees are calculated. Additionally, any offsetting improvements should be identified with specificity and be coordinated with the City of Santa Clara. Further, the secondary impacts of implementing these improvements should be identified. Due the magnitude of the Google Project, please indicate whether the project complies with the Santana West Settlement Agreement.

H.14

2. Population and Housing

With respect to affordable housing, the Notice of Preparation stated “[t]he project sponsor intends to meet the project’s affordable housing obligations as set forth in the Memorandum of Understanding and through compliance with the city’s Inclusionary Housing ordinance.” The DEIR also states: “As part of the project’s residential uses, affordable housing is planned to be delivered consistent with the MOU, which states that the Project applicant and the City of San José ‘as a goal but not a requirement, strive for 25 percent of the housing developed in the Diridon Station Area to be affordable housing with a mix of affordability levels ...’” (DEIR, p. 2-14.) However, neither provides any clarity regarding whether any affordable housing will definitively be included as part of the Project. The MOU is non-binding and, as stated, only provides a *goal* with respect to affordable housing. The City of Santa Clara reiterates its request that the Google Project meet its affordable housing requirement fully and that this be included as an enforceable requirement in the FEIR.

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3. Population & Housing/Land Use – Consistency with Plans/Policies

Our NOP letter asked that “the EIR include robust discussion and analysis of the Google Project’s impacts on the assumptions made in other planning documents, including the

H.16

Downtown Strategy and the North San Jose Development Policy.” The DEIR shows that with the General Plan amendment, the growth will fit within the Downtown Strategy, but it does not discuss impacts, if any, to the North San Jose Development Policy. Please address whether the North San Jose Development Policy will be affected by the Google Project.

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cont.

4. Scope of Incentives

Based on the draft MOU between San José and the Project applicant, it appears that San José represents it will require Google to fully pay all applicable fees, charges, and taxes in accordance with standard payment requirements and that no city funds are to be expended on the Google Project. However, the MOU is nonbinding, and the DEIR does not confirm that San José is not providing direct or indirect incentives. This should either be confirmed in the FEIR, or the FEIR should include a transparent discussion regarding the scope of any direct or indirect incentives provided to the Project applicant by San José.

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* * * * *

On behalf of the City of Santa Clara, we appreciate the opportunity to comment on the DEIR for the Google Project.

Sincerely,



Andrew Crabtree
Director of Community Development

cc: Brian Doyle, City Attorney, City of Santa Clara
Deanna Santana, City Manager, City of Santa Clara
Manuel Pineda, Assistant City Manager, City of Santa Clara

County of Santa Clara

Roads and Airports Department
Planning, Land Development and Survey

101 Skyport Drive
San Jose, CA 95110-1302
(408) 573-2460 FAX 441-0276



December 7, 2020

Shannon Hill, Planner





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

SUBJECT: Downtown West Mixed Use Plan Draft EIR (Google Project)

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Downtown West Mixed Use Plan Draft EIR (Google Project), and is submitting the following comments:

1. This project has a regional impact therefore traffic circulation study should also analyze major gateways in/out of the County and to the project site. Gateways to include freeway corridors such as
 - US-101,
 - SR-87,
 - I-880,
 - I-680,
 - I-280.

During peak times the freeways are very congested and many project trips would not use the freeways but more of the local streets. Therefore the Project Study should identify these routes and include them in the impact analysis.
2. Please consider additional queueing analysis at freeway on/off-ramps near County facilities, such as
 - Capitol/680,
 - Almaden/87,
 - San Tomas/Montague/101, and
 - Montague/880.
3. The TDM specifically mentions and relies on several transit projects being completed to achieve projected VMT reduction thresholds (VTA LRT, Caltrain electrification, BART to Diridon). The initial five-year period for the TDM annual report shall begin after these transit projects have completed.

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <p>4. In the TDM analysis - “The Project would be required to achieve the 27 percent effectiveness of a TDM program that incorporates all reasonably available CAPCOA TDM measures.”: Please submit annual TDM effectiveness report to assure the project is consistent with the 27% effectiveness goal. Include and propose changes to the TDM if necessary, to meet the stated goal.</p> | 
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cont. |
| <p>5. With VTA’s newly proposed Transit Service Plan (TSP) with as much as 30% service reduction, the Study should revise transit reduction credits to match VTA’s TSP.</p> | 
1.4 |
| <p>6. The LTA identified the study intersection at De La Cruz/Central Expwy would operate at an unacceptable LOS. VTA’s US 101 Southbound/Trimble Road/De La Cruz Boulevard/Central Expressway Interchange Improvements project was identified as the possible mitigation measure. Will city agree to be subject to any cost share? Propose a different mitigation measure if City is not planning on cost sharing.</p> | 
1.5 |
| <p>7. Neighborhood Traffic and Parking Intrusion Analysis: submit initial monitoring report for review of the potential neighborhood cut-through traffic, speeding concerns, and parking intrusions generated by the proposed project. The final Neighborhood Traffic Intrusion Plan should be flexible and should be adjusted to reflect observed travel patterns in surrounding neighborhoods to include the Burbank community and other County pocket facilities. Include parking plan or revise current proposed TDM to address these concerns if demand exceeds cut-through traffic threshold.</p> | 
1.6 |

If you have any questions or concerns about these comments, please contact me at 408-573-2462 or ben.aghegnehu@rda.sccgov.org

Thank you.



December 8, 2020

Department of Planning, Building, and Code Enforcement
200 E. Santa Clara Street, T-3
San José, CA 95113

Attn: Shannon Hill

By Email: shannon.hill@sanjoseca.gov

Subject: Draft Environmental Impact Report (DEIR) for the Downtown West Mixed-Use Plan (Google Project); File Nos GP 19-009, PDC19-039, and PD19-029

Dear Ms. Hill,

Thank you for the opportunity to provide comments on the DEIR for the Downtown West Mixed-Use Plan located in the City of San José. The Santa Clara Valley Transportation Authority (VTA) is excited about the opportunity that this project represents for San José and the growth for transit ridership it will bring to the Diridon area from new Bay Area Rapid Transit (BART) service, new High-Speed Rail (HSR) service, and additional Caltrain, Altamont Corridor Express (ACE), and Capitol Corridor service coming to Diridon Station. Combined with light rail and the multiple bus routes already provided, Diridon Station will support more high-capacity transit connections than any other place west of the Mississippi River. It is the goal of all our agencies to develop a world-class center of transit and public life that provides smooth connections between modes and integration with the surrounding neighborhoods. We are pleased to see Google work with all public agency partners to support that vision.

We are supportive of the overall efforts of Downtown West to promote non-vehicle transit modes, including bicycles and pedestrians, within the station area as primary access modes to transit. VTA looks forward to remaining involved in the considerations and decisions being made for non-vehicle modes to provide the greatest benefit to the traveling public within the Diridon Station area. VTA has reviewed the DEIR and would like to highlight three key topics in this cover letter.

Public Service Lanes

VTA applauds the City's efforts to make San José and especially the downtown area a transit-rich community. This is evident through the applicant's funding of a Public Service Lane Feasibility Study for Santa Clara Street, in which public service lanes are defined as travel lanes to be used by public transit and emergency vehicles only. VTA recommends that the funding for the study be put into the earliest phase of the community benefits package and that the Development Agreement memorialize the Public Service Lanes Feasibility Study as an early deliverable. VTA believes that the implementation of this project is critical to the success of the Downtown West area and would like it implemented as soon as possible. Completing the study early provides the City and VTA time and opportunity to identify a larger variety of funding sources including developer contributions and grants such as the Affordable Housing and Sustainable Communities (AHSC) grant funding in association with the Affordable Housing Implementation Policy. VTA looks forward to working with the City through this process.

J.1

VTA accepts the invitation from City of San José to lead the feasibility study for public service lanes along Santa Clara Street with San José serving as an equal partner. From the City’s perspective, this partnership could include coordinating with other interested parties; equally writing the RFP, selecting consultant(s), and deciding the final design; presenting at public meetings, and serving as co-author for the final report, among others.

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cont.

Congestion Management Program Consistency

The DEIR identifies one Congestion Management Program (CMP) facility (First Street/Alma Avenue) that would be impacted by this development. The California Congestion Management Program (CMP) statute requires Member Agencies to prepare a Multimodal Improvement Plan (MIP) for CMP facilities that exceed the CMP traffic Level of Service (LOS) Standard. MIPs must include a set of improvements, programs, and actions that measurably improve multimodal performance and contribute to a significant improvement in air quality around the CMP facility as a way of offsetting the LOS vehicular impact. As such, the City will be required to develop an MIP for the First Street/Alma Avenue CMP facility. VTA looks forward to working with City staff to identify the multimodal improvements that will address the CMP impacts so that new development can begin to contribute to those projects.

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J.2

DISC Integration

The Diridon Integrated Station Concept (DISC) Program is a joint effort of the City of San José, the Peninsula Corridor Joint Powers Board (PCJPB, also known as Caltrain), VTA, the California High-Speed Rail Authority (CHSRA), and the Metropolitan Transportation Commission (MTC) (the “Partner Agencies”) to redesign the Diridon Station area. The redevelopment of Diridon Station is an ongoing, long-term project that will take many years to plan, design, and build and the Partner Agencies will work together with the Downtown West team over many years throughout the process.

In 2020, the Boards and Councils of the Partner Agencies accepted the Concept Layout for the Station that reflects the guiding principles of maintaining the track approaches generally within the northern and southern rail corridor, advancing an elevated station concept, and designing for one station concourse near Santa Clara Street and one station concourse near San Fernando Street. The Partner Agencies envision a highly-visible main entrance, iconic station hall, and active public space in front of the station. To achieve this, the Concept Layout envisioned that Cahill Street will be open to only bicycle and pedestrian traffic between Santa Clara and San Fernando Streets. While Appendix M, Page 263, mentions Cahill Street has been identified by the DISC project as a potential pedestrian only transit plaza, the First Amendment to the DEIR should update the circulation and transportation analysis to reflect how Cahill Street will be closed to vehicle traffic. Cahill Street is also designated as a “local connector” in the design guidelines and VTA recommends that that be changed to a more appropriate designation.

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J.3

The Project Description states that “the preferred Concept Layout is still preliminary” and “no dedicated funding is currently in place to construct the improvements.” (Page 2-11). As stated above, the Partner Agencies mutually accepted the Concept Layout in 2020 and \$100 million of dedicated funding is included in Regional Measure 3. The First Amendment of the DEIR should be updated to reflect this.

City of San José
December 8, 2020
Page 3 of 11

Thank you again for the opportunity to review this DEIR. VTA looks forward to our continued collaboration with the DISC partners and Google in the review of the DEIR to ensure a “transit first” perspective for circulation and land use decisions. Please see the attached technical memo that provides additional comments on the Downtown West project DEIR on the following topics in addition to the three key topics described above:

- Conformance Review Process
- DISC Partners
- DISC Rail Alignment
- Pedestrian and Bicycle Accommodations
- Transit Services
- Utilidor and Infrastructure Analysis
- Street Network: Use of Dynamic Lanes and Prohibited Curb Cuts
- Transportation Demand Management/Trip Reduction Strategies
- Santa Clara Street Cross Section
- Land Use
- VTA's BART Silicon Valley Phase II Extension Project
- At-Grade Railroad Crossings

If you have any questions, please contact our planning lead for this effort, Lola Torney at 408-321-5830/lola.torney@vta.org, or me at 408-321-7093/deborah.dagang@vta.org.

Sincerely,

A handwritten signature in blue ink that reads "Deborah Dagang". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Deborah Dagang
Chief Planning & Programming Officer



MEMORANDUM

TO: Shannon Hill, Department of Planning, Building, and Code Enforcement, City of San José

FROM: Lola Torney, Department of Planning and Programming, VTA

DATE: December 8, 2020

SUBJECT: Additional Comments on Draft Environmental Impact Report (DEIR) for the Downtown West Mixed-Use Plan

Conformance Review Process

As a land use-transportation integration partner, VTA engages in the review of public and private developments that are adjacent to transit to facilitate coordination, synergy, and an overall successful transit-supportive/oriented environment. This enables both VTA and the City to meet shared goals for city livability, support for transit and multimodal transportation, reduction vehicles miles traveled and greenhouse gas emissions, safer travel, and increase physical activity and public health as outlined in the City's General Plan (*Envision 2040*) and the *Diridon Station Area Plan* (DSAP), both of which are currently being updated. VTA's comments on the draft DSAP update are forthcoming and VTA looks forward to ongoing partnership and review of future conformance plans to assist the City's review.

J.4

The Downtown West Design Standards and Guidelines (DWDSG) describes the conformance review process for future Horizontal Improvements, Final Mapping, and Improvement Plans (Page 17). VTA looks forward to participating in the conformance review process at the earliest stage possible to facilitate sustainable development and protect transit investments.

DISC Partners

BART should be removed from the list of DISC Partner Agencies. VTA is the representative of VTA's BART Silicon Valley Extension project, in collaboration with the BART organization, in the DISC effort. (Page 3-12). Additionally, the Metropolitan Transportation Commission (MTC) joined the DISC partnership in 2020. VTA recommends that the Downtown West documents be updated to describe the partnership correctly throughout.

J.5

DISC Rail Alignment

While the development application for Downtown West, 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 application¹), VTA notes that *Figure 2.2: Downtown West Mixed-Use Plan* in the DWDSG does not similarly account for space needed for DISC rail alignment.

J.6

¹ <https://www.sanJoseca.gov/home/showpublisheddocument?id=43691> (Accessed December 2nd, 2020).

Pedestrian and Bicycle Accommodations

As bicycles are a primary mode of access for transit, VTA anticipates reviewing the bike parking numbers and locations that will be determined as the project progresses. Section 6.15 of the DWDSG mostly concurs with Chapter 10 of the VTA Bicycle Technical Guidelines (https://www.vta.org/sites/default/files/documents/vta_bicycle_technical_guidelines_complete.pdf), which provides guidance on bicycle parking types, locations, and the number of spaces that should be provided for a project by land use type. VTA has also begun to recommend projects also provide at least 30 square feet of designated micromobility parking (such as scooters). This square footage can be divided and arranged to fit the space but should be provided close to the building entrance(s). VTA recommends that this be required as part of building design for the Downtown West development with the understanding that if buildings are placed close enough, one micromobility parking area could serve for multiple buildings. This concurs with the “Scooter Corrals” guideline in Section 6.15 of DWDSG.

VTA appreciates the inclusion of Mobility Hubs in the DWDSG. VTA recommends language be added to promote short, well-lit, walking paths for users who transfer between rail, bus, bike, and scooter. VTA also recommends the list of Mobility Hubs amenities include transit system map cases/information signs for regional travelers. Lastly, VTA suggests the second amenity listed under Mobility Hubs be updated to say, “Transit shelters with seating and real-time arrival information.”

While the DISC program is intended to have consolidated bicycle facilities for transit use, Downtown West should also provide bicycle facilities as DISC is not planned to open for eight to 10 years after the Downtown West development. It is understood that the DWDSG are not intended to outline exact locations at this stage of the project’s design, but there does not appear to be consideration given to the need for bicycle facilities near the BART station mentioned in the guidelines. VTA recommends that a statement to this effect be added to the DWDSG. For the BART station specifically, the BART access design principles state that there should be a minimum number of bicycle parking spaces within proximity to the BART headhouse. While these bicycle facilities will not be limited to BART users only, Downtown West should also provide bicycle facilities in the vicinity of the BART station to ensure cumulative needs are met (Page S-21 TDM Program and Appendix J2 Section 6.4).

VTA supports the proposed widening of the sidewalk north of the light rail tracks to better accommodate more active transportation users. VTA expects that the linear open space will maintain its current distance from the trackway and that the level of separation (fencing and plantings) will be maintained or increased as required for safety. Construction Access Permits will be required for any construction that occurs within 10 feet of the light rail system and can be coordinated through permits@vta.org. VTA notes that Figure 4.42 Illustrative Plan of the Creekside Walk at South Autumn Street of the DWDSG depicts a section of light rail track at east of Autumn Street with a green, planted treatment. VTA currently does not have any portion of our light rail tracks with green, planted treatment. Such modifications may require CPUC review and approval as well as VTA concurrence. VTA looks forward to working with the City in reviewing the proposed plans for the area.

The DWSDG notes that “bikeways should be designed based on Vision Zero design principles to eliminate conflicts between drivers of transit vehicles and people riding bicycles” (Page 254). The DEIR includes a potential for public

J.7

J.8

service lanes on Santa Clara Street between I-880 and 17th Street. Concurrently, the *San José Better Bike Plan* includes recommendations to upgrade the existing bike lanes on Santa Clara Street to protected bike lanes between the City of Santa Clara border and Almaden Boulevard. VTA provides guidance on the design of protected bikeways adjacent to bus routes to eliminate such conflicts and safeguard bus travel times. For Santa Clara Street, protected bikeways paired with bus boarding islands and in-lane bus stops can accomplish the goals of traveler safety and support on-time performance for buses.

J.8
cont.

Transit Services

VTA is excited for the potential of Downtown West to both promote and increase transit use in the area, specifically for the VTA bus and light rail network and future BART service. While the DEIR notes that the transit service analyzed was in place at the time of the NOP, there have been several changes to VTA service in the area both related and unrelated to the COVID-19 pandemic. The routes currently serving Diridon Station include, 22, 64A, 64B, 68, 168, 500, 522, and the Green Line. Routes 23 and 523 also serve nearby San Carlos Street. The First Amendment to the DEIR should be updated to reflect this.

J.9

Construction Impacts to Transit

The Diridon Station area is anticipated to see a significant level of construction for many years through VTA's BART Silicon Valley Phase II Extension Project, Downtown West, and work related to DISC. The DEIR does not address how project construction would impact transit. VTA expects the City to emphasize to all parties involved in the project construction that there should be minimal to no impacts to transit as projects are being built. If changes to bus routes are needed, the City shall coordinate with VTA by contacting bus.stop@vta.org at least two weeks prior to rerouting. If any construction occurs within 10 feet of the light rail system, Construction Access Permits will be required and can be coordinated through permits@vta.org.

J.10

Transit Analysis

VTA is very concerned about the anticipated impacts to travel speeds to both bus and light rail services in the project area. VTA's goal is to provide fast, frequent, and reliable transit for all riders, including the potential large influx of riders related to the proposed project. The environmental analysis estimates a large increase in ridership, with up to 39,500 daily boardings in the project area as part of the Goal-Based project Buildout scenario. This is a 20-time increase over existing ridership and it is critical that VTA is put in an advantageous position to best serve these new riders. The transit analysis included in Sections 313 Transportation, Appendix J1 Transportation Analysis, and Appendix J2 Local Transportation Analysis, all show some potential impacts to VTA bus and light rail travel speeds with the build out of the project. While VTA does not have an existing threshold to define significant impacts to transit speeds, VTA does have a number of policies including the Transit Speed Policy, Land Use Development and Review Policy, Parking and Transit Oriented Development (TOD) policy, and Station Access Policy that are all designed to give direction regarding the interface between new development and their potential impacts to transit. Furthermore, VTA does not agree with the significance criteria assumed in the DEIR (Page 3.13-26), specifically the impact threshold requiring transit speed to fall below 15mph. VTA believes that any degradation in transit speeds, regardless of whether or not it falls below 15mph, should be considered an impact to transit.

J.11

The transit analysis appears to analyze existing BART conditions and ultimately concludes that the project is unlikely to cause excessive crowding on BART. This analysis should be updated to include VTA's BART Silicon Valley Phase II Extension Project as it is an environmentally approved project that will be operational along with the development of this project (Appendix J2, Section 5.2.6.2).

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J.11
cont.

Shuttles

When private commuter shuttles propose to use VTA bus stops, VTA and the City shall coordinate the responsible shared use of such facilities to ensure safe and efficient accommodations for passengers of both public transit and private commuter shuttles.

J.12

Utilidor and Infrastructure Analysis

VTA understands that there is no phasing plan for the construction of the proposed utility corridor, or "utilidor," and that the phasing plan is expected to be made available after the public comment period for this DEIR has ended. VTA looks forward to receiving this from the City as soon as it is available. This is especially important as the proposed layout for the utilidor shows is adjacent to the BART headhouse and timing for the construction of the utilidor and BART could overlap. The construction of the utilidor should not impact the BART headhouse or tunnel in any way. Therefore, construction mitigation will need to be implemented to ensure no impacts to these facilities.

J.13

Street Network: Use of Dynamic Lanes and Prohibited Curb Cuts

VTA would like to continue to discuss the use and location of dynamic lanes and prohibition of curb cuts for the street network with the City. It is understood that Cahill Street (west of the VTA parcel, which is bounded by Santa Clara Street, Cahill Street, Montgomery Street, and the new Post Street) and the new Post Street (south of the VTA parcel) are not a part of the DWDSG, but VTA would like to ensure considerations for the BART station are studied prior to finalization of the document. VTA recommends, at a minimum, that language be added to the DWDSG that the roadway network may have a different cross-section in the streets not currently included in the project but located within the core area.

J.14

Passenger pick up and drop off (PUDO) will continue to be a mode of access for BART patrons and should be accommodated in advance of a future consolidated PUDO through the DISC program as BART is intended to be open well in advance of DISC. A review of the current plans for Montgomery Street between Santa Clara Street and the new Post Street and the new Post Street south of the VTA parcel should be reviewed for the higher volume of vehicle traffic expected in this segment and to support the BART station PUDO activities. Consideration should be given to which side of the street the dynamic lane is built along Montgomery Street. It is important to activate ground floor retail within the station area core, but pedestrian safety when crossing the street must also be a part of the decision. Montgomery Street from Santa Clara Street to the new Post Street may also benefit by allowing a standard curb separation between the active streetscape and the curb-to-curb zone and/or dynamic lanes. Future consideration may also be given for a dynamic lane along the northside of the new Post Street.

J.15

It appears that heavier uses such as loading is not an intended use within the dynamic lanes. VTA is concerned that if Montgomery Street and the new Post Street are also not intended for heavier uses either, then the VTA parcel

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development may have difficulties in the future when Cahill Street is no longer open to vehicle traffic. VTA would like to better understand how this area will be futureproofed for these types of needs and requests that the DWDSG modifies the designated permanent uses in dynamic lanes to allow for short-term parking for users such as PG&E and maintenance and freight vehicle activities adjacent to the BART headhouse.

VTA would like to note that it is currently intended for an underground parking garage access to take place along the new Post Street rather than Montgomery Street as noted in the DWDSG. VTA requests that future consideration be given to this use for the new Post Street (DWDSG Chapter 6).

J.15
cont.

Transportation Demand Management/Trip Reduction

The primary mitigation measures discussed in the document to address the overall project are enhanced transportation demand management (TDM) measures as well as a study of public service lanes on Santa Clara Street. The San José City Council Study session on November 16, 2020 also noted a contribution to studying potential improvements to light rail (slide 94). VTA would like additional details on these two mitigation measures as well as a stronger commitment on what aspects will be funded by the project. VTA also recommends the project contribute to transit signal priority improvements for any routes or transit corridors impacted by the project (Table 3.13-8, Table 37 and Table 38 in Appendix J2).

VTA appreciates the list of TDM measures that may be applied to each of the phases/buildings for this project that were included in the DEIR with the understanding that the final TDM measures will be decided as the development progresses through the entitlement process. VTA recommends the City also include projects that increase transit speed and reliability in the TDM list including public service lanes, transit signal priority, and contributions towards capital and operating improvements that would extend service spans and facilitate transfers between modes.

J.16

VTA would like clarification on language from Appendix J1, Page 79 that says, "After two years of not meeting monitoring requirements, the City may initiate enforcement action against the applicant and successors, including imposition of financial penalties to the owners and/or operators of the office and residential development that will support the funding and management of transportation improvements that would bring the non-SOV mode share to the targeted level." Specifically, VTA would like to see "may" changed to "shall" as well as clarification on what "support funding and management of transportation improvements that would bring the non-SOV mode share to the targeted level," would entail. For example, would the financial penalties be placed into the City's General Fund or perhaps into a specific DSAP-area account? What is the list of projects that could be funded through those penalties?

Santa Clara Street Cross Section

VTA would like to note that the cross section of Santa Clara Street shown in the DWDSG incorrectly shows two left turning lanes from Santa Clara Street to Autumn Street. VTA requests this be updated to reflect the correct number of vehicle lanes.

J.17

VTA also recommends the First Amendment to the DEIR show a cross section of Santa Clara Street with the possible public service lanes as the outside lanes (adjacent to the curb) with bus boarding islands.

J.18

Land Use

VTA agrees with the City that the land uses and building designs in Downtown West (and the larger Diridon Station area) should be as pedestrian-friendly and transit-supportive as possible. VTA recommends that the buildings/public realm immediately framing the station area within a one- to two-minute walking distance (approximately 220-440 feet) such as buildings along Cahill Street (north and south of the station) be oriented and designed for ease of movement and orientation of first- time visitors. While the presence of office buildings is welcome, this immediate area could become a desolate public realm after business hours. The project prescribes “active uses” along certain frontages but not along the ground floors of buildings immediately framing the station along Cahill Street. VTA notes that active uses are located approximately *east* of the station along Montgomery Street, providing visual cues east of the station but no visual cues are provided north or south. Providing active uses along Cahill Street (north and south of the station) will ensure a 24-hour character for a world-class transit hub and an increased sense of safety and comfort through “eyes on the street.”

Furthermore, active use frontages reinforce pedestrian and transit walking routes to the station. Such transit walking routes are along *all* streets within the station area and should be complemented by some active uses along a portion of all block frontages. When active uses are visible along a street, it provides visual cues to encourage walking and increases the comfort and safety of the pedestrian. Cahill Street/North Montgomery Street and Santa Clara Street are key transit walking routes that do not have clearly designated active frontages. VTA recommends providing clearly designated active frontages along these streets.

The DWSDG includes a figure that delineates areas or block frontages that are appropriate for off-street parking and loading, in other words the allowance of curb cuts and loading activities which can be unwelcoming for pedestrians as these can be considered “back of house uses.” These delineated areas for off-street parking and loading amount to 60 percent of Cahill Street within the project area (excluding the section between San Fernando and Santa Clara Streets). While the project provides for ‘Logistics Hubs’ which could consolidate loading activities in fewer locations throughout the project area, VTA recommends special attention to the pedestrianization of Cahill Street and requests relocating off-street parking and loading to another location.

J.19

VTA’s BART Silicon Valley - Phase II Extension Project

VTA is looking forward to continuing our public-private partnership with Google and the close coordination between VTA’s BART Silicon Valley Phase II Extension Project and the Downtown West development as both projects advance towards construction in the near-term.

Project Name

The name of the project should be consistent throughout the document and should be called “VTA’s BART Silicon Valley Phase II Extension Project.” It is called several different names, such as “BART Downtown” and “BART Silicon Valley Phase II,” throughout the document.

J.20

Construction Transportation Management Plan (CTMP)

Continued access to the Diridon Transit Center during the construction period is of the utmost importance to VTA.

J.21

We understand that significant work needs to take place regarding the coordination and development of the Construction Transportation Management Plans (CTMP) for both projects. VTA requests that language be added to the DEIR related to direct coordination with VTA regarding coordination of any Downtown West construction plans in addition to the City of San José as VTA's BART Silicon Valley Phase II Extension Project schedules and areas overlap (Appendix J2, Chapter 12).

VTA would also like to suggest a formalized coordination and review process for the CTMPs for the Diridon Station area. We are aware that there are several topics that will need to be discussed as the projects progress in design such as road closures, truck haul routes, stormwater, security, outreach and messaging, and vibration monitoring plans. VTA is also looking forward to receiving more information about the utilidor and the use of a tunnel boring machine (TBM) as it becomes available to the City. It is understood that depending on the schedules, the vibration and noise monitoring plans required for both projects due to the use of a TBM will need to be coordinated (Section 2.8.9 and Impact NO-2).

The document notes that the 2017 Infrastructure Analysis would need to be reevaluated once more information was known about VTA's BART Silicon Valley Phase II Extension Project (stated as the BART Downtown extension). VTA understands that this document will be updated following the approval of the DSAP in 2021. VTA suggests that this statement be revised if it is not going to be updated for this environmental document (Section 2.8.7).

Construction vehicles, equipment, and other facilities should be clearly marked with project identification/branding in a manner that is distinguishable from other nearby projects. This will ensure community outreach, stakeholder communications, and issues management are streamlined.

Parking Assessment

VTA understands that the Downtown West project will ultimately replace any loss of parking due to the development of the project. VTA would like the second paragraph of this section to be revised as written below to the following to better represent the end state of VTA's BART Silicon Valley Phase II Extension Project. VTA's BART Silicon Valley Phase II Extension Project has its own set of mitigation measures for temporary replacement parking during construction that are not referenced in this document and all construction vehicles and equipment will be staged within the project's construction staging areas.

"During BART construction at Diridon Station, portions of the parking lots within their construction staging area (CSA) will be reserved for storage of construction vehicles and equipment. The Phase II Project's environmental mitigation requires the temporary replacement of 450 parking spaces during construction, which is not included as part of the Downtown West Project. When construction is complete of VTA's BART Silicon Valley Phase II Extension Project, the property within the construction staging areas will be returned to the property owner. As such, some, but not all the reserved parking lots may be reopened, at the property owner's discretion." (Appendix J2, Section 10.5).

Security

VTA noted that the Downtown West project plans to develop its own on-site security plan. VTA would like to

J.21
cont.

J.22

J.23

discuss security as a future coordination topic closer to Opening Day of VTA's BART Silicon Valley Phase II Extension Project. With the multiple police and security jurisdictions in the area, it is important to VTA that protocols and procedures are coordinated to ensure proper responses (Page 2-60).

↑ J.23
cont.

Construction Schedules

VTA recommends that the dates for VTA's BART Silicon Valley Phase II Extension project be updated throughout the document to be "2022 through 2030, with substantial completion anticipated in 2028."

↑ J.24

VTA would like a better understanding of the constraints that VTA's BART Silicon Valley Phase II Extension Project construction places on the Downtown West project that will lead to the extension of phasing of the project to the extent that necessitates calling it out in the document as such (Appendix J2, Chapter 12, Page 240).

↑ J.25

Ridership

VTA has also recently updated our ridership modeling to meet FTA requests for their Expedited Project Delivery Pilot Program. Our new modeling estimates approximately 11,500 riders by 2040 for the Diridon BART Station. VTA asks that this be reflected in your document and analysis (Page 3.13-7).

↑ J.26

At-Grade Railroad Crossings

VTA acknowledges the potential modification to existing or new at-grade crossings of the railroad tracks, possibly by North Montgomery Street (crossing number 750151J) or at Autumn Parkway (crossing number 924191R), as noted in Appendix J, and at light rail tracks at Delmas Avenue and Autumn Street noted in the DWDSG. For such modifications, the project sponsor should work together with the CPUC and VTA to review the potential at-grade crossing changes and implement safety measures as a direct result of the project. Such safety measures should be expressly stated in the Conditions of Approval. Specifically, with Autumn Street being converted to two lanes, the at-grade crossing of the light rail tracks across Autumn Street will require additional crossing improvements including new "back" gates on the north side of the crossing. VTA looks forward to reviewing the designs for the improvements.

↑ J.27



File: 33664
Los Gatos
X-Fac: Guadalupe River

December 7, 2020

Ms. Shannon Hill
Planning, Building & Code Enforcement
200 East Santa Clara Street, T-3
City of San Jose, CA 95113

Subject: Draft Environmental Impact Report for the Downtown West Mixed-Use Plan (Google Project)

Dear Ms. Hill:

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the Downtown West Mixed-Use Plan (Google Project), received by the Valley Water on October 7, 2020.

The Valley Water owns fee title property and easements along both Los Gatos Creek and the Guadalupe River within and adjacent to the project site. The DEIR notes work including, but not limited to outfall relocation, Los Gatos Creek enhancement, a new pedestrian bridge over Los Gatos Creek and replacement of the San Fernando Street bridge. Any work on Valley Water's easement or fee title property will require the issuance of a Valley Water encroachment permit as per Valley Water's Water Resources Protection Ordinance. Issuance of a Valley Water encroachment permit and any agreements with Valley Water, such as Joint Use Agreements, are discretionary acts and require Valley Water to be considered a responsible agency under CEQA.

Please contact me to set up a meeting in January to discuss the timing and approach to obtain required Valley Water permits and agreements as may be applicable. In this way, we can better serve the City and Google in making sure documentation is completed within the timeframes as needed for the project.

Based on Valley Water's review of the DEIR we have provided a comprehensive set of comments in response to the public review document as shown below. The comments address the scope and content of the environmental information relevant to our agency's statutory responsibilities in connection with the proposed project. This EIR will be used by Valley Water

K.1



when considering subsequent approvals related to the project. Based on our review of the DEIR we have the following comments:

1. As indicated on page S-68, dewatering is required during construction because shallow groundwater occurs in the project location. Valley Water recommends that the construction dewatering system be designed such that the volume and duration of dewatering are minimized to the greatest extent possible. Valley Water also recommends that a more detailed analysis of construction dewatering be conducted, including estimating dewatering volumes/durations and evaluating related impacts if volumes are expected to be significant. We also recommend that the geotechnical investigation identify the foundation design and waterproofing that will avoid the need for permanent dewatering after construction is complete. This comment also applies to other mention of dewatering activities in the DEIR, including but not limited to Section 3.8, page 3.8-28 and Mitigation Measure HA-3c that describes contractors developing a dewatering plan.
2. It is unclear why the project proposes both a trail along Los Gatos Creek, a minimum of 10 feet outside the riparian corridor, and a boardwalk that would be adjacent to and within the riparian corridor.
3. Figure 2-8 shows a new private roadway along the Guadalupe River. Valley Water has easement over and adjacent to the river in this area and the roadway may require a Valley Water permit, if the use is acceptable. Once more detailed information is available regarding the location of the roadway it should be provided to Valley Water for review.
4. The proposed pedestrian bridge over Los Gatos Creek appears to be located on Valley Water property. The bridge will require a permit and a Joint Use Agreement with the City of San Jose if it will be part of the City trail, otherwise the bridge will require a license agreement for long-term use of Valley Water property.
5. It appears a portion of the text for Footnote 58 on page 2-44 was cutoff. However, a portion of the text notes the City's proposed Los Gatos Creek Trail Reach 5 doesn't include an east side trail as proposed by the project. It is unclear if the multi-use trail and/or boardwalk will be part of the City's trail system or if they will be privately owned and maintained. Trails on Valley Water property need to be public trails owned and operated by the City and a Joint Use Agreement between the City and Valley Water is required.
6. Page 2-38 and other sections of the DEIR note the project includes undergrounding of utilities in addition to installation of new utilities some of which will cross the creeks. If such work occurs on Valley Water right of way a Valley Water permit is needed.
7. Page 2-62 notes the San Fernando Bridge is proposed to be replaced as part of proposed flood control improvements. The replacement bridge is to be a clear span bridge with the soffit no lower than the 100-year water surface elevation. The replacement bridge should also include freeboard as per Valley Water's Water Resources Protection Manual.
8. Page 3.2-3 notes that work is proposed in the upslope habitat adjacent to the Guadalupe River. It is not clear what work is proposed or exactly where the work is proposed; however, Valley Water has easements over the Guadalupe River within the project area and if the work will encroach into the easement a Valley Water permit is required.

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K.2

K.3

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K.5

K.6

K.7

K.8

9. Regarding the discussion on page 3.2-4, other common wildlife in the area include: *Sciurus carolinensis*, *S. griseus*, and *S. niger*. The following bat species *Tadarida brasiliensis*, *Eptesicus fuscus*, or *Myotis* spp. are more likely to occur in project area than *Corynorhinus townsendii* or *Antrozous pallidus*. Other birds commonly found in the area include: Brewer's blackbird, northern mockingbird, and mourning dove, rock dove. Additionally, *Falco peregrinus* have been known to nest on city hall, which is less than 1 miles from the project site.

K.9

10. In reference to the discussion on page 3.2-5, Valley Water began juvenile rearing monitoring on the mainstem Guadalupe River and Guadalupe Creek in 2004. In 2018 sampling expanded to include Los Gatos, Calero, and Alamitos Creeks. During Valley Water sampling from 2004 to present, species observed in the Guadalupe watershed include:

Native: prickly sculpin, riffle sculpin, *O. mykiss*, Sacramento sucker, California roach, Pacific lamprey

Non-native: sunfish (bluegill, green sunfish), common carp, goldfish, largemouth bass, spotted bass, mosquitofish, inland silverside, channel catfish, bigscale logperch, Chinook salmon*, tule perch** (*while native to California, there is no data to suggest Chinook were historically present in Santa Clara County, and genetic analysis shows Chinook in Guadalupe watershed are hatchery strays. **Tule perch are regionally native, but is not believed to have been historically present in the Guadalupe watershed).

K.10

Non-native pond loach were observed for the first time in Santa Clara County on Los Gatos Creek in 2019. In 2019, non-native fish on Guadalupe River totaled 4.8% and 16.5% on Los Gatos Creek.

11. In regards to the discussion on page 3.2-6, blue heron, great egret, snowy egret, black-crowned night heron, green heron, and mergansers are commonly observed wildlife. Under "mixed riparian woodland" black locust is not native to Santa Clara County. *Juglans hindsii* has been considered non-native by SCVWD in the past because it was believed to have been spread as an ornamental and rootstock for walnut orchards in the county; therefore, it has been classified as nonnative in Valley Water permits. However, recent studies suggest the non-hybridized, native *J. hindsii* is in fact widespread in Santa Clara County. For "other vegetation" this is a little confusing because boxelder is native and the other "other species" are not. Suggest clarifying if the list of native and non-native is a listing of dominant species within the project area and these are other mixed native/non-native species, or include these species with the lists in the previous couple sentences.

K.11

12. In regards to the discussion on page 3.2-7, Dave Johnston (H.T. Harvey) conducted a bat survey in the summer of 2008 on the Guadalupe River riparian area just upstream of the project area (from Highway 280 to the RR crossing). Potential habitat was present in large trees, W Virginia Street Bridge, UPRR, and Hwy 280/87 interchange. Only Mexican free-tailed bat and Yuma myotis were detected. It was determined the downtown riparian area is not optimal habitat and there have been a paucity of bat detections. Bats may travel through the area, but potential to roost and forage is very low. Under “special-status and protected species” it is unclear if the bats listed by the Western Bat Working Group (WBWG) are also considered. If they were, suggest including additional *Myotis* spp. under potential to occur. It is also unclear if species covered by the Valley Habitat Plan were considered.
13. On page 3.2-10, the way the special-status species potential to occur section is written, it appears that “low” implies “absent.” We suggest this be clarified in the discussion. If a species has low potential to occur it could still occur, and there is an expectation that the species would be discussed in more detail below. Many of the birds described as having low potential to occur definitely do occur in the area, while most of the other species are probably absent, or very unlikely to occur. Other fish with potential to occur - *Entosphenus tridentatus* and *Oncorhynchus tshawytscha* (pop. 13) are species of special concern (SSC) with potential to occur. *Cottus gulosus* is a SSC known to occur in the upper watershed but not expected to occur in the project area; prickly sculpin (not special-status) could occur in the project area. Under “*O. mykiss*” the DEIR states “historically present,” may want to consider rewording. *O. mykiss* are present in Guadalupe watershed and assume steelhead are still present (passive integrated transponder (PIT) studies show evidence of outmigration), but numbers are probably lower than they were historically. There is potential to occur in the project area in low numbers. Include a reference for the fish surveys referenced from 2014.
14. On pages 3.2-11 through 3.2-13 we have following comments on Table 3.2-1:
- Birds: consider including *Elanus leucurus*, fully protected, and *Accipiter striatus*, watch list (WL)
 - DEIR states suitable habitat is present for great egret, great blue heron, snowy egret, and black-crowned night heron, but there is low potential to occur because there are no California Natural Diversity Database (CNDDB) records within 3 miles. This statement does not justify low potential for a nesting colony to occur if the habitat is present; egrets are highly mobile. All of these species regularly occur on the Guadalupe River, and there are records of great blue heron (GBHE) and snowy egret (SNEG) nesting colonies from the late 1990s and mid-2000s on Los Gatos Creek at the percolation ponds and Vasona Park.

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- Burrowing owl: states “all sites approximately 2.5 miles north of project area.” Instead of sites, clarify they are observations recorded in the CNDDDB.
 - Merlin: merlins are rated as moderate potential to occur while peregrine falcon (PEFA) are rated as low potential to occur. PEFA have a greater potential to occur in the project area than merlin. Peregrine falcon: states the species was known to nest 2.5 miles from the project area on a high rise from 2006 to 2015; however, they are also known to nest on City Hall, less than 1 mile from project area, from 2007-2020. The DEIR should justify why the buildings in the project area do not provide suitable nesting habitat for peregrine falcon.
 - Pallid bat: suggest to keep using the term "low" rather than switching to "unlikely"; they mean the same thing. If the intent is to say there is a lower potential for occurrence than “low” species, could use "absent" or "none." Same for Townsend’s big-eared bat.
 - Townsend’s big-eared bat: if there is suitable roosting habitat for Townsend’s bat in the study area, it could be assumed this habitat would also be suitable for pallid bat or is level of disturbance sufficient to exclude both species?
 - Western red bat: it is not necessary to include that the species is “absent from desert areas,” as the habitat is not available in the study area. Recommend deleting or clarifying the last sentence, which states “migrants can be found outside.”
 - San Francisco dusky-footed woodrat: the species is described as “highly arboreal.” Suggest clarifying that ground nests are more common than arboreal nests in Santa Clara County. While habitat seems suitable in the project area, the species is not observed in the area, presumably due to high flows regularly inundating the floodplain. Habitat is also described as being in areas “lacking understory, presence of human encampments, and proximity to roads and residential and commercial development,” but the species will nest in shrubs near roads, understory species such as blackberry and poison oak, and frequently occur near trails in open space or near residential areas.
15. On page 3.2-16 under “ (Central California Coast) CCC steelhead” barriers to anadromy or passage impediments may also include concrete channelization, high water temperature, and/or intermittent hydrology. Valley Water sampling does not have records for steelhead at four sampling stations in lower Los Gatos Creek in 2018, 2019, or 2020. The species probably has moderate potential to occur in the project area in low numbers.
16. On page 3.2-16 under “western pond turtle” (WPT) it states the habitat is present but low quality; however, non-native red-eared sliders have been observed on Guadalupe River just upstream of the confluence with Los Gatos Creek, suggesting other turtle species could occur where suitable habitat is present. WPT regularly occur on the Guadalupe River upstream of the Alamitos drop structure, approximately 5 miles upstream of the project area.
17. On page 3.2-17, under western red bat” they tend to be associated with mature trees such as cottonwood/sycamore riparian, eucalyptus, orchards or other non-native trees, and in

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| the winter have been found on the ground in leaf litter. They are also more likely to be found in urban areas than other more sensitive species, such as pallid or Townsend's. They are more likely to use the riparian corridor for movement than to occur as a regular rooster or forager in the project area, and they generally have low roost site fidelity. | ↑ | K.17
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| 18. On page 3.2-17, under "hoary bat" this species has also been observed in the county in the spring, not just winter. They are more likely to use the riparian corridor for movement than to occur as a regular rooster or forager in the project area, and they generally have low roost site fidelity. | | K.18 |
| 19. On page 3.2-18, under "Yuma myotis" they are frequently detected foraging over reservoirs in the county at night. | | K.19 |
| 20. The discussion on page 3.2-25 regarding <i>The Guidelines and Standards for Land Use Near Streams</i> , notes that through the issuance of a Valley Water "encroachment permit that the guidelines and standards are enforced and tracked." Since Valley Water permits are issued only for work on Valley Water right of way, enforcement and tracking of <i>The Guidelines and Standards for Land Use Near Streams</i> is the responsibility of each public agency that has adopted them for work that does not require a Valley Water permit. | | K.20 |
| 21. On page 3.2-33, under "impact analysis" consider including detailed information on additional species including Pacific lamprey, Chinook salmon, sharp-shinned hawk, white-tailed kite, herons/egrets, and peregrine falcon. Yellow warbler was ranked as moderate potential for occurrence in the potential to occur table, but is not listed in the impact analysis section. | | K.21 |
| 22. On page 3.2-33 under "special-status fish" viewing platforms constructed over water could create habitat favorable for non-native fish and prevent use by special-status fish such as steelhead, and reduced light penetration can impact growth of aquatic plants, leading to reduced food availability. If constructed over water, at least 50% of the float surface should be composed of grating containing at least 60% open space surface. Ramps should be 100% grated to allow light penetration and not exceed 5 feet in width. Decks should not exceed 10% of the stream width from the ordinary high water mark. Pilings should consider deterring potential for roosting by piscivorous birds, which could increase predation on special-status fish. Materials used should not be known to release toxins into the aquatic environment (e.g., treated wood). Consider the potential for waterbirds (e.g., ducks, herons, egrets) and WPT to avoid these areas due to increased human presence. | | K.22 |
| 23. On page 3.2-34 regarding the potential to release chemicals present in the sediment into the water column, legacy mercury from mining operations is an issue in Guadalupe River and sediment may contain high levels of mercury. Consider the potential for impacts to the food chain, as well as testing for removed sediment and/or a sediment management plan, as well as potential implications to human health and safety. | | K.23 |

24. On page 3.2-34, consider the potential for effects due to vibration or noise on special-status fish, as well as the effects of dewatering and relocation to fish and their habitat (*e.g.*, stranding/injury/mortality, channel scour, reduced or diverted flows). Would any trees be removed for access and/or construction, and is there potential for slash *etc.* to enter creeks or a reduction in stream shading?
25. On page 3.2-34 to further minimize potential impacts as a result of the project, we recommend implementing the attached general Best Management Practices (BMPs), which are typically incorporated into Valley Water projects.
26. On pages 3.2-35 and 36, under “mitigation measures” we have the following comments:
- Measure BI-1, in addition to the riparian corridor and in channel, special-status species could be present in or on buildings (*i.e.*, roosting bats, peregrine falcon) or in trees outside of the riparian area (*e.g.*, landscape trees or shrubs) if present (*i.e.*, nesting birds, roosting bats).
 - Define the term “qualified biologist” the first time it is used.
 - Regarding the need for a biological monitoring for all construction-related work within the riparian area or channel, full-time monitoring may not be necessary for all activities given the habitat quality in the project area (for both Los Gatos Creek and Guadalupe River). If dewatering, a biologist should survey the area before dewatering to ensure no special-status fish are in the area, and monitor while the dewatering system is installed. The biologist should check periodically to ensure no fish are stranded as the area dewater. If dewatering is not occurring, a biologist may be onsite to monitor, including monitor water quality downstream. If turbidity exceeds a certain percentage of baseline levels, the biologist has the authority to stop work until levels return to baseline. Work should occur outside the steelhead migration period. For riparian areas, a bio-clearance survey is probably sufficient before work occurs; a monitor may be required if there is a specific need (for example, an appropriate no-work buffer cannot be maintained around an active bird nest).
 - If the area can be marked off, a full-time bio-monitor should not be necessary for within 20’ of the creeping wild rye area. If work is occurring in the creeping wild rye area, a biologist may be needed to ensure work stays in appropriate areas.
 - For ease of reporting, I would recommend recording compliance activities daily, but submitting weekly (or more frequently as requested). Valley Water requests a copy of compliance reports and construction activities occurring near creeks be submitted to Valley Water on a monthly basis.
 - The training should identify “types of sensitive biological resources with potential to occur in the project area.” The examples include “salmonids,” but recommend changing to “special-status fish.”

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- The mitigation measure states that the discharge of water from the construction site to Los Gatos Creek or the Guadalupe River is prohibited if the temperature of the discharged water exceeds 22.2°C, unless modeling and monitoring demonstrate discharge would not increase the maximum daily stream temperature above 24°C. However, Los Gatos Creek is on the 303d list for temperature impairment. Both Los Gatos Creek or the Guadalupe River exceed 22°C under existing conditions in normal years. We recommend that the discharge should not exceed some percentage of baseline.

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cont.
- 27. On pages 3.36 to 39, Mitigation Measure BI-1b: for in-water work, clarify for which activities, if any, the channel will be dewatered (as opposed to work occurring in the flowing channel). K.27
- 28. On pages 3.36 to 39, Mitigation Measure BI-1c: the fish relocation plan should be written by a qualified biologist and approved by CDFW and/or NMFS (as opposed to any contractor for any construction work). K.28
- 29. On pages 3.2-39 to 40, under “western pond turtle” additionally the use of weed-whackers, mowers, etc. could cause injury or mortality to WPT in the upland areas and vehicle traffic could also crush individuals or nests if not kept on established roads. K.29
- 30. Mitigation Measure BI-1d, page 3.2-39 to 40, to prevent entrapment of animals, we suggest all excavations, steep-walled holes or trenches more than 6-inches deep will be secured appropriately against animal entry at the close of each day. K.30
- 31. Under “nesting birds,” page 3.2-41, impacts could result from the “removal of trees and vegetation and/or demolition of buildings,” as well as bridges. Additionally, operational/long-term activities that could indirectly impact nesting and the DEIR should clarify that the removal of trees/snags could reduce future potential nest sites. The increase in human activity could result in fewer nesting attempts, as well as and reduce the area suitable for birds to nest in, including raptors, which may be more sensitive to human disturbance. An increase in food-related trash could attract American crow, as well as predators such as racoons, rats, or feral cats. K.31
- 32. Mitigation Measure BI-1e, page 3.2-42, work should be scheduled, including vegetation removal, to avoid the nesting season when feasible.
 - Note January 15 to September 1 is the standard nesting bird season in permits issued to Valley Water instead of February 1 through August 15 as noted in the DEIR; Anna’s hummingbird (ANHU), for example, tend to nest early.
 - Recommend nesting bird surveys occur no more than 14 days before work in a given area for the entirety of the breeding season. The biologist should inspect trees and other possible nesting habitats including buildings, bridges, shrubs, grass, and bare ground/gravel (vegetation, anthropogenic structures, and other habitats which could provide nesting substrate for birds).

K.32

- Clarify if the buffer zone will be marked in the field and by what methods.
Recommend re-surveying if construction ceases for 14 days or more during nesting bird season.
- 33. Regarding the discussion on page 3.2-43, special-status bats could also be present in bridges (in addition to buildings or crevices).
 - Removal or pruning would be impactful even if a bat was not in a "mature" tree; while mature trees may be preferred, bats will use what is available as needed including smaller stature trees, other vegetation (*e.g.*, cattails), snags, wood piles, or leaf litter.
 - Hoary bat and Yuma myotis are not listed species, but common bats are protected under Fish and Game code (non-game species).
 - In addition to road overcrossings, buildings, and mixed-riparian woodland, bats could also occur in landscape trees in the study area.
 - Clarify winter torpor (generally Oct 16 - Feb 28) and maternity (April 15 - Aug 31) seasons.
- 34. The discussion on page 3.2-44 should note that bats are active September 1 to October 15. We recommend coordinating with CDFW or a qualified bat biologist to determine an appropriate buffer in the event a roost is found rather than implementing a set buffer distance. Additionally noise attenuation and frequency may need to be considered.
- 35. In addition to replacing chain-link fencing with wildlife-friendly fencing, page 3.2-45, the project should consider completely removing fencing where it is not needed.
- 36. On page 3.2-45, under "Essential Fish Habitat" the DEIR states that increases in water temperature could result due to loss in riparian cover. Please clarify whether this impact would be temporary or permanent. Please note if the area would be large enough to have a significant impact on water temperatures and how much of an increase over what area is expected
- 37. On page 3.2-46 under "riparian habitat" the pedestrian-only paths also have potential to impact WPT basking or nesting birds. The first paragraph states "outside of the riparian setback, vertical and horizontal additional would be permitted..." in which "additional" is a typo. Please correct for clarity. The second paragraph states plantings will be "primarily" native; the project should use all native species consistent with existing native vegetation in the reach and the Guidelines and Standards Design Guides. Grasses, shrubs, and trees to improve habitat complexity, where feasible and appropriate should be considered.
- 38. Page 3.2-47 notes that overlook/viewing platforms are proposed within the riparian corridor, such improvements should be minimized and not over hang the creek bank.
- 39. Regarding the discussion of potential permanent or temporary impacts on pages 3.2-47 to 48, we have the following comments:

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- For the multi-use trail please indicate if there is the potential to use permeable or semi-permeable surface materials (*e.g.*, decomposed granite).
 - Placement of the creek overlooks/viewing platforms have potential impacts to basking WPT or nesting/foraging birds, as well as shading of open water.
 - When reconstructing the storm drain outfall please clarify the need for a 20 foot buffer when wild rye will be directly impacted.
 - Removal of large woody debris has potential effects to special-status fish species and WPT (removal of habitat complexity features), and this is not discussed above. Removal of live trees and snags can have impacts to birds and bats (reduced nesting/roosting habitat).
 - Other potential impacts on riparian habitat include: potential to increase spread of invasive/non-native plant species through materials, equipment, or foot traffic (temporary during construction); trampling of vegetation outside of the defined project area (temporary); spread of non-native/invasive species by increasing human encroachment and traffic into the riparian area (permanent); spread of plant pathogens via nursery stock (permanent); potential for introgressive hybridization (*e.g.*, London plane tree and western sycamore) (permanent); reduction in nesting/roosting habitat through tree removal (permanent if trees are not mitigated for).
 - Elaborate on the potential impacts as a result of shading open water (*e.g.*, decreased food production, *etc.*). The discussion should note if there could potentially be some benefit such as cooling water temp.
 - Clarify whether there will be an increase or decrease in shading of 240 sf open water.
40. Page 3.2-49 notes an outfall on Los Gatos Creek will be relocated, but the DEIR is unclear about the current location and the proposed location. If the outfall is located on Valley Water fee title property or easement a permit will be required for the removal of the existing outfall and/or installation of the new outfall.
41. The discussion page 3.2-49 should state the options being considered for creek enhancement mitigation for shading impacts.
42. On page 3.2-49 under "lighting and noise" should also note that riparian corridors also provide a source of large wood to creeks.
43. Under "operational impacts" the discussion on page 3.2-49 should note the footbridge could also impact vegetation (reduce area where trees can grow, impact root system of existing vegetation, increase spread of non-native species, erosion, improved predator access, *etc.*).
44. Page 3.2-49 and 3.2-51 notes that 1:1 mitigation for permanent impacts to the riparian habitat due to the project is proposed. Typically, mitigation ratios of 3:1 are required and possibly higher if the mitigation cannot occur on-site. The proposed pedestrian bridge is

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proposed on Valley Water property. Please note that Valley Water property is reserved for mitigation of Valley Water projects due to Valley Water's significant on-going mitigation needs.

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45. The mitigation and monitoring plan described on page 3.2-51 should require the use of watershed specific plantings for plants used for mitigation of riparian impacts to protect the integrity of the existing local ecotypes. The District strongly recommends that project planting follow the *Guidelines and Standards for Land Use Near Streams* which was developed by Valley Water, cities (including San Jose) in Santa Clara County, and the County in collaboration. Design Guides #2 and #4 of the *Guidelines and Standards for Land Use Near Streams* promote use of local ecotypes of native species since they are best adapted to the project site. Local ecotypes are not sourced at conventional nurseries nor are they available in large container sizes. Local ecotypes for this project would be grown from propagules collected from parent plants growing in the Guadalupe watershed as close to the project site as possible. Because the site is adjacent to existing native vegetation and Valley Water has watershed specific mitigation sites are downstream of the project, we request that local ecotypes be specified for this project. Additionally, landscaping for aesthetic purposes should conform to Design Guide 3.

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46. Page 3.2-51, staging of materials should only occur on areas which have already been disturbed to the extent feasible.

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47. Page 3.2-51, notes the goals for restoration compensation sites include 70% of baseline native vegetation cover by year 5; however, the first goal is that temporarily affected areas are returned to pre-project conditions or better. It is not clear if these goals are consistent and if there monitoring after year 5 to ensure habitat quality goals are met.

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48. The discussion on page 3.2-52 regarding the trail, boardwalk, viewing platforms, and fencing should note that species may avoid use of the area around the multi-use trail, pedestrian boardwalks, and viewing platforms or keep a wider buffer; there may be a reduction in nesting/roosting habitat due to tree removal as well as buffer distance from disturbance (avoiding trees near the pathway); disturbance to basking WPT (decreased basking time or potential decline in suitable habitat) may occur; and increased human traffic in riparian corridor increases risk for spread of invasive, non-native species.

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49. Page 3.2-52, elevated boardwalks still reduce area where vegetation can establish and they can fragment habitat. Maintenance of vegetation along the boardwalks in or near riparian areas occur should be included in the discussion (long-term maintenance).

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50. On page 3.2-52 under "lighting and noise" it states throughout document that work will occur from 7am to 7pm and therefore will be during daylight hours and there will be no impact on wildlife from nighttime lighting. In the winter it is dark before 7pm and much of the work is supposed to occur outside of nesting bird season. Where no nighttime lighting is stated, please indicate if seasonality in which the work will occur taken into consideration/ when daylight hours will actually occur.

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| <p>51. The discussion on page 3.2-55 states that any temporarily impacted areas will be restored to pre-project conditions through revegetation and monitoring. There should be a detailed plan for revegetation. Impacts associated with removal of the existing bridge supports would include re-suspension of sediment. If work will occur in the active channel, the DEIR should note the work season and biomonitor requirements, and potentially water quality monitoring. Otherwise the methods that will be incorporated to reduce this potential impact (<i>e.g.</i>, dewatering or isolating the work area) should be described. To potentially reduce the stated impact to 0.07 acres of riparian vegetation for excavator and crew access during construction, there should be a discussion if there is the possibility to use existing paths (<i>e.g.</i>, related to homeless encampments) to reduce impacts to vegetation as a result of the project.</p> |  | K.51 |
| <p>52. On page 3.2-61, the statement “would result in increased stormwater being discharged into Guadalupe Creek,” should reference the Guadalupe River, not Guadalupe Creek.</p> |  | K.52 |
| <p>53. On page 3.2-62 under “lighting and noise” the DEIR states pile drivers will be used. If pile drivers will be used for the bridges, acoustic impacts on fish need to be discussed.</p> |  | K.53 |
| <p>54. Regarding thermal radiation from proposed structures, the discussion on page 3.2-63, should include consideration for green roofs.</p> |  | K.54 |
| <p>55. Page 3.2-64, additional impacts on instream habitat that may result from loss of riparian cover include decrease in woody vegetation input to creeks/reduction in habitat complexity (in addition to fish, this also impacts WPT).</p> |  | K.55 |
| <p>56. On page 3.2-64 regarding aquatic insects which feed on leaves and woody material or terrestrial insects falling in the creek, there is some evidence that steelhead can tolerate higher temperatures in areas where they are adapted to those condition. However, this ability may be dependent on sufficient/increased prey availability. There could be potential that a decrease in prey availability could affect any of the few steelhead which do or could occur in Los Gatos Creek.</p> |  | K.56 |
| <p>57. Page 3.2-67 should include a discussion of whether more than one temperature logger should be considered upstream and downstream of the project area in the event that conditions change at one of the sites over the course of 15 years (<i>e.g.</i>, new construction). There is also potential for loggers to be stolen, which happens often, or water levels to drop and loggers be out of water. Mitigation Measure B1-2c should specify how many years prior to project construction water and ambient air temperature will be collected.</p> |  | K.57 |
| <p>58. Page 3.2-67 notes that Mitigation Measure B1-2c- Monitor Effects of Shading and Heat Island on Riparian Vegetation and Stream Temperature, includes development and implementation of a Habitat Enhancement Plan to plant within the creek is performance criteria are not met. Please note that mitigation on Valley Water property is reserved for Valley Water projects. However, if the work will occur on sections of the Guadalupe River</p> |  | K.58 |

that are outside of Valley Water property, Valley Water as the local sponsor of the USACE improvements constructed on the river will still need to review the proposed work.

59. Mitigation Measure BI-2c, page 3.2-67 to 69, states “Loggers at these three locations shall record hourly water temperature values before, during, and after project construction. If the difference in water temperature between the upstream and downstream monitoring locations increases substantially over time, particularly above the threshold of concern (71.6 degrees F), then additional adaptive actions shall be implemented...” Please define “substantially” and at what temperature which actions are triggered. Specify if the triggers will be based on an instantaneous reading, or an average over some given time in a particular season (*e.g.*, migration season). Consideration should be given to adaptive action based on increases of a certain percentage above baseline conditions as opposed to the 22 degree C threshold, given existing conditions.

Under “riparian monitoring” include a discussion of whether the two criterion identified here are sufficient to determine that post-project conditions are similar to or better than existing conditions.

Valley Water will need to review and approve the 15-year Riparian Vegetation Monitoring Plan and reports, as well as the Habitat Enhancement Activities, for all areas on Valley Water right of way.

- Non-native species should be based on California Invasive Plant Council (Cal-IPC) and the Valley Water’s Invasive Plant Management Program list.
- Shade-tolerant riparian vegetation selected for the planting palette should be based on nearby reference sites.

60. On page 3.2-70 under “impacts of creek/habitat flow conveyance enhancements, construction impacts” states removal of seven live trees, non-native and native, to occur. The analysis should discuss why it not possible to meet these goals strictly though the removal of non-native trees. It would be useful to have a table showing the measurements of each piece of wood (logs, logjams, *etc.*) and live and dead trees by species and the justification for removing each individual piece. The DEIR states “the removal of dead trees would be mitigated at a ratio of 1:1.” Removal of large, in-stream vegetation should be mitigated for as standing dead trees provide habitat for birds and bats. The project proposes to install approximately five engineered habitat enhancement log structures, but it is unclear if this is sufficient to mitigate for the structure currently provided by 15 in-channel logs and three logjams. Bio-engineering techniques should be considered.

61. On page 3.2-81 under “native wildlife nursery sites” states “birds such as herons and egrets that nest in groups are not documented to nest in the Los Gatos Creek riparian corridor.”

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- Great blue heron and snowy egrets were documented nesting in Los Gatos Creek County Park at the percolation ponds in the late 1990s, and GBHE in Vasona County Park in 2007.
62. On page 3.2-81 under “antennae, monopole structures, and rooftop elements” bridge design should also consider birds (*e.g.*, avoid wires or cables) to prevent collisions.
63. On page 3.2-89 under “nesting birds and special-status bats” the first sentence should include bridges, in addition to removing vegetation and demolishing buildings during construction.
- Page 3.2-90 under “sensitive natural communities and state or federally protected wetlands”
 - The DEIR states temporary impacts could result from construction of the boardwalk within creeping wild rye habitat. Clarify why the boardwalk alignment cannot avoid the creeping wild rye habitat.
 - States permanent removal of riparian habitat for the new footbridge would increase shading. Consider strategically locating the bridge so that it is either going to be shaded anyway (*i.e.*, by new buildings), or in an area where removal of mature, native trees is either minimal or not required to minimize or eliminate impacts.
 - Avoid removal of native, especially mature, trees to the extent feasible, and protect standing snags to the extent feasible.
 - Under mitigation measures - WPT surveys should also be conducted in suitable habitat.
64. Page 3.2-87 notes the project proponent would request an exception from the City to the Habitat Conservation Plan 100-foot riparian setback. Page 3.2-34 notes the riparian setback is proposed to be 50--feet in most cases and 30-feet along the Guadalupe River. However, in the case where existing buildings are located within the setback area, the project proponent may replace those buildings in place. This large development provides a unique opportunity to give the creek additional space and provide the natural functions of a creek and Valley Water strongly supports maximizing the riparian setback to the greatest extent possible. Riparian corridors provide benefits such as flood risk reduction, ameliorate hydrologic impacts, provide stream maintenance access, provide space for natural riparian vegetation and buffers, and allow greater connectivity for residents to the natural environment.
65. On page 3.2-91, in addition to minimizing disturbance to wetlands, mitigate to ensure no net loss. Under “wildlife corridors” nighttime lighting and human disturbance can significantly reduce habitat quality for roosting bats, as well birds. Bats likely use the riparian corridor for migration/movement and potentially forage over water or at the forest edges. Lighting at forage edges can reduce use for movement or foraging, or effect emergence behavior. Predation on bats could increase in urban areas. Lighting could influence prey distribution of insectivorous bats. Consider education of occupants on night impacts on bats, in addition to birds.

66. Historically, subsidence occurred over large parts of the county, including San Jose, where 13 feet of subsidence was observed over several decades. This non-recoverable subsidence caused by the long-term overpumping of groundwater is very different than elastic land surface changes or localized settlement. Since many are familiar with permanent, historical subsidence, it may be helpful to instead use the term “settlement” on page 3.5-7, Geology, Soils and Paleontological Resources, for consistency with other sections of the DEIR. At a minimum, we suggest revising the following sentence: “Subsidence should be minimal and only occur during dewatering for construction.” As written, this sentence may imply a similar type or degree of subsidence may happen during the dewatering for construction.

K.66

We recommend the following replacement text:

“Subsidence is not likely because the dewatering for construction will occur in the shallow aquifer zone and for a short duration. Historical subsidence has occurred over broad areas of northern Santa Clara County including San Jose prior to the 1970s because of groundwater pumping largely from the principal aquifer zone, not the shallow aquifer zone. Temporary dewatering from the shallow aquifer zone for construction is not anticipated to cause subsidence.”

67. Section 3.7, Hazards and Hazardous Materials, Valley Water recommends Phase II investigations at 573 West Julian Street (auto repair and other industrial uses) and the Diridon Rail Station parking lots (former dry cleaner) to assess soil and groundwater conditions.

K.67

If not already completed, Valley Water recommends that all Phase II investigation results indicating the presence of contamination be shared with the San Francisco Bay Regional Water Board to determine if further investigation and/or clean-up is warranted to protect groundwater resources.

68. We suggest revising the following sentence on page 3.8-2, “In drought years, however, up to 90 percent of the water has been imported to serve municipal demand⁷.” The previous sentence was about the Santa Clara Valley and the entire county. This sentence in question is about municipal demand from the City of San Jose, not the entire county. We recommend the following replacement text: “In drought years, however, up to 90 percent of the water serving the City of San Jose’s municipal demand has been imported ⁷.”

K.68

69. We suggest revising the following sentence on page 3.8-2 “Key issues of concern in the subbasin are land subsidence caused by past groundwater overdraft, and saline intrusion into groundwater through tidal channels near southern portions of San Francisco Bay”. We recommend the following replacement text: “Key issues of concern in the subbasin are land subsidence caused by historic groundwater overdraft prior to the 1970s. The subsided land surface contributed to the tidal incursion of salt water into the shallow groundwater zone near the southern portions of the San Francisco Bay”.

K.69

70. Page 3.8-19 notes that FEMA determines base flood elevations and floodplain boundaries based on USACE studies. While this is true for areas along the Guadalupe River where the USACE completed flood protection improvements, FEMA's determination of flood hazards is based on a variety of sources including FEMA studies, USACE studies, and Valley Water studies. Most of the FEMA mapping along Los Gatos Creek is not based on USACE studies. K.70
71. Page 3.8-17 discusses Valley Water's Regional Water Quality Control Board Waste Discharge Requirements as it pertains to Valley Water's Stream Maintenance Program (SMP). The discussion notes the permit is up for renewal this year; however, please note that this permit was re-issued earlier this year and is currently in effect. It should also be noted that this is only one of many regulatory permits that Valley Water holds for its Stream Maintenance Program. The proposed channel maintenance proposed by the project, if agreed to by Valley Water, would be subject to all the appropriate regulatory permits not just this one. K.71
72. In the Hydrology and Water Quality Regulatory Framework section 3.8.2, we suggest adding the following text about Valley Water's well ordinance to discussion of the local regulatory framework: "Permits for well construction and destruction work, including exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance."
- In addition to Valley Water's Well Ordinance, we recommend adding the following text about abandoned wells. "Due to the long agricultural history of the Santa Clara Subbasin, and subsequent land development, there are likely many abandoned wells in the subbasin. While some of these abandoned wells may have been sealed prior to well permitting requirements, many have open casings and may be discovered during project construction. It is not uncommon for these wells to have significant artesian flow, which may impact dewatering and construction activities. If encountered during the proposed project, abandoned wells must be properly destroyed, with related work permitted by Valley Water." K.72
73. On page 3.8-14, we suggest adding to the paragraph regarding the description of the Groundwater Management Plan the following sentence: "In July 2019, California Department of Water Resources approved Valley Water's Alternative GSP, confirming it satisfies SGMA objectives for sustainable groundwater management in both basins." K.73
74. Page 8.2-26 notes that the replacement of the 18-inch diameter outfall with a 33-inch diameter outfall in Los Gatos Creek would include abandonment of the outfall in place. The outfall including any headwalls, pipe, bank protection, etc. need to be removed and the bank restored to its original condition. If the existing or replacement outfall is on Valley Water right of way a Valley Water permit will be required for the work. K.74

75. The discussion on page 8.2-27 of the creek maintenance work notes that the project proponent would apply for coverage under Valley Water's water quality certification permit for the SMP. As noted above this is not the only permit that covers this type of work and as issued this permit does not provide coverage to any entity except Valley Water. Additionally, Valley Water has not made any determination whether this proposal is acceptable to Valley Water or what type of arrangement with the project proponent would be required if Valley Water were amendable to this proposal.

K.75

76. The DEIR includes two mitigation measures, HY-3a (flood risk analysis and modeling) and HY-3b (plan for on-going creek maintenance), for many of the impacts analyzed in the Hydrology and Water Quality section and in some instances they are the only mitigation measures proposed to reduce an impact to less than significant. However, there are elements of HY-3a that require Valley Water approval and HY-3b cannot occur without Valley Water approval as the work proposed for HY-3b would occur on Valley Water property.

MHY-3b proposes to remove various existing logjams, woody debris, and vegetation from Los Gatos Creek on Valley Water property to improve flood conveyance capacity and replace the logjams with engineered woody debris and include a plan for maintenance of the creek to maintain vegetation to a lower "n" values and keep the creek clear of logjams, woody debris, dead trees *etc.* Valley Water has significant mitigation obligations required by the various state and regulatory agencies in order to maintain existing flood protection improvements, protect property from flooding and bank failures, and for new capital improvements; therefore, Valley Water property is reserved for Valley Water mitigation needs/projects. Additionally, it is not clear that the proposed creek maintenance plan is sustainable as it appears to assume that maintaining the creek will require minimal mitigation; however, that may not be an appropriate assumption as Valley Water's current Stream Maintenance Program has a significant mitigation component for everything from bank repairs, removing wood debris to pruning and removal of vegetation, particularly in a relatively natural salmonoid creek such as Los Gatos Creek. Due to the permitting and mitigation requirements this may not a sustainable way to mitigate for flood impacts in perpetuity. It also does not take into account changes in regulatory requirements that may make continual creek maintenance more difficult in the future into account.

K.76

Additional discussions with Valley Water are required to determine if the proposed creek work can occur and additional studies to understand the hydraulic impacts will be required. The project proponent should look to complete creek restoration work and mitigation on property not owned by Valley Water.

77. Page 3.8-37 notes that if the project includes channel rehabilitation then the project proponent will within 30 days of completion of the initial creek work submit a plan for the ongoing maintenance of the affected creek reach for Valley Water and City approval. If Valley Water allows the creek work, the plan for ongoing maintenance would be required to

K.77

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- be completed as part of the initial creek work, not after. If the creek work were allowed there would need to be a comprehensive review of all the work elements and permits and agreements from Valley Water and the regulatory agencies would need to be in place before any work could occur. ↑
K.77
cont.
78. The Water Supply Assessment (WSA), Appendix H1, shows that a 40% demand reduction would be necessary in the third year of a multi-year drought. However, the WSA concludes that there would be adequate supplies available to serve the project through 2040 with no more than a 20% demand reduction during droughts. Please clarify the discrepancy between the need for a 40% reduction in the tables and the conclusion that adequate supplies will be available. K.78
79. Page 3.14-46, Utilities and Service Systems, notes that a section of electrical lines to be placed underground will crossing the Guadalupe River. Work to place the lines under the river will require a permit from Valley Water if it is located on Valley Water right of way or if it is located within the limits of the Army Corps of Engineers Downtown Flood Protection Project. K.79
80. Appendix D2, Creek Enhancement Report, only describes the one-time work to remove some vegetation, logjams, *etc.* and does not address the issue mitigation for on-going maintenance to maintain the “n” value for the creek to mitigate the flood impacts. The analysis. Current Valley Water permits to conduct creek maintenance require mitigation for more than removal of native vegetation, including work such as pruning, removal of dead trees, *etc.*; and therefore, this proposal may not be a sustainable mitigation measure. K.80
81. Appendix H2, Hydrology and Flood Control Measures, notes that the proposed on-going creek maintenance would reduce the “n” value; however, it is not clear to what “n” value or range would be required to be maintained in perpetuity in order to mitigate flood impacts of the project. K.81
82. Appendix H2, Hydrology and Flood Control Measures, page 8 notes that 14 parcels would be removed from the Special Flood Hazard Zone A, if no bridge or channel work is completed; however, page 6 states that 13 parcels would still remain in Zone A. K.82
83. Appendix H2, notes that coordination has been occurring with Valley Water regarding the channel work; however, that coordination has been related to how such work would impact the flooding, not necessarily how this work could be accomplished or how it could impact Valley Water’s existing and current mitigation obligations. K.83

If you have any questions or need further information, you can reach me at chaggerty@valleywater.org or at (408) 630-2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

Enclosure: Valley Water Standard Project BMPs

cc: U. Chatwani, C. Haggerty, M. Martin, S. Tippetts, J. Codianne, S. Williams, J. Gurdak, S. Greene, L. Xu, J. Xu, N. Jassal, M. Coleman, J. Watson, File

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Community Projects Review Unit

Enclosure: Valley Water Standard Project BMPs

cc: U. Chatwani, C. Haggerty, M. Martin, S. Tippetts, J. Codianne, S. Williams, J. Gurdak, S. Greene, L. Xu, J. Xu, N. Jassal, M. Coleman, J. Watson, File



HISTORIC LANDMARKS COMMISSION

November 4, 2020

Action Minutes

WELCOME

Meeting called to order at 6:32 p.m.

ROLL CALL

Present: Commissioner Saum, Boehm, Arnold, Royer, and Raynsford.

Commissioner Polcyn arrived at 6:34 p.m.

Absent: None

1. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should request to speak in the manner specified on p. 2 of this agenda.

No Items

Access the video, agenda, and related reports for this meeting by visiting the City's website at:
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/historic-landmarks-commission>

2. CONSENT CALENDAR

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Historic Landmarks Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone wishes to speak on one of these items, please use the ‘raise hand’ feature in Zoom or contact 408-535-3505 to request to speak.

- a. **HL20-003 & MA20-001**. City Landmark designation for a single-family residence (Somavia House) on an approximately 0.14-gross acre site and Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property located 546 South 3rd Street (Steve Cohen, Owner). Council District 3. CEQA. Exempt pursuant to CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation.

Project Manager, Rina Shah

Recommendation: Recommend that the City Council approve the City Landmark Designation and Historical Property Contract.

PULLED FROM CONSENT AND HEARD UNDER PUBLIC HEARING

On November 4, 2020, the Historic Landmarks Commission held a Public Hearing on the proposed Landmark Designation and Historical Property Contract (California Mills Act) for “The Somavia-Andersen House” located at 546 S. Third Street. The Historic Landmarks Commission recommended approval of the City Landmark designation to the City Council. The item had been placed on the Consent Calendar of the Historic Landmarks Commission Agenda but public comment concerning its association with the Mills Act prompted its removal from the Consent Calendar. Tessa Woodmansee and “TaxPayer” requested that the HL20-003 and MA 20-001 be placed under Public Hearing to accept public comments, consider, and record them.

Staff provided a brief history of “The Somavia-Andersen House” that the integrity of the single-family residence had been maintained. The one-story residence was built in 1909 and was a distinctive example of the Craftsman Bungalow style built in Downtown San José. The Craftsman style of architecture was prevalent during the early twentieth century and its architectural characteristics add to the rich architectural history and culture of the City of San José. The single-family residence was a strong candidate for engaging in a Historical Property Contract due to the conversation character-defining features. The Mills Act Contract is a ten-year plan which diverts state property taxes to property owners who qualify and are contractually obligated to spend those tax savings on material improvements which preserve, restore, rehabilitate, or construct the historic resource. Planning staff therefore recommended that the Historic Landmarks Commission recommend approval of the City Landmark designation and the Historical Property Contract to the City Council.

Public Testimony

The property owner, Steve Cohen, gave a brief presentation on the architectural history of the house and the purpose of his interest in preservation and maintenance of the single-family residence as a City Landmark based on the fact that John Y. Somavia was a descendant of early Spanish pioneers and was known to have built the house in 1909. However, between 1943 and 1963, the house was owned and occupied by Selvan Anderson until her death, and therefore he requested that the surname "Andersen" be added to Somavia resulting in the "the Somavia-Andersen House." He added that he loved preservation of older homes and the subject single-family residence would be an asset if properly preserved. He had preserved three other homes in the area and was aware of how the Mills Act Contract program worked. The money spent on restoring the house would be much more than what is received back as tax incentives. He had carefully worked out the Mills Act program to help preserve the house and structurally stabilize the home. He would also be preserving the natural river rock materials as well as the 8'x12' atrium in the center of the home, which is unique to that period of construction.

Several member comments on the origins and mechanism of the Mills Act and there appeared a number of misconceptions. One member of the public wanted to know why the house merited Landmark status. He also thought the house would take tax-payer's money for restoration and he did not think that was appropriate. A second member of the public also inquired about how the Landmark designation and the City's Mills Act program worked and whether it involved tax dollars. A third member of the public commented on wanting the HLC to be live streamed on YouTube. A fourth member of the public wanted to know the architect's name and was curious on how the Mills Act program worked. She also corrected city staff's comment by stating the subject house was actually adjacent to apartment buildings and not to other single-family homes and therefore wanted to know if the area would qualify as historic. Historic Preservation Officer Vicrim Chima explained that although thematic similarities in housing styles, scale, site design, orientation, and materials do support districts, it a distinct could embrace a longer period of significant and by comprised with various types of institutional, manufacture, multi-family, and single family houses.

The property owner stated his intentions were purely to restore the house and to make it his permanent residence. He was also interested in determining who designed the house, but because of COVID-19, couldn't access the California Room at the Martin Luther King Public Library. He also suggested the members of public should contact PAC*SJ for more information on preservation and the Mills act program. Ben Leech of PAC*SJ spoke next stating that they would welcome any inquiry on information on preservation of homes as Landmark structures and associated Mills Act programs. He added that not every state offers such a tax savings program which serves as an incentive to preserve homes. He went on to add that more homeowners like Mr. Cohen should think of preserving their homes through the Landmark designation process.

Staff explained that the house represented the early Arts and Craft movement in San José and met three of the eight criteria for City Landmark designation. Additionally, the Mills Act Contract would help preserve and rehabilitate the house.

The City's Historic Preservation Officer, Vicrim Chima, also commented that the Mills Act contract served as an economic incentive for the restoration and preservation of qualified historic buildings by private property owners. The Mills Act Program itself was administered and implemented by the local government and offered up to 35 percent to 65 percent in tax savings.

He added that the Mills Act was a State Law which allowed cities to enter into contracts with the owners of historic structures. Such contracts required reduction of the owner's property tax using a formula in exchange for the conservation of the property.

Staff and Historic Landmarks Commission Discussion

The Commission noted that "The Somavia-Andersen House" is a good example of Craftsman Bungalow style architecture. The Commissioners agreed that it needs ongoing special maintenance and care as it does have a unique architectural style which merits preservation. The Commissioners appreciated the research on the property's history and agreed that that Mills Act contract was indeed an incentive that helped preserve such unique architectural styles in San José. They were aware that the owner was dedicated to preservation of such homes and commended him for pursuing Landmark status and committing to the preservation and rehabilitation of the house using the Mills Act Contract tax incentive. Commissioner Royer suggested conducting an informational training on Mills Act Contract at a future meeting. Commissioner Polcyn suggested that the ten-year work program should be displayed for comments.

The Historic Landmarks Commission voted unanimously to approve Staff recommendation that the City Council designate the single-family residence as a City Landmark and approve the Mills Act Contract.

Commissioner Royer made a motion to approve staff recommendation. Commissioner Polcyn seconded the motion. Motion passed unanimously (6-0).

- b. [HL20-002](#). City Landmark Designation for a single-family residence (George A. Fleming House) on a 1.07-gross acre site located at 1516 Newport Avenue (Larry A. Blitz and Lori Andersen Trustee, Owner). Council District: 6. CEQA: Exempt pursuant to CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation.
Project Manager, Rina Shah

Recommendation: Recommend that the City Council approve the application for City Landmark designation.

Commissioner Royer made a motion to approve staff recommendation. Commissioner Boehm seconded the motion. Motion passed unanimously (6-0).

3. PUBLIC HEARINGS

No Items

4. EARLY REFERRALS UNDER CITY COUNCIL POLICY

No Items

5. GENERAL BUSINESS

a. **GP19-009, PDC19-039, PD19-029, HL20-004, HL20-005, HP20-002, & PT20-027.**

The project site is generally bounded by Lenzen Avenue and the Union Pacific Railroad tracks to the north; North Montgomery Street, Los Gatos Creek, the Guadalupe River, South Autumn Street, and Royal Avenue to the east; Auzerais Avenue to the south; and Diridon Station and the Caltrain rail line to the west. The project also includes the area bounded by Los Gatos Creek to the west, West San Fernando Street to the south, the Guadalupe River to the east, and West Santa Clara Street to the north.

The project is proposing a mixed-use development on approximately 81 acres mostly within the boundaries of the Diridon Station Area Plan (DSAP). The project involves a Planned Development Rezoning, Planned Development Permit, General Plan Amendments, amendments to the historic landmark boundaries of the Southern Pacific Depot and San José Water Company, Historic Preservation Permit for the San Jose Water Company site, and a Vesting Tentative Map, Development Agreement, and other land use related approvals for the development of up to 5,900 residential units; up to 7,300,000 gross square feet (GSF) of office space; up to 500,000 GSF of active uses such as retail, cultural, arts, etc.; up to 300 hotel rooms; up to 800 rooms of limited-term corporate accommodations; up to two event and conference centers totaling up to 100,000 GSF; up to two central utility plants totaling approximately 130,000 GSF; logistics/warehouse(s) totaling approximately 100,000 GSF; and approximately 15 acres of open space, all on approximately 81 acres. The project also proposes infrastructure, transportation, and public realm improvements

PROJECT MANAGER, JAMES HAN

Recommendation: Provide comments to staff on the historic preservation component of the Draft Environmental Impact Report for the Downtown West Mixed-Use Project (Associated File Nos. PDC19-039, PD19-029, GP19-009, HL20-004, HL20-005, HP20-002, & PT20-027).

Oral Staff Report (James)

- *The boundary includes two landmarks and next historic district*
- *DEIR has been out since Oct 7, 2020, looking for comments on the historic cultural*

Applicant Team

- *Bhavesesh Director of Real-estate Development*
 - *Was last with HLC in Jan 2020*
 - *Project Overview - what will in those spaces between those offices*
 - *Shown an illustrated of the buildings, density, land uses*
 - *Create connection between historic resources*
- *DWDSG Anthony Fiorvanti (District Design Lead)*
 - *Hybrid process, high level process bring that specify*
 - *Conforming review, when all those control bring forth to Director*
 - *Design controls and creating the place*
 - *Framework plan*
 - *Response to historic resources and context - massing, façade articulation, material, and program*
 - *San Jose Water building, 150 S. Montgomery, 40 S. Montgomery, Creekside walk at Autumn Street*
 - *Creekside walk at S. Autumn Street. Nature meets built*
- *Historic Resources Treatment*
 - *Feasibility in retaining resources*
 - *Creates breaks in contiguity of plan*
 - *Results in inefficiently shaped new buildings*
 - *Impact program yield*
 - *Challenges with physical relocation*
 - *Anomalous in the urban context*
 - *Limited adaptive reuse application*
 - *Response to context*
 - *Response to existing building, response to historic neighborhood like lakehouse district and the Diridon Depot*
 - *Case study*
 - *E2 and E3, residential uses across the lake house district*
 - *San Jose Water Company*
 - *Rehabilitation of Historic SJWC*
 - *40 S. Montgomery*
 - *Changing of the street, cornice articulation, curbless street*
 - *150 S. Montgomery*
 - *Hellwig Ironworks*

- *Next Steps*
 - *Will be back in Feb to HLC for a recommendation*

Public Comments

- *Ben Leech- PacSJ*
 - *Continuing the review of the DEIR*
 - *Developing their formal comments at the end of the comment period*
 - *Want to offer some scope to EIR and preservation strategy*
 - *Support retain and reuse the structure, disappointment, and trouble by the number of historic buildings are currently proposed for demolition and there are far more potential and creative approach to integrate*
 - *Structures of merit are proposed to be demolition*
 - *Creekside walk area, as potential relocation for historic resources, they can accommodate on site instead of a third party*
 - *Sunlight Baking building*
- *Tessa*
 - *City has not been helpful in reviewing this project*
 - *Reaching out to the community and helping them understand*
 - *City and Google has not been available*
 - *Concern about the car and infrastructure of the site, cars is not really suitability, needs to be car free*
 - *Nature part, the most historic part of mother earth, 615 Stockton land, wants Google to purchase it to make it a garden and have a community center to live without fossil fuels*
- *Roland*
 - *To request historic depot be landmarked to be part of this plan, to protect the depot from VTA from relocating the railway*
 - *Google has assembled team with more rail and design than the VTA, Caltrain combines*
 - *Presentation added to the website*
- *Meredith Muller*
 - *Thank you for the detail, hopefully on the level of green spaces, and ecological suitability*
 - *Meat market sign, what will they do it*

- *How Google deals with future historic status before this project is approved or after it is approved, considering the HLC has not had activity*
- *Sunlight Bakery*
- *D5 on the foundry buildings, any envelopes about the green spaces for the building*
- *Mike Sacgram PACSJ*
 - *Mitigation 3.2 of DEIR, encourage broader vision of preservation*
 - *Environmental impacts will be unavoidable*
 - *Shrinking of the historic fabric, sheer massing of the buildings additional impact outside the projects*
 - *PACSJ is seeking more than demolition, setbacks, proposed mitigation have perspective more preservation and digital realm, hopefully will be a partner will help identify and harden SJ historic resources*
- *Lisa Ruder PACSJ*
 - *Diridon Station, in regards to DSAP and DWDSG, the City has been very vague on the SJ Jewel*
 - *Other than acknowledge it within 200 feet of the project*
 - *Do not want to add to historic lost to SJ*
- *Phone number ending in 140 (would not disclose name)*
 - *How long will it take, construction, traffic it will create, nuisance and station*
 - *High density house, office and public transit are dead issue because of Covid*
- *Kay Gutknecht*
 - *Resident just north of the project*
 - *Two historic subdivision*
 - *Interesting in the part of the technical report*
 - *Eligible Candidate landmarks, 3 months, what are the plans for those properties, they have a lot in their neighborhood*
- *Michael Riepe and Nancy*
 - *Sheelie neighborhood, there is a corner lot, zoned for light industrial, surrounded by the historic homes, that site sticks out like sore thumb*
 - *Some of those historic building, would be nice to relocate, receivership 615 Stockton*
- *Susan Watanabe*
 - *Live three houses down on corner of Schiele and Stockton*
 - *Would receive of this property and becoming of historic district*

Commissioners

- Polcyn
 - EIR and design - looking for comments for both?
 - Dana - commenting on the EIR, adequacy (mitigation, alternative) in regards to the design guidelines to historic resources, are the resources going to be impact by the project in relationship design guidelines DWDSG, adjacency references and how to treat historic resources
 - Really appreciate the presentation, very through, helpful to understand the project, wish if they had the presentation before he read the EIR
 - 3D views are helpful in understanding the impact on the historic resources
 - History walk would be nice, and can extend further across Santa Clara to the park
 - Is the autumn intended to be pedestrians or also through traffic with vehicles
 - Bavesch autumn street is for vehicles and the autumn walk is for pedestrians
 - Korney Powder building, there are so many layers of which period of significant, it would be good to know what is inside L.1
 - Hellwig Ironwalk, agree in keeping that, adaptive re-use, not against it, but needs more discussion L.2
 - Ben from PACSJ, mention the number of buildings of structure of merit to be removed, spent hours going through the EIR and the project all the history of the project, sidebar all the structure of merit, is it a concern, it is not as clear in the EIR and how it is being impacted L.3
 - Design the attention of detail with the height and scale, he appreciates it and there is a sensitivity to that
 - List of buildings in the EIR and his thoughts
 - Not enough attention to the prehistory of this site, specifically the Ohlone, number of burials and spirital site, because where two rivers comes together, would get a lot of response of the importance of this site L.4
 - None of is visible to the eyes, but it could be underground
 - Early SJ, integration of some of the industrial building, but there is a lot more there, fruit industry and the railway and the packing, industrial history in this space L.5
 - Interactive display in the area? L.6
 - Mitigation measures - all the buildings are affected, should be documented, even if they not being removed but are significant L.7
 - Building, three small residential on Julian Street, strongly believe these should be relocated, in good condition, some public comments about places to relocated it, adjacent or nearby L.8
 - Disappointment on relocation, it puts the burden on others, pay demolition, 60 days to claim it and 120 days to take it, Google should be more proactive and moving those residential are achievable

- *Moving buildings like Little Italy and Historic*
 - *343, 345 N. Montgomery, 30s, would like integration, understand the challenge, but not recommend demolition*
 - *580 Lorraine, mid century, designation by demolition, it is in the way and underutilized, he likes the building, likes to see it stay, are losing a lot of the midcentury building, in SJ*
 - *145 S. Montgomery, sunlight baking company, really architecturally a nice building, great history, understand it is difficult to move, not a good candidate to move, really can do adaptive re-use*
 - *150 Montgomery, earmarked for adaptive reuse and it is a sensitive response to the building*
 - *40 S. Mont and S. Autumn building, made the connection from the presentation*
 - *Amendment to S. Depot and SJWC - it was arbitrary when they made the boundary, the adjustment does not bother him, as long as the design of the larger building is done sensitively*
- L.9
- *Royer*
 - *Did receive an email, if they would like an HLC introduction and she decline*
 - *Do appreciate the adaptive re-use, DWDSG, she is trying to provide deference setback and height, looking forward to see how it gets to full swing and before the commission*
 - *Would like to see more of the structures and relocating some of those residential property*
 - *It would be helpful to get that level of information on some of the other structure and how they would be impacted and how they would be impacted*
 - *Also curious, how this project will interact with the Diridon Station, needs to be look at holistically, don't want that building to be lost in the shuffle*
- L.10
- L.11
- L.12
- *Raynsford*
 - *Did receive the email, did not respond*
 - *Agree with all the comments from the other commissioners*
 - *Three kinds of impact, the demolition of the building, adjacency, and consideration of the boundaries*
 - *Do believe many of the historic resources should be preserved or moved, will come back to those when it comes back to them*
 - *Some of them seems like small frame houses, it should be moved, Google should take the responsibility, there should be more proactive*
 - *Clearly other builds not wood, that would be harder or not moved, maybe preserving piece, façade or walls, we are the early stage, thinking of the concept, what frag of the building can be integrated*
- L.13

- *Some attention needs to be paid to the massing of these building, appreciate the setback, looking at the rendering, trying to deal with a complex site with many history, which layer should be prominent*
 - *Confusing vague idea of nature and be helpful urbanist*
 - *Streets, landscape, building*
 - *Diridon Station and SJWC building, what is the larger context, which is Santa Clara street, what is the street going to be like in relates to the site, important for transit, and historic resources within the streetscape, what are the less formal elements in the landscape*
 - *A little bit of chaos in the images, giant mega structure, being blocked by these temporary structures, what is that plaza like and relate to that building*
 - *Going to honor the resources*
 - *Less clear about the buffer zone and what it is doing, in terms of boundary*
 - *Appreciate the ecology and plant life, this discussion need more displace historic and urban design*
- L.13 cont.
- *Arnold*
 - *Did receive an email, did not respond to invitation for brief*
 - *This presentation is a lot, pleased to see the historic reference, concern about SJWC, pleased to see a central building, except it was disappearing in the background in one page*
 - *Wayfinding signage, signage in relationship historic background, thoughts were there, slides wayfinding*
 - *Physical relocation instead of demolition*
 - *Structure of merit, she will visit those sites*
 - *What about the documentation of some of the historic structures, how will documenting and those and their movements?*
 - *What will Diridon Station and Google project, where does it come together*
- L.14
- L.15
- L.16
- *Boehm*
 - *Offered a briefing from Google and did attend that briefing, also attended a community meeting October 19*
 - *Had a hard time reading the historic resources chapter, it wasn't easy for him to access, many of the properties were listed together, but not listed in any order he understand, he understand what is CEQA and not*
 - *Is it correct, three Corney, Hellwig and Waterworks, are those three buildings going to keep and the meat sign*
 - *There are 38 properties were evaluate, less than 10% are being preserved*
 - *The HLC listed those resources*
 - *9 were determined to be historic resources*
- L.17
- L.18
- L.19

- *Lake house, those homes are valuable late 1890, did entail an frontage to those houses, relocated those houses along w San Fernando, it would be nice to have a historic row* L.20
- *60 Stockton, seems like a historic building* L.21
 - *Sarah Hahn - chief historian - in the buffer area, did look at them but not evaluate*
 - *Look buildings within 200 feet and recognize locally and potential impact to the adjacency*
 - *Andy Wang - 38 properties are age eligible within the boundary*
- *Concern about the number of building slated for demo, smaller frame house could be move and relocated* L.22
- *Three buildings are being preservation, they are all 20th century, there several 19th century to preserve at least some of them* L.23
- *Advocated the Diridon Station, know is outside the project, is concern that transit agency is not going to use the building, that building could be useful and suggest to use as part of the project, even adaptive re-use* L.24
- *Ohlone and native american, they were known to live near the banks of Guadalupe River and find remains of the indians* L.25
- *Save those buildings on Julien for the 19th century*
- *Downtown Design Guidelines, heights to adjacent to building, materials tends to get ignored, saw a lot glass and glazing building, those are renderings, give some thoughts to the material, a specially when they front the historic resources that will save*
- *Chair Saum* L.26
 - *Also receive the email, I waited to respond and decline the request, to avoid potential meeting*
 - *Saum is also vice president of neighborhood association representative on the SAAG, this is not a lot of new information, he has not spoken as chair of the HLC*
 - *When the City extend the downtown and OEI, this is what making this project possible*
 - *We have specific downtown design guidelines and historic guidelines*
 - *If this is part of Downtown and Historic Guidelines*
 - *Within the greater DSAP and 34 structures on the historic inventory list, adjacency are important*
 - *When adjacent to the historic resources whether within the project boundary, needs to be a primarily concern*
 - *June 2018 historic resources for SAAG presentation*
 - *Feasibility of maintaining resources, this is a hybrid process, therefore it is not just one project or small scale, we need to aim a bit higher, no continuity in general in downtown, disingenuous to say there is no continuity bc downtown is already not continuity*

- *Google can think outside the box, adaptive re-use or relocation is wholly consistency and to green technology*
- *Google should be more creative with adaptive, relocation and documentation*
- *Challenges to physicals relocation is not a good enough reason*
- *Water company, there is a lot going on there, when it was Trammel Crow project, revived there was supposed to be a lot of plaza and public space from the previous project.*
- *Landmark commission has deal with receiver site, it shows a commitment from the applicant to the City and HLC*
- *Moving those Julian building to stocking is a perfect opportunity*
- *Diridon Station, national registry, agency, the DISC process is outside Google control, but each of those process are treating the station differently, more as an after thought, consider relocating and moving Diridon Station*
- *DISC document is proposing to remove the Diridon Station*
- *Because the project is 81 acres, the adjacent should be more inclusive*
- *Extraordinary opportunity to invest, significant benefit instead of significant unavoidable*
- *3D documentation of entire site would be super important and Google as the ability, in a virtual forum*
- *This is not your typical EIR, extending the comment period at least 15 days*
- *Some of the resources mid century are slotted for demolition*
- *Opportunity to set the standard for historic preservation given the size of the project, look for the best not the minimum*
- *Raynsford*
 - *Visualization, looking at Google street view, it would be useful simulation into something like street view*
 - *Plaza SJWC, wanting to activate these spaces, the architecture and design needs to stand on it, with or without people, it would be nice physical relationship*
- *Polcyn*
 - *Struggling there is a lot information, the EIR to boil down to 9 properties, at large this thing is not really sorted out and trying to get the head around and impact on all the resources*
 - *Second the extension on the comment period*
 - *With this EIR, do they need to take some action on the mitigation, what are the alternative, would like more time to review it and properties*
 - *Desire adaptive reuse some of the larger properties*
 - *3D representation are useful, would like to see more being design and movements and how it would be used*
 - *Light and wood frame that can be and often are relocated*

- *Royer*
 - *Additional time to dig into those documents would be helpful*
 - *It feels like 81 acres, preserving 3 structures is not enough, with the presentation, there are some good idea of adaptive re-use, it would be helpful to get more information, whether those other buildings would work, it needs to be look at further*
 - *Preservation needs to be a bigger consideration*
 - *Create really interesting spaces, but they are removing some really interesting building, into their place making is very important*
 - *Miss opportunity*
- *Vice Chair Boehm*
 - *The number of properties to be preserved, it does not seem like a good utilization of resources*
 - *Since his is important historic area, it should be more made use of it*
 - *311 and 312 N. Montgomery, 1895 Queen ann, would be a great addition to a historic district*
 - *Historic Markets in historic places within the project*
 - *Santa Clara street dates back to 1700s, but the report does not mention that, how about a historic monument there*
- *Chair Saum*
 - *Alameda right of away is a historic district, therefore there is an adjacency*

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

7. OPEN FORUM

Members of the public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. The Commission cannot engage in any substantive discussion or take any formal action in response to the public comment. The Commission can only ask questions or respond to statements to the extent necessary to determine whether to: (1) refer the matter to staff for follow-up; (2) request staff to report back on a matter at a subsequent meeting; or (3) direct staff to place the item on a future agenda. If anyone wishes to speak, please connect to the meeting either by Zoom or by telephone using the instructions on page 2 of this agenda.

Robert Manford – Respond to the timelines and the request to extend the public comment period of the draft EIR

Carol – Address Google Project, Stockton Avenue location is an ideal location for relocation of potentially historic structures

Mike Sondergram – Mitigation Measures, can there be an in-lieu fund when resources can't be saved to encourage preservation in other areas on other scales – Request as part of a submittal packet, a 3-D Digital Contextual Model

Roland – Can you live stream on You Tube? Live stream audio is insufficient to understand the project scopes.

Tessa Woodmansee – Garden Alameda Neighborhood, working to create an historic district

8. GOOD AND WELFARE

a. Report from Secretary, Planning Commission, and City Council

Deputy Director Dr. Robert Manford – Introduction of New Historic Preservation Officer, Vicrim Chima

i. Future Agenda Items: Bank of Italy HP Permit

Chair Saum asked when this would be heard. Dana Peak responded with the possibility of a January special session or the normal February meeting.

ii. Summary of communications received by the Historic Landmarks Commission.

No items

b. Report from Committees

i. Design Review Subcommittee: October 21, 2020. Next meeting on November 18, 2020.

Chair Saum summarized recommendations made during the Design Review Commission held on October 21, 2020. Those action minutes can be found here: <https://www.sanjoseca.gov/Home/ShowDocument?id=66213>

c. **Approval of Action Minutes**

- i. **Recommendation:** Approval of Action Minutes for the Historic Landmarks Commission Meeting of October 7, 2020.

Commissioner Polcyn motioned to approve the action minutes for the Historic Landmarks Meeting of October 7, 2020. Commissioner Royer seconded the motion. The Commission voted unanimously (6-0).

d. **Status of Circulating Environmental Documents**

- i. [San Jose Flea Market Planned Development Rezoning Project Draft Environmental Impact Report](#)

Deadline for comment is November 16, 2020. Dana Peak explained that this project was not brought to HLC via the Early Referral so this will be presented as new material.

ADJOURNMENT

The commission voted unanimously (6-0) in favor of a motion to adjourn the meeting.

The meeting was adjourned at 10:47 p.m.

Dec. 7, 2020

James Han, Planning Downtown West/Google Project Manager
 Larissa Sanderfer, Parks, Recreation, and Neighborhood Services Project Manager
 Shannon Hill, Environmental Project Manager
 Jose Ruano, Diridon Station Area Plan Project Manager
 Lori Severino, Diridon Station Area Advisory Group Project Manager

re: The Downtown West/Google Project;
 The Downtown West/Google Project's EIR; and
 Draft Amended Diridon Station Area Plan

Dear Project Managers,

I am writing regarding the planned developments in the vicinity of the Diridon Station, including CalTrain electrification, High Speed Rail (HSR), the Diridon Integrated Station Concept (DISC), the Diridon Station Area Plan (DSAP), and Google's proposal (the Downtown West Mixed Use Plan Draft EIR). I am writing in regard to all of them together because of their interconnectedness, and because I worry that not every plan is well integrated with one another and aware of the changing conditions and interfaces.

Even though I have participated in a number of meetings as a member of various groups or commissions, I am writing this on my own behalf as an individual member of the public. I have already made a number of these comments verbally in various public forums, but I repeat them here so as to have submitted them in written format.

Overall, I am generally very supportive these projects: the electrification of CalTrain, High Speed Rail coming to San José, the reconfigured Diridon Station with the elevated tracks, BART, and Google's plans to transform a faded part of the city into a dynamic and vibrant district.

That said, I do have a number of questions, comments, opinions, and concerns...

CalTrain electrification. I am very supportive. However, I'm concerned by the phasing: the electrification of the at-grade tracks is under construction now and is due to be completed in 2022. However, the planned raising of the tracks for the new Diridon Station is not even scheduled to begin construction until 2027. My fear is that "you" (by which I mean the various officials, consultants, planners, and governmental agencies) will say that all that money now being spent on electrifying the at-grade tracks would be wasted if the tracks are then raised, and that it'll be cheaper (and "good enough") to keep them as-is in their current at-grade configuration. When I asked about this at a recent meeting, I was assured that the "lost cost" – the stanchions and power cables – is but a small fraction of the total cost, and the majority of the investment (e.g., power stations and new rolling stock) can be reused. I raise this now because I've been burnt before by phrase, "it's cheaper to use the existing". Indeed, we've already been burnt when you and HSR decided to electrify the current Tamien-to-Diridon at-grade tracks rather than constructing the promised "aerial alignment" (which reduces the community impacts by keeping the tracks within the 280 and 87 freeway right-of-ways) – "because it's cheaper and

M.1

good enough.” What I’m looking for here is assurance that the elevated tracks and raised platform *will* proceed as now planned.

↑ M.1
cont.

Elevated CalTrain Tracks.

Elevating the tracks near the Diridon Station will have a number benefits:

- It will allow grade-separation for Auzerais, which will avoid train-caused delays for the many residents in the new and planned high-density dwellings (Ohlone Towers, Monte Vista, etc.) as they head for the Bird Ave. freeway on-ramp.
- It will allow grade-separation (hopefully!) for West Virginia at Drake, so that the rather isolated Drake-Fuller neighborhood isn’t further isolated by the hundred-some trains a day that eventually will cross there.
- It will allow Park Avenue to be reconstructed, removing the psychological barrier caused by the current deep-dive undercrossing.
- It enables a reconfiguration of the Diridon Station, with shops, services, and attractions on the ground level and the train platforms above.
- It will allow a greatly improved east/west pedestrian and bicycle crossing at San Fernando.
- And it will allow an improvement to the Los Gatos Creek Trail at the recently replaced CalTrain bridge over the creek, which as now planned has the trail with minimal vertical clearance and barely above creek high-water.

Some concerns and issues:

- The elevating of the tracks will require the replacement of the San Carlos St. Bridge. This bridge is old and (in my opinion) worn out and substandard: no great loss. However, I have seen little mention of it in any of the meetings. Also, care is needed in its design so that it itself doesn’t create an uncrossable barrier for the Los Gatos Creek Trail.
- How will the new train tracks cross I-280? – the logistics will be challenging! Allow me to recommend building the new bridge somewhat to the west of the current tracks, (1) so that service on the old tracks is not disrupted during construction, and (2) to make for a smoother ride on the new tracks by “smoothing the arc”. (The current track curves near Bird Ave, straightens out when crossing I-280, and then is curved again at Auzerais, giving a “jerky” ride.) However, such a smoothed curve might require the taking of a property or two on West Virginia and/or Gregory St., which I don’t recall being discussed.

M.2

Opportunities:

- Once the train service has shifted to the new bridge, the old bridge could be converted into a bike/ped bridge, creating a trail connecting the Gardner neighborhood to the Hannah-Gregory neighborhood and on to the Diridon Station.
- The current at-grade tracks north of Auzerais would make a great “commuter’s trail” connecting the Los Gatos Creek Trail (LGCT) directly to the Diridon Station, freeing the downstream portion of the creek trail to be more pastoral and recreational. I am pleased to see that this LGCT – Diridon spur is shown in some of the presentations. Some questions: (1) How would this spur trail cross Park Ave. if the street is regraded? And (2) how would the spur trail access the station? – could there be a cyclists’ entrance at the south end?



Also: What about the Vasona Spur?

- Elevated or left at-grade? It only carries maybe one train a week, often late at night, but even so, I doubt that you'd want to leave it at-grade, with diesel engines pulling freight past (or through?) the station's ground-level shops.
- A challenge is that the Vasona spur is on the west side of the main tracks, whereas the freight track is on the east side so as to better access the Milpitas(?) Wye. I understand that there are two alternatives: (1) construct an elaborate freeway-like undercrossing/onramp to get the Vasona tracks over to the east side, or (2) just come in on the west side and then "sneak across" the mainline over to the east. I support this latter approach as it is much simpler and cheaper, and I think it is viable because of the late-hour of the infrequent crossing – but it may require adjusting the height of the electrified train's power cables and/or limiting the maximum height of the Vasona's fully-loaded freight cars.
- Would the Vasona Spur be elevated at Race/Parkmoor, and, if so, can the traffic-delaying Light-Rail/freight train signals now there be removed from the intersection?
- Would this spur line bridge over I-280 also need to be replaced?

M.2
cont.

Diridon Station Design:

- The publicly presented station concept designs show elevated platforms to reach the elevated train tracks, with escalators to get passengers to and from the platform. But how does the station accommodate bicyclists? Bike lockers are great for those who bike to the station, park their bikes, and then ride the train. But CalTrain currently operates a very popular bike-compatible commuter service with multiple bike-cars, each capable of carrying dozens of bikes, allowing cyclists to bike to the station, keep their bikes with them on the train, and then easily complete their trips by bike to their final destinations. How do these users access the trains? Standard escalators are not suitable for carrying bikes, and an elevator would not have the capacity to handle the peak demand: there needs to be ramps, comparable to those now in the current station. Alternatively, there could be specialized escalators, comparable to those in some stores that carry shopping carts.
- The current Diridon Station building is a Historic structure. Parts of the building (e.g., HVAC, plumbing, electrical, restrooms) may be in need of renovation or replacement, but the building's façade and main-hall interior ceiling are definitely worth preserving. Can the critical portions of the building be preserved in-place while accommodating the widened track footprint, or will it be necessary to physically move the building?
- To accommodate the increased usage, the new Diridon Station is going to be larger than the existing historic structure, but the old building can be preserved and incorporated into new building. The Oslo (Norway) Central Terminal is a perfect example; local, smaller-scale examples here include the Golden Arches McDonalds (on Almaden near Curtner) and the Willow St. Pizza (just east of Lincoln).
- All great train stations need a great Entrance Plaza: again for an example see the Oslo Station. An Entrance Plaza is the station's "front door", its focal point, enabling it to handle large crowds, both for the daily commute and for special occasion arrivals. The Entrance Plaza also invites folks to walk out and venture into town. The grand entrance is obvious in our current Diridon Station building, but which one of the three or four entrances planned for the new building is the Main entrance? Santa Clara west, Santa Clara east, San Fernando east? The multiple

M.3

entrances may be convenient, but they don't concentrate the area's excitement and vibrancy. (They can also confuse infrequent users: "I'll meet you at the train station"—but which entrance? You'll need a "Meeting Point" designated somewhere, as is done in some airports.)

- Are the station design efforts being coordinated with Google? You want to have the streets and parks in their project line up with the Entrance Plaza and with the newly planned entrances.
- I haven't seen much discussion of BART: it will have a major station of its own near Diridon: will it be inside the new train station or adjacent to it? Will there be a public plaza by the BART entrance to help aggregate travelers approaching BART and disperse those departing? (I don't see any nearby plazas or other open spaces in any of the various plans.)
- Sorry to have to ask, but... Will the new building be able to handle anticipated possible future security measures? Our new SJC airport terminal, for example, does the job quite well, but I've seen older buildings with grand entrance staircases all fenced off and the public forced to go through a side door entrance to pass through a metal detector; other places I've seen buildings with several entrances, but only one remains unbaricaded due to enhanced security measures.

M.3
cont.

Speaking of the SJC Airport: be sure to have a quick and convenient connection from Diridon to our local airport.

- It's important for the airport: If people can't easily get to SJC, they'll just stay on the HSR (or take the electrified CalTrain) to get to SFO, or else they'll take BART to go to OAK. Either way, it would likely be easier and less expensive than having to exit the Diridon Station and flag down a cab to take them to our local airport.
- It's important for the Diridon area: Visitors coming via HSR from LA or the Central Valley are likely to need a rental car for when they arrive: if it's convenient to jump over to SJC, they can get a rental car there and we don't have to waste the valuable land here by the station duplicating the nearby rental car facilities. Likewise, Bay Area residents catching HSR for business or pleasure trips to southern California might not be able to avoid driving to Diridon: why not have them use the long-term parking lots at SJC rather than wasting land here?

Los Gatos Creek Trail:

The Los Gatos Creek Trail is an important part of the regional trail network, serving bicyclists, joggers, walkers, young and old, recreationally and transportationally. It will be a contributing component of the Diridon transportation web, providing a non-automobile alternative means for accessing or traversing the area. I am glad that Google is prioritizing the trail in their project.

Starting at the south and heading north, some points:

- I support the current plans to extend the trail northward from its current San Carlos St. endpoint by remaining on the west side and crossing beneath the recently rebuilt CalTrain bridge at San Carlos and the creek, and then continuing downstream on the west side past what has been the fire training center. Unfortunately, the CalTrain bridge is lower and thicker than had been promised and so the trail both will have minimal vertical clearance *and* will occasionally flood, but this trail alignment is too critical to forego. When CalTrain elevates the tracks for the new Diridon Station, the trail can be reconstructed to better avoid flooding. In the interim, as this is an important transportation corridor, a process needs to be established to indicate temporary detours when flooding is likely, and also to clean up mud and silt after a flood so that the trail

M.4

can be quickly reopened. The Town of Mountain View has dealt with a similar situation with the Stevens Creek Trail at US-101: perhaps they can share pointers.

- When the train tracks are elevated, a spur trail can branch off from the main Los Gatos Creek Trail and carry Diridon-bound commuters directly to the Station, thereby reducing the load on the creekside trail. If Park Avenue is not regraded during track elevation, the current train bridge can be reconfigured for trail use; if Park Ave. is regraded, please provide a safe trail crossing (e.g., an overpass, or at least a signalized crossing).
- Also develop a trail on the east side of the creek from Auzerais to Bird, as Google has proposed. While this alignment is not as convenient as the west-side trail, it still can serve as a detour during the rainy season. As there likely are fewer bicycle commuters during inclement weather, the detour traffic is probably relatively light, and so this alternative alignment probably doesn't need to be designed to carry as many trail users as the main trail.
- Current plans are for the west-side trail to come up to Bird Ave./Montgomery and then follow the sidewalk north to Park Avenue. Please widen the sidewalk into a proper trail, and also provide a smooth transition from Creekside to roadside trail: don't repeat the mistake we made with the Three Creeks Trail where it abruptly jogs onto a narrow sidewalk at Bird Ave.
- I am truly sad that we are not taking advantage of this project construction to "right a prior wrong" and "daylight" the Los Gatos Creek, freeing it from its culverts under the Montgomery/Park intersection. While it would involve a significant amount of earth-moving, the amount is probably small compared to that involved in regrading Park Ave. at the railroad bridge. One of the advantages of daylighting the creek was that it would have provided the opportunity for safe trail crossing of both Park and Montgomery. Lacking that, it becomes more important to provide safe and convenient crossings of both Park and Montgomery so that the trail can continue to its junction with the Guadalupe and can carry trail users northward to Alviso and beyond. If it is not practical to provide trail under-crossings, would it be feasible to have overcrossings? (It'd be important to design such a crossing for ease-of-use: a crossing with hairpin turns is likely to be more of an impediment than a benefit...)
- I very much support the city's dream of acquiring properties between Autumn and the Creek for both trail continuity and for natural parkland.
- There's more to designing a good bike trail than simply drawing a continuous line on a map: please work with the cycling community when designing the trails so as to avoid common mistakes such as sharp bends or blind curves.
- Be sure the trail is sized to accommodate the anticipated usage: just like highways in town are wider than rural roads, the trail here near the Diridon Station will be carrying more trail-users than those segments out by the edge of town. It may be desirable to have multiple trails to help separate the usages: narrower winding trails nearer the creek for pedestrians quietly admiring nature and the scenery, and wider/smoothier trails for joggers and commuter cyclists.

M.4
cont.

Overall Development:

There has been discussion at some meetings about the amount of housing in the Diridon area. I feel that the area should be primarily commercial, and I feel that Google is a great match for the location. As repeatedly stated at the General Plan Update ("Envision 2040") meetings, San José is "bedroom community" with more housing than jobs. San José needs tax revenue from businesses to reduce its structural budget deficit. I feel that we do want to have some residents in the area, so as to avoid it

M.5

becoming an after-hours ghost town. But we don't want too much housing in the area, as the residents quite likely will hop on BART or CalTrain for jobs in Oakland and San Francisco, giving those cities the tax revenue while San José is stuck paying for the needed infrastructure (parks, libraries, police, etc.)

↑ M.5
cont.

Parks:

People need parks, both for physical health *and* for mental health. Parks are for residents, and also for workers who may need to get outdoors midday and clear their minds.

San José doesn't require park land dedication for new employment projects (I feel it should), but it does require it for new residential developments, requiring parkland (or equivalent cash fees) at the rate of 3 acres per 1,000 new residents. Google's plan is for 4,000 new units, which is roughly 8,000 new residents (depending on unit size), which works out to roughly 24 A of additional parkland needed. It's not practical to provide all of that within the 80 A footprint of Google's project. However, the need for parkland does exist, and can be met by collecting the in-lieu fees for the missing parks and then building parks in nearby neighborhoods like St. Leo, Shasta/Hanchett Park, Auzerais-Josefa, and Gardner.

Google's presentation talks about a total of 15 A of park and open space, but Google agrees that much of that is "project sponsor-owned open space" that doesn't count towards the 24 A requirement: only the 4.8 A of city-dedicated open space counts.

Google's park plans includes 4.1 A of Privately-Owned Public Open Spaces (POPOS). Several questions:

- Who maintains the sites?
- Who controls access, determining who is allowed to enter and who must leave?
- What are the hours of access? How are the times determined, can they change, and who changes them?
- Will POPOS public access be assured by means of a conservation easement? Would such a conservation easement "have teeth", or would it be all too easily circumvented?
- What happens to the POPOS if there's a change of owners? I wish Google a long and healthy existence – but I thought Netscape, Yahoo, Atari, Sun, IBM, and Lockheed would all be here forever, too. I would much prefer public open space to be city-dedicated parks.

M.6

Google's "15 acres" also counts the area within outdoor restaurants: they're nice, but shouldn't be counted as public open space; nor should walkways between buildings, rainwater runoff mitigation sites, or riparian setbacks. I appreciate Google's desire to design a green and open project, but I also feel it's a little misleading to count anything not paved over as "open space", even if they assure us that they're not trying to claim park credit for it.

I appreciate Google's concept for more "urban-based experiences" at their parks nearer the Diridon Station and more "nature-based experiences" further away and/or nearer the Los Gatos Creek. But even the "urban" parks need some nature: they shouldn't be all pavement and hardscape, but should also have trees for shade and landscaping to help refresh the soul.



Comments and questions on specific Google parks:

- Los Gatos Creek Connector (by Auzerais): What will be the impacts when CalTrain elevates the tracks? Will parkland be lost in case an additional track is needed when HSR arrives? Will parkland be lost when the San Carlos St. Bridge is replaced to accommodate the elevated CalTrain and/or HSR? As noted earlier, the trail through here will provide a suitable detour when floodwaters close the main trail at the current CalTrain undercrossing.
- The Meander: this proposal appears quite intriguing: a vibrant pedestrian walkway filled with activity. It is technically an “open space” in the sense that it’s not a building, but to me it seems more of a pedestrian corridor than a park. It shouldn’t count as parkland, and it is not being claimed as such, but showing it on the parkland diagrams may seem to be somewhat misleading to us in the public.
- Social Heart: is there an inviting connection between it and the entrance to Diridon? – it would seem like a natural connection. (Be sure to connect to wherever the currently-planned Entrance Plaza is located, and be alert to any future design changes.)
- Gateway to SJ (on Santa Clara): a park to provide a view down The Alameda, and to be viewed from The Alameda. This park will also be the “front door” to Arena Green and the planned icon. I am concerned that there appears to be little coordination between Google and Urban Confluence Silicon Valley, sponsors of the icon at Arena Green: if it is to be as important and popular as has been promised, I would hope for perhaps a little more attention to “viewsheds” and accessways. But of course, like the Diridon Station, this too is “a moving target”, with details such as design and location very much still TBD. And perhaps the “Los Gatos Creek East” open space will suffice as a view corridor.
- St. James Triangle: I recall that this area was pitched as a quiet escape: special measures may be needed to block the noise of a hundred-some trains a day passing along the western edge on elevated tracks.
- North Montgomery Pocket: This is a water runoff mitigation site? It doesn’t count as parkland, but it may still be a green (and marshy?) retreat best appreciated from the periphery.
- Northend Park: This park will be quite isolated until the CalTrain tracks are elevated, after which it will be accessible by Lenzen and will be appreciated by residents of the nearby park-deficient Shasta/Hanchett Park neighborhood.

I’m also glad that Google is respecting the riparian corridor and that a decent setback is provided. This is to be a natural habitat with minimal public disturbance: an open space but not a recreational resource: it doesn’t count as park, nor is it being claimed as such; I point that out for the record so that the appropriate amount of park in-lieu fees can be collected to help fund actual parks in adjacent nexus-connected neighborhoods.

I’m glad that Google is working to preserve historic and other old buildings: they add character to an area. That said, I question why Google wants to preserve the old warehouses on the east side of Autumn, including (I believe) “Building 9” and “Building 12”? These buildings extend to well within the riparian corridor: this is an opportunity to remove them and restore a critical habitat. Google has been using one of the buildings for public meetings, but they’ve just been using the front portion near the street: they could remove the unused add-on extension in the back without a loss and also enhance the riparian corridor. I suppose some of these buildings can add to the “gritty” character of the area, but

M.6
cont.

M.7

M.8

M.9

M.10

M.11

why not just keep the façades, remove the back portions of the buildings, and widen the corridor. Please don't keep them just to "remodel": don't use them as justification for constructing new buildings too close to the creek by claiming that they're rebuilt old buildings on their existing footprints.

↑ M.11
cont.

Miscellaneous:

A few additional points:

- Google, don't forget about your western façade: you will be the "welcome to San José" view for people arriving by train. Please "put on a good face".
- The city is talking about building a new Community Center in the Diridon area. Why? The city already has several dozen centers, but is only able to operate about a dozen (roughly one per council district), and has had to close or "reuse" (i.e., hand over operation of) the rest. Indeed, the city already has a newly built center about a half mile away at Gardner that's presently unused: let's spend our time and resources using what we have.
- I'll echo the sentiments of others: this is going to be an exciting project, and promised "community benefits" will help ease the pain of squeezing such a large project into an established community. But "mitigation" is not "community benefits": mitigation is what must be done to make up for damages caused; community benefits are "above and beyond" to make for a better project.

M.12

As I wrote in an op-ed to the Mercury News three years ago, "Welcome, Google! Your project at Diridon Station will affect the surrounding neighborhoods and shape our entire city for years to come. It will be truly transformative."

M.13

I recognize that there are many pieces to this puzzle – CalTrain electrification, elevated CalTrain, High Speed Rail, BART, Light Rail, the connector to SJC–San José Airport, the Future Icon at Arena Green, the Los Gatos Creek Trail, the creek itself, nearby neighborhoods, and the city of San José, as well as Google – and we're asking you to assemble this puzzle while the pieces are all shifting shapes.

The Diridon Station Area / Google complex needs an overall project manager to coordinate and make sure that the interfaces between the different components all fit. I hope my comments may help point out some of these interconnects.

As soon as I email this, I'm sure I'll think of some additional points that I wish I had made. This is the Holiday season, and we all are distracted by it (and also by Covid, and the political season, and...). I'm sorry, but I haven't had as much time as I'd like to check through all the documentation, and so I apologize in advance if specific issues I've raised have already been addressed somewhere. But I also didn't want to miss the opportunity to provide public comment by missing the deadline.

I live just over a mile away from Diridon, and I regularly use the area now, both recreationally and as transportation. I look forward to it becoming a truly useful and vibrant destination!

~Larry Ames

longtime resident / trail and park advocate / environmentalist / community activist.

cc: Nicolle Burnham, San José Parks, Recreation, and Neighborhood Services (PRNS)
San José Parks & Rec. Commission, c/o Teresa Meyer-Calvert
Jessica Zenk, SJ DOT
Ricardo Benavidez, Google
Steve Borkenhagen, Urban Confluence Silicon Valley
Jean Dresden, San José Parks Advocates
Harvey Darnell, North Willow Glen Neighborhood Association
Bill Rankin, Save Our Trails of Santa Clara County
Kathy Sutherland, Diridon Area Neighborhoods Group
Helen Chapman, Shasta/Hanchett Park Neighborhood Association
Ed Saum, San José Historic Landmarks Commission

email addresses:

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edward@saumdesignconsulting.com

From: [Ryan Bavetta](#)
To: [Hill, Shannon](#)
Subject: Max traffic limits for traffic calming
Date: Wednesday, October 7, 2020 10:26:07 PM

[External Email]

Hello, I read through some of the Google draft EIR paying particular attention to traffic since I live in nearby Sunol St.

I noticed that there is criteria spelled out for when traffic calming measures would be appropriate (11.2.4.3 Cut-Through Traffic Thresholds), and these included a range of vehicles per day (1k-3k, or 1k-6k). Does this mean there are maximum limits beyond which traffic calming would not take place? It seems like there should be no maximum limits - if it gets super fast and busy we'd still want to calm. Any idea why a range is given instead of just a minimum bar?

N.1

Thanks,
Ryan Bavetta

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December 8, 2020

Shannon Hill
 Environmental Project Manager
 Department of Planning, Building and Code Enforcement, City of San Jose
 200 E. Santa Clara Street, 3rd Floor Tower
 San Jose, 95113
shannon.hill@sanjoseca.gov

re: DEIR comments: Downtown West Mixed-Use Plan (Google Project)

Thank you for the opportunity to comment on the DEIR for this project.

The California Native Plant Society is a statewide organization dedicated to the preservation, enjoyment and scientific study of California's diverse and extraordinary plant heritage including the habitats that they create. We have chapters and members throughout the state. The Santa Clara Valley Chapter has one thousand members and encompasses all of Santa Clara County and part of San Mateo County.

1. The Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (VHP) requires a 35-ft setback from Category 1 streams.

Google's Downtown West Design Guidelines and Standards (DWDSG) S5.5.7 call for new structures and trails to be built within the riparian setback, some within the creek top-of the bank delineations. This is in violation of the VHP.

0.1

1.1. TABLE 4.3 of the DEIR, summarizes programmatic elements in each proposed open space. Some of these elements may not fit the VHP description of "covered activities". For example, a Creek Overlook / Viewing Platform is required for Los Gatos Creek Park and for Los Gatos Creek East. Can Creek Overlooks and Viewing Platforms situated on creek banks or those that intrude within the creek top-of the banks be considered "covered activities" under the VHP? If not, consultations with the CA Dept. Of Fish and Wildlife and the US Fish and Wildlife Service will be required. In any case, consultation for work within the creek banks requires consultation with NOAA Fisheries and the Regional Water Quality Control Board.

0.2

1.2. DWDSG allows existing buildings within 35-ft of Los Gatos Creek to be replaced with new buildings on the same footprint. It also calls for building development 30-ft from the Guadalupe River. The VHP designates Los Gatos Creek and the Guadalupe River as

0.3

category 1 streams, requiring 100-ft setback from the riparian corridor/top of the bank. Condition 11 of the VHP provides a process for allowing reduced setbacks, but cautions and stipulates, ***"Regardless of project location, stream setback exceptions may not reduce a Category 1 stream setback to less than a distance of 50 feet for new development or 35 feet for existing or previously developed sites with legal buildings and uses."***

↑
O.3
cont.

Thus, the project as proposed is incompatible with the VHP. Proposed mitigation measures BI-1a, BI-1b, BI-1c, and BI-2a for identified Impact BI-6 are not relevant here, as they do not address this incompatibility. We consider this a Significant Unavoidable Impact that could be avoided by slight modifications to the DWDSG to avoid this impact.

↑
O.4

2. The City's Riparian Corridor Protection and Bird-Safe Design Policy 6-34 and the Riparian Policy Study seek to distance intrusive elements and activities from the creek in order to provide a buffer that helps preserve ecological function of both the riparian and the aquatic ecosystems. Among other directives, the Riparian Policy Study directs trails to be placed on the outside of the setback area, as far as possible from the riparian corridor.

The pedestrian bridge and creek overlooks are not compliant with Guideline 4D (Interpretive Nodes and Paths) of the Riparian Corridor Study, which states, *"Interpretive nodes and paths may penetrate riparian areas at intervals not to exceed an average of one every 500 linear feet of riparian corridor. This guideline allows for paths to cross creeks at sufficient intervals and provides opportunities for trail users and others to experience the creek environs while minimizing impacts to biotic resources..."*

↑
O.5

The Google plan proposes a bikeway, walking trail and various other elements that will be constructed within 50-ft of the riparian edge and at intervals shorter than 500-ft. The setback exists to protect the biological value of Los Gatos Creek. These proposed elements will greatly reduce the buffering capacity of the setback, degrading Los Gatos Creek's crucial function as a wildlife connectivity corridor and impair its ability to sustain Steelhead and other species.

The Projects Biological impacts can be reduced substantially if the intrusions into the riparian corridor by buildings, people, pets and bikes are reduced. The project should adhere to council Policy 6-34 and the Riparian Policy Study.

Most importantly, the plan should adhere to the VHP. The VHP was developed over many years with input from a multitude of stake holders. The intent of the VHP was to expedite the process of development by having all adhere to a known set of standards in exchange for a streamlined permitting process. It was developed to balance growth with protection of our shared environment. Compromises that balance these often

↓

competing interests were built into the plan. Additional compromises that tilt the scale toward development at the expense to the environment should not be made.

↑ 0.5
cont.

Sincerely,

A handwritten signature in cursive script that reads "Linda D. Ruthruff".

Linda Ruthruff
Conservation Chair
California Native Plant Society
Santa Clara Valley Chapter

From: [mary cassel](#)
To: [Hill, Shannon](#)
Date: Tuesday, December 8, 2020 1:40:00 PM

[External Email]

dear Shannon, I live on Lenzen Ave and I am really in fear of the coming of Google with it's 55,000 , plus others to come to the area. I just HOPE you will include plenty of green in the way of trees and plants, and care for them, and really consider the people who live in the neighborhood, and pedestrians. Hopefully building won't block all view of mountain a and public gardens and parks will be plentiful. I wish we could avoid Bart and hard, or that they could go somewhere else than under Stockton. Thank you for considering me. Mary Cassel

P.1

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

From: [Keyon, David](#)
To: [Downtown West Project](#)
Cc: [Hill, Shannon](#)
Subject: Fw: Catalyze SV's Members Weigh In on Google's Downtown West Plan
Date: Thursday, November 12, 2020 8:16:15 AM

David Keyon

Principal Planner, Environmental Review
 City of San Jose
 (408) 535-7898 david.keyon@sanjoseca.gov

From: Alex Shoor <alex@CatalyzeSV.org>
Sent: Wednesday, November 11, 2020 7:00 PM
To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; Kline, Kelly <Kelly.Kline@sanjoseca.gov>; Devalcourt, Joel <Joel.Devalcourt@sanjoseca.gov>; Walesh, Kim <Kim.Walesh@sanjoseca.gov>; Klein, Nanci <Nanci.Klein@sanjoseca.gov>; Ferguson, Jerad <Jerad.Ferguson@sanjoseca.gov>; Ho, Nathan <Nathan.Ho@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Ramos, Christina M <christina.m.ramos@sanjoseca.gov>; Tran, David <david.tran@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Rood, Timothy <timothy.rood@sanjoseca.gov>; Severino, Lori <Lori.Severino@sanjoseca.gov>; Ruano, Jose <Jose.Ruano@sanjoseca.gov>; VanderVeen, Rachel <Rachel.VanderVeen@sanjoseca.gov>; Clements, Kristen <Kristen.Clements@sanjoseca.gov>; Zenk, Jessica <Jessica.Zenk@sanjoseca.gov>; Eidlin, Eric <eric.eidlin@sanjoseca.gov>; Burnham, Nicolle <nicolle.burnham@sanjoseca.gov>; Groen, Mary Anne <maryanne.groen@sanjoseca.gov>; O'malley solis, Jessie <Jessie.O'MalleySolis@vta.org>; ron.golem@vta.org <ron.golem@VTA.org>; jeremy.nelson@vta.org <jeremy.nelson@vta.org>; benavidez@google.com <benavidez@google.com>; Javier Gonzalez <javiergonzalez@google.com>; wharton@google.com <wharton@google.com>; ava.bromberg@lendlease.com <ava.bromberg@lendlease.com>; whanson@sitelaburbanstudio.com <whanson@sitelaburbanstudio.com>; fromsonc@samtrans.com <fromsonc@samtrans.com>; murphys@samtrans.com <murphys@samtrans.com>; boris.lipkin@hsr.ca.gov <boris.lipkin@hsr.ca.gov>; Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>; Han, James <James.Han@sanjoseca.gov>; Mendez, Zacharias <Zacharias.Mendez@sanjoseca.gov>; sheelajivan@google.com <sheelajivan@google.com>; jessgraham@google.com <jessgraham@google.com>; bethanywindlen@google.com <bethanywindlen@google.com>; weinsteinm@google.com <weinsteinm@google.com>; Hill, Shannon <Shannon.Hill@sanjoseca.gov>; Tu, John <john.tu@sanjoseca.gov>; Keyon, David <david.keyon@sanjoseca.gov>; Manford, Robert <Robert.Manford@sanjoseca.gov>
Cc: <Projects@catalyzesv.org> <Projects@catalyzesv.org>
Subject: Catalyze SV's Members Weigh In on Google's Downtown West Plan

[External Email]

Ricardo, Sheela, Woody, Marla, Bethany, & Jessica,

Thanks for presenting Google's Downtown West proposal to Catalyze SV's Project Advocacy Committee last month. Our members are extremely excited about this truly transformational project that will serve as the heart of a brand-new, vibrant, transit-oriented neighborhood.

Please find below the evaluation from [Catalyze SV](#)'s Project Advocacy Committee members and a feedback form for the project.

- 1) **[Scorecard](#)**. The project scored very well - 4.29 out of 5! This is above a key Catalyze SV threshold that allows us to continue to be involved in urging this project to move forward.
- 2) **[Letter](#)**. We'd also like to offer constructive comments on the project. Especially with Catalyze SV's remaining suggestions incorporated, we look forward to seeing this project move through the approval process to become a great neighborhood in San Jose. We'll be urging Google & the City to ensure these improvements are incorporated into your proposal.
- 3) **[Feedback Form](#)**. To make it easier and quicker for you to respond point-by-point to our suggested improvements, we've prepared this feedback form. We'd like to ask Google to use this form to respond to our comments within 60 days. That would be by January 10, 2021. *Is that feasible for Google?* We're also happy to set up a Zoom video or phone call to chat further.

We've already added the above scorecard & letter to [our website](#). Thank you so much for considering our members' views on this project. Yours in community improvement - Alex

Alex Shoor
Executive Director
Catalyze SV
alex@CatalyzeSV.org
www.CatalyzeSV.org

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Q.1
cont.

Project Review Scorecard

OVERVIEW

This project review scorecard provides guidelines for consistently evaluating how a proposed development aligns with Catalyze SV's values. Catalyze SV's values are:

- Inclusive, Diverse Communities
- Healthy, Sustainable Development
- Convenient Transportation Choices
- Housing Solutions for All
- Vibrant Places for People
- Equitable Community Engagement

Grading Criteria - Merits

1. **Community:** The applicant is making significant efforts to reach out to the community and has addressed recommendations collected through community engagement.
2. **Affordability:** The proposal considers protections or relocation benefits for existing residential and/or commercial tenants that may be displaced. It goes beyond current government requirements for onsite, below-market-rate homes, stabilized commercial leases or appropriate substitutes.
3. **Transportation:** The project recognizes the growing importance of a variety of mobility solutions, incentivizes reduced automobile usage and measures mobility after the project is built and occupied. Transportation Demand Management plans are encouraged.
4. **Legacy (when applicable):** The project undertakes efforts to incorporate, protect, or preserve any objects of significant cultural or historic merit identified by the community on or near the site.
5. **Intensity/Zoning:** The project utilizes nearly the full density allowed under its zoning and general plan designations.
6. **Sustainability:** The project incorporates measurable green building features. CalGreen Tier 1 or 2 measures and/or third-party certifications (LEED, WELL, Living Building Challenge, etc) are encouraged. Some features can be found here: <https://www.catalyzesv.org/sustainable-features>.
7. **Vibrancy:** The proposal seizes locational opportunities and includes features to enhance the human experience of the site and neighborhood.

Grading Scale - Merits

An average score of 3.5 is required for Catalyze SV to consider advocating full support for a project.

1 = Fails to meet project review criteria
2 = Meets some project review criteria
3 = Meets basic project review criteria

4 = Exceeds project review criteria
5 = Goes far beyond project review criteria
N/A = Category does not apply

Project Review Scorecard

Project Under Review: Downtown West**Project Applicant: Google****Review Date: October 14, 2020****Community:****Score: 4**

The Downtown West team has engaged in an extensive, often outside-the-box effort to reach out to the community & solicit ideas, including the community's input on the proposal's public spaces. Our members appreciate Google's genuine effort to design with the community in mind and continue outreach during COVID-19 through videos, surveys, & online meetings. We encourage Google to continue to engage the neighbors & wider San Jose community through digital channels & to find creative ways to reach those less connected. We also encourage Google to transparently show how it has incorporated community & city feedback into its designs to build further trust with the community.

Affordability:**Score: 4**

We are encouraged that Google is committing to build 25% affordable housing, with our preference for these homes to be within the Downtown West development. While we appreciate this will bring at least 1,000 new affordable homes to this transit-oriented job-rich area, we encourage a focus on homes for those most in need. With a high Average Median Income (AMI) in Santa Clara County, we urge Google to prioritize extremely low-income, very low-income, & low-income units. With a good distribution of AMI, we'd likely score Downtown West with 25% affordable homes as a 5 on affordability.

Transportation:**Score: 4**

Downtown West includes pedestrian-first blocks, additional bike lanes & trails to accommodate biking & walking - all part of Catalyze SV's initial feedback. We are also glad Google is promoting sustainable transportation through TDM measures & encouraging its employees to use transit through transit passes. We also encourage transit passes for contractors, service workers, as well as enabling the residential buildings to buy discounted VTA Smart Passes in bulk to reduce driving. The shared street network & 20-minute city focused on cyclists & pedestrians is a great start, yet we believe there is still too much focus on driving. While a 35% drive-alone mode share improves existing conditions, 7,000 parking spaces (only 15% EV) at the region's transit hub isn't nearly forward-thinking enough. Especially next to a major transit center, Google needs to be more ambitious in planning for a transportation future; with less parking, additional transit use, & new solutions for people's transportation needs.

Legacy:**Score: 4**

Google is making a genuine effort to consider the surrounding area and to preserve and enliven historic buildings. We especially appreciate the creative reuse of the San Jose Water Company Building. We are excited to see additional details and encourage Google to look into including maker space (similar to the Old Tech Shop) to encourage innovation. Our members also recommend adding the neon Orchard Supply Hardware sign & incorporating elements of the Valley of Heart's Delight or historic canneries into designs. While we understand that the historic station building is not part of the site, we encourage Google to help with any effort to move & preserve this landmark building as part of the planned new station. With a project this big in a location this crucial, legacy is also about looking forward; Google should do more to make this area an iconic, world-class landmark.

Intensity/Zoning:**Score: 5**

Google is working to maximize the height & density of the transit-oriented Downtown West, which closely aligns with Catalyze SV's values. We are especially pleased with the dense housing and jobs near Diridon Station with ground-floor commercial & that the hotel with less need for transit access is located in the North end of the site. These considerations, plus maximizing housing, were part of the feedback Catalyze SV provided in February. We recommend Google explore ways of further increasing housing toward the 5,900 units possible, like converting some mid-rise residential to high-rise buildings.

Sustainability:**Score: 4**

Downtown West offers a great example of environmental standards by ensuring that the project will not result in any net additional GHG emissions under its AB 900 mandate. We are also encouraged to see a number of our suggestions included such as recycled water, on-site power generation (7.8 megawatts solar is huge), & protecting the riparian corridor that runs through the site. Google is looking beyond the site to integrate with the surrounding area (it's term is "a 20-minute city") while increasing walkability through access to the Los Gatos Creek & Guadalupe River trails. Finally, while we appreciate that the neighborhood & all office buildings will be certified as LEED Gold, we believe Google needs to pursue even higher standards. As plans are further refined, we hope Downtown West commits to building to LEED Platinum throughout the development, including residential buildings.

Vibrancy:**Score: 5**

With activated ground floors & an extensive network of public open space, our members are excited to spend time in this is fun, engaging place. Google's emphasis on celebrating art, local culture, & river activities weaving through Downtown West could serve as an international example of placemaking. We hope that Google continues to improve public space through events, music, & markets, while also ensuring ground-floor commercial space is available at a variety of sizes for entrepreneurs and non-profits.

Cumulative Score: 4.29 out of 5

November 11, 2020

Ricardo Benavidez - Google
Sheela Jivan - Google
Woody Hanson - Site Labs

Marla Weinstein - Google
Bethany Windle - Google
Jessica Graham - Google

RE: Google's proposed Downtown West Planned Development and Design Standard and Guidelines in San Jose

Dear Ricardo, Sheela, Woody, Marla, Bethany, & Jessica,

Thank you for presenting Google's planned development proposal and Design Standard & Guideline for Downtown West to the Catalyze SV Project Advocacy Committee. Catalyze SV's members first reviewed Google's plan in December 2019 with [feedback provided in February 2020](#). As we understand the updated development, it comprises 84 acres of land with 4,000 (up to 5,900) residential units, up to 7.3 million sq ft for office space, & up to 500k sq ft of active uses. It also includes up to 300 hotel rooms, up to 800 overnight accommodations for corporate employees (which will be taxed like a hotel), an event center (up to 100,000 sq ft), and up to 7,160 parking spaces. The development is focused around the Diridon Station transit hub, adds bike lanes throughout the plan, and creates 15 acres of parks set aside for open spaces & riparian habitat.

Positive Elements:

- **Intensity/Zoning:** The Downtown West transit-oriented development looks to maximize heights and achieve a high level of density suitable for this site. The neighborhood has an excellent mix of homes, office, commercial, & public space. The dense housing and jobs near Diridon Station have active ground-floors & the hotel with less need for transit access is located in the North end of the site. These considerations, plus maximizing housing, were part of the feedback Catalyze SV provided you in February. We like that the homes currently proposed include many larger residential units we hope will be for families.
- **Vibrancy:** Based on the details provided in the Design Standards & Guidelines, the vibrancy of the Downtown West neighborhood has shifted from our members' greatest concern (in 2019) to its best asset. With activated ground floors & an extensive network of public open space, our members are excited to spend time in this fun, engaging place. The development embraces the area's history by preserving & enlivening historic buildings, especially the San Jose Water Company Building. With Google's emphasis on celebrating art, local culture, & river activities weaving through Downtown West, it could serve as an international example of placemaking. We hope that Google continues to improve public space through events, music, & markets, while also ensuring ground-floor commercial space is available at a variety of sizes for entrepreneurs and non-profits.

- **Integration of Public and Green Space:** Google is looking beyond its own site to integrate with the surrounding area (it's term is "a 20-minute city"), while increasing walkability through access to the Los Gatos Creek & Guadalupe River trails. Downtown West includes pedestrian-first blocks, bike lanes & trails which will slow down cars and create a safe space for pedestrians and cyclists. The network of public space, along with the commitment to ground floor commercial and active frontages, will attract and entertain residents, workers, & visitors alike.

Elements to Improve:

- **Transportation Shift:** While we appreciate that a 35% drive-alone mode share and 7,000 parking spaces are an improvement to existing conditions, development at the region's transit hub should be more future-focused. We encourage Google to be more ambitious in planning for a transportation future where less parking (drive-alone trips) funds additional transit use & innovative solutions for people's transportation needs. While we're also glad Google is promoting sustainable transportation through TDM & providing transit passes to employees, we believe more could be done. We encourage Google to explore transit passes for contractors & service workers while having residential developments buy discounted VTA Smart Passes in bulk. This would increase transit use, allow for reduced parking, and improve the quality of the environment with fewer cars.
- **Affordability:** We are encouraged that Google is committing to build 25% affordable housing, with our preference for these homes to be within the Downtown West development. We are excited to see at least 1,000 new affordable homes in this transit-oriented job-rich area; we encourage a particular focus on homes for those most in need. With a high Average Median Income (AMI) in Santa Clara County, we urge Google to prioritize extremely low-income, very low-income, & low-income units.
- **Maxing Sustainability:** We appreciate that Downtown West will build to a high standard of sustainability, but encourage Google to show leadership through maximizing green building standards & homes near transit. The neighborhood & all office buildings will be certified as LEED Gold, but hope this is the floor of what can be done. Rather, Google should build to LEED Platinum throughout the development, including residential buildings. Building the 5,900 maximum number of homes would allow thousands of additional people, including Google's own employees, to live healthier, more sustainable lives.

This is a truly transformational project that will serve as the heart of a brand-new vibrant transit-oriented neighborhood. By building a dense development next to Diridon Station, Downtown West will connect the region's transit hub with Downtown, increasing San Jose's attractiveness & use of transit. With a focus on public space, active use, & trail connectivity, this development will be both a regional job center and leisure destination bustling with activities all

day. With our feedback incorporated into the design, we look forward to seeing this project move through the entitlement process & becoming a lively new neighborhood in San Jose.

Sincerely,

Catalyze SV's staff, Board, and Project Advocacy Committee members

CC:

Mayor Sam Liccardo (mayoremail@sanjoseca.gov)	Ron Golem (ron.golem@vta.org)
Kelly Kline (kelly.kline@sanjoseca.gov)	Jeremy Nelson (Jeremy.Nelson@vta.org)
Joel Devalcourt (joel.devalcourt@sanjoseca.gov)	Ricardo Benavidez (benavidez@google.com)
Kim Walesh (kim.walesh@sanjoseca.gov)	Javier Gonzalez (javiergonzalez@google.com)
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Jessie O'Malley Solis (jessie.o'malleysolis@vta.org)	

About Catalyze SV

Catalyze SV's Project Advocacy Committee is comprised of community members who identify, evaluate, & lead advocacy efforts around specific development projects.

Feedback Form: Downtown West, San Jose

Project Address: Diridon Station Area, San Jose

Project Applicant: Google

Feedback completed by (name, company, email):

●

Elements to Improve

Transportation: While we appreciate that a 35% drive-alone mode share and 7,000 parking spaces are an improvement to existing conditions, development at the region's transit hub should be more future-focused. We encourage Google to be more ambitious in planning for a transportation future where less parking (drive-alone trips) funds additional transit use & innovative solutions for people's transportation needs:

1. Would you be able to provide transit passes for contractors & service workers while having residential developments buy discounted VTA Smart Passes in bulk?

Response to #1:

2. With a site next to the region's main transit center would you be willing to be more ambitious in planning for a transportation future with less parking additional transit use, & new solutions for people's transportation needs?

Response to #2:

Affordability: We are encouraged to see Google seek to build 25% affordable housing within the Downtown West development, yet would like to see more information about the level of affordability.:

3. Would you be able to prioritize extremely low-income, very low-income, & low-income units?

Response to #3:

Intensity/Zoning: Google is working to maximize the height & density of the transit-oriented Downtown West, which closely aligns with Catalyze SV's values:

4. Can you explore ways of further increasing housing toward the 5,900 units possible, like converting some mid-rise residential to high-rise buildings?

Response to #4:

Sustainability: We appreciate that Downtown West will build to a high standard of sustainability, but encourage Google to show leadership through maximizing green building standards:

5. Would you be able to build to LEED Platinum throughout the development, including residential buildings?

Response to #5:

Legacy: Google is making a genuine effort to consider the surrounding area and to preserve and enliven historic buildings:

6. Could you look into including maker space (similar to the Old Tech Shop), adding the neon Orchard Supply Hardware sign & incorporating elements of the Valley of Heart's Delight or historic canneries into designs?

Response to #6:

7. Can you support any effort to move & preserve the historic station building as part of the planned new station?

Response to #7:

Community: The Downtown West team has engaged in an extensive, often outside-the-box effort to reach out to the community & solicit ideas, including the community's input on the proposal's public spaces:

8. We encourage Google to continue to engage the neighbors & wider San Jose community through digital channels & to find creative ways to reach those less connected.

Response to #8:

9. We also encourage Google to transparently show how it has incorporated community & city feedback into its designs to build further trust with the community.

Response to #9:

Vibrancy: With activated ground floors & an extensive network of public open space, our members are excited to spend time in this fun, engaging place:

10. Can you continue to improve public space through events, music, & markets?

Response to #10:

11. Can you make ground-floor commercial space is available in a variety of sizes for entrepreneurs and non-profits?

Response to #11:

Catalyze SV Process - Optional

- Would you like to share how your experience was with Catalyze SV's project advocacy process?
- Are you interested in having Catalyze SV show up to community meetings and advocate for this project?
- Do you have additional projects that you would be interested in working with Catalyze SV on?

As part of our effort to track this project and it's improvements over time we would like to ask Google to respond to this letter within 60 days. This will allow us to keep our members updated.

This is a truly transformational project that will serve as the heart of a brand-new vibrant transit-oriented neighborhood. By building a dense development next to Diridon Station, Downtown West will connect the region's transit hub with Downtown, increasing San Jose's attractiveness & use of transit. With a focus on public space, active use, & trail connectivity, this development will be both a regional job center and leisure destination bustling with activities all day. With our feedback incorporated into the design, we look forward to seeing this project move through the entitlement process & becoming a lively new neighborhood in San Jose.

Sincerely,

Catalyze SV's staff, Board, & Project Advocacy Committee members

About Catalyze SV

Catalyze SV's Project Advocacy Committee is comprised of community members who identify, vet, & lead advocacy efforts around specific development projects.



December 7, 2020

**City of San Jose
Planning Building & Code Enforcement**

Shannon Hill, Env. Project Manager
200 East Santa Clara Street
San Jose, CA 95113
Sent via email

RE: Downtown West EIR, GP19-009, PDC 19-039 & PD19-029

Shannon,

The Diridon Area Neighborhood Group (DANG) would like to commend Google for their willingness to meet and discuss their exciting project and the potential impacts on our neighborhood. As with all great endeavors, the ability to come together and talk through issues improves the development and the surrounding area long-term. We look forward to continuing the conversation on an ongoing basis. Our comments to the EIR are in the subsequent pages.

Thank you,

Kathy Sutherland	Bert Weaver
Laura Winter	Sarah Springer
Edward Saum	Harvey Darnell
Helen Chapman	Bill Rankin
Mary Pizzo	Norma Ruiz
Kevin Christman	Jake Smith
Mayra Flores	Jonathan Martinez
Sondra Weber	

Chapter 2: Project Description:

Section 2.4.11, 2.12, 2.15, 3.9, Appendix M – Google has developed the Downtown West Design Standards and Guidelines, which will govern their project unless the City of San José Downtown Design Guidelines and Complete Streets Design Standards and Guidelines supersede them. It is important to maintain congruency and continuity where Downtown West meets the Diridon Station Area. To have this congruency and continuity, Google should request that the City upgrade the Downtown Design Guidelines and Complete Streets Design Standards and Guidelines for developments in the Diridon Station Area outside Downtown West to meet the standards in Google’s DWDSG.

R.1

Section 2-11 – The project is to include replacing the W. San Fernando St. bridge over Los Gatos Creek. The new bridge should be designed and built so that the area under the bridge is not accessible to, nor provide a place where people can camp, hide, or congregate.

R.2

Section 2-13.7 – External factors such as market forces and construction staging for the BART Downtown extension were identified as potentially constraining the implementation of construction phases, but development of a new elevated Diridon Station and realignment of railroad tracks as part of the DISC project were not mentioned. DISC was described in Sec. 2.2.8, but it was not recognized as a potential construction phasing constraint.

R.3

Chapter 2, Sections 2.6 Parks and Open Space and 3.12 Parks and Recreation

- Quimby Act requires 3 acres of park area for every 1,000 persons, the Envision San Jose 2040 General Plan policy provides for 3.5 acres per 1,000 population. Based on the projected population of 12,980, the acreage requirement would be between 38.94 (Quimby Act) and 45.43 (City policy). This project indicates 15 acres of park area of which, we understand, 10 acres are private land which will allow public access.
- The DEIR does not outline quantifiable mitigations to offset the disparity in meeting the park acreage goals especially within the project and surrounding area.
- It is our position that private land should not be counted to meet park requirements. How is the community assured that private land, if sold, will be retained as park space for the public?
- The DEIR states that "15 acres of parks and open spaces, in parks and plazas, including areas for outdoor seating and commercial activity (such as retail, cafes, and restaurants), green spaces, landscaping, mid-block passages, riparian setbacks, and trails..." (Page 3.12-44, first paragraph). It is our position that the highlighted items do not meet the park requirement.
- Page 3.12-48 indicates that the General Plan and DSAP identified the SJFD Training Center as a potential site for a new, approximately 5-acre community park plus a 1-acre plaza with an expansion to approximately 8 acres. This has been removed. How will this be replaced?
- How do the current planning efforts for High Speed Rail align with the proposed park land dedicated by Google?

R.4

Section 2.6-37 "Serviced pavilions, each up to 5,000 gsf in size, are anticipated to be located within Los Gatos Creek Park, Creekside Walk at South Autumn Street, and Northend Park. Un-serviced pavilions may include public restrooms, shared community meeting space, pre-cooked food and beverage, and educational/learning/exhibit space. Un-serviced pavilions, each up to 2,500 gsf, are anticipated in St. John Triangle and the Gateway to San José. Kiosks, no larger than 1,500 gsf each, may include commercial concessions, newsstands, food and beverage (pre-made), recreational rentals, and canopy structures, and would be located at approximately 10 locations throughout the project's open spaces." Who will maintain and service the "serviced pavilions"? Who will maintain the "un-serviced pavilions"?

R.5

Discovery Dog Park: A neighborhood amenity could be an upgrade on the dog park. It needs better lighting, a solid fence backing up to Caltrans property, doggy turf and upgrades similar to that of Del Monte Dog Park.

R.6

Chapter 3, Section 3.7 Hazards and Hazardous Materials

3.7-59-61 Site 15- Diridon Caltrain Station and Caltrain Parking Lots (65 Cahill Street): pg. 61 "However, the remaining soil and groundwater have concentrations above various soil and groundwater screening levels. It is unknown whether contamination from the prior uses has migrated east to the parcels of the proposed project. Therefore, these parcels have the potential to affect the project site parcels to the immediate east." How will this possible groundwater contamination affect the construction Downtown West has proposed in this area, and the time-line going forward?

R.7

3.7-62 Site 20- Dariano & Sons 638 Auzerai Avenue: "Given the location, contaminated groundwater may affect the southernmost portion of the project site, such as APNs 264-15-17, 264-15-18, and 264-15-019. No off-site wells have been constructed between this site and the project site, indicating that it is unknown whether the groundwater contamination extends beneath the project site." How will this possible groundwater contamination affect the residential construction Downtown West has proposed in this area, and the time-line going forward?

R.8

3.7-63 Summary of Off-Site Property Hazardous Materials Issues, and 3.7-93, 94 Hazardous Materials Sites explanations – Does not fully answer questions above. Please keep us informed about the progress.

R.9

Chapter 3, Section 3.9: Land Use

Section 3.9.1, 3.9.3 – In describing the land uses surrounding the Downtown West project site and the consistency analysis for policy LU-9.2, Google should recognize that the neighborhood adjacent to the project site is Delmas Park, which was organized in the early 2000s as part of the Strong Neighborhood Initiative program, and that Lakehouse, Park-Lorraine, and Auzerai-Josefa are sections of the Delmas Park neighborhood.

R.10

Section 3.9.3 – A criterion of CEQA is that a project would not physically divide an established community or would not create a barrier that would physically sever two or more connected parts of a community. We believe that Impact LU-1 occurs at Block E1 and is a significant impact requiring mitigation. The existing status is that Delmas Ave. is an open thoroughfare through Block E1 providing direct north-south access between W. Santa Clara St. and W. San Fernando St. The project proposal is for Delmas Ave. to be vacated and for a large office building to be built on Block E1, inhibiting north-south movement. The path would be closed to public vehicular traffic, and pedestrian and bicycle traffic from the south would have to travel around the perimeter of the building to access the Gateway Plaza area, the San José Water Company building, W. Santa Clara St., Arena Green, and SAP Center. This impact can be mitigated by incorporating a pass-through for pedestrian and bicycle traffic through the ground level of the E1

R.11

office building. This pass-through would be more consistent with Land Use Policy Goal LU-1.2, LU-1.3, and LU-5.4. ↑ R.11
cont.

3.9-10 Shadow

St. James, Circle of Palms, Plaza de Cesar Chavez, Paseo de San Antonio how will the development affect these sites.

Include Del Monte Park and Cahill Park R.12

Section 3.9-20 / General Plan Policies

Given the projected development time, what process will be in place to ensure these policies and the spirit of these policies will be continued given the term limits of elected officials and the transitory nature of city employees?

Specifically, CD-1.15, IE-1.5 (identifies Berryessa), VN-1.7 (Visually connecting to surrounding neighborhood), PR-1.8 (should enhance Cahill Park) R.13

Section 3.9-27

Enhance existing neighborhoods by keeping all fees local to provide funding for these enhancements R.14

Section 3.9-43

Goal LU-10

Distribute higher residential densities throughout our city...

The development does not accomplish this - it actually takes units from identified urban villages which does the exact opposite R.15

Section 3.9-47

Shadow

It is completely ridiculous to include these parks with the exception of McEnery Park

They should be eliminated from the EIR

Cahill and Del Monte Parks should be included instead R.16

Section 3.9-56

Why is Delmas Park not included as a neighborhood? R.17

Chapter 3, Section 3.10: Noise and Vibration

Section 3.10.1, Pg. 3.10-8 and Fig. 3.10-2 – Noise levels at monitoring station LT-2 were monitored in February 2018, and the data were used as baseline noise environment for the site. The narrative states that no substantial development occurred in the area between the time of monitoring and the NOP date. However, during that time construction of a residential building occurred on the northeast corner of Park Ave. and Laurel Grove Lane, directly across Park Ave. from the LT-2 monitoring site. It is questionable whether the 2018 data represent accurate baseline data. R.18

Section 3.10 Noise and Vibration

3.10-31 Central Utility Plant

What remedies will be provided to the homes in the Historic Lakehouse district / suggest double paned windows and other sound limiting measures and air conditioning

R.19

Section 3.10-34

Impact NO-1B

Ban private diesel buses.

Allow only electric buses

R.20

Section 3.11 Population and Housing

Section 3.11-11, Policy IP-2.4

What is the definition of "pool" residential units?

R.21

Section 3.11-13

Why were 4,000 dwelling units transferred out of Urban Villages and other Growth Areas to DT?

How does this affect building heights?

R.22

Section 3.11-15

General Plan Growth Reallocation

Why is the city including housing from Urban Village growth areas in addition to Coyote Valley?

R.23

Section 3.11-15

Construction Impacts

Where are the three construction phases defined?

R.24

Section 3.11-25

Indirect displacement

Mayor's plan to build 10,000 affordable units by 2020

How many are currently built, have approved plans?

How will the number of actual affordable units impact displacement?

R.25

Section 3.13:

Delmas Avenue:

3.13-2 (clarification) Delmas Avenue is a two-way street where the project proposes a street closure between W. Santa Clara and W. San Fernando, but continues from W. San Fernando to Auzerais as a southbound one-way street.

R.26

Delmas Avenue should have a pedestrian passage running south to north on the ground floor of building E-1, with retail shops on both sides of the indoor mall, opening out to the Gateway.

As per Envision San José 2040 General Plan Policy:

- 3.13-20 LU-5.7 "Encourage retail, restaurant, and other active uses as ground-floor occupants..."
- LU-9.1 "prohibit the development of new cul-de-sacs..."
- 3.13-21 TR-2.11 "Prohibit the development of new cul-de-sacs..."
- 3.13-46 "Impact TR-4: The proposed project would not result in inadequate emergency access. (Less than Significant)"

R.27

Is there sufficient turn-around space on Delmas Avenue cul-de-sac for Emergency Vehicle use?

Impact TR-1 *Bicycle and Pedestrian Facilities*

The proposed project would conflict with a bicycle-or pedestrian-related program plan or policy if it would create a hazardous condition that currently does not exist for pedestrians or bicyclists, or if it conflicts with planned facilities or local agency policies regarding bicycle and pedestrian facilities

Several areas both within the project plan and adjacent to the project plan will have significant negative impacts on bicycle and pedestrian safety, conflicting with Envision **San Jose 2040 General Plan Land Use Goal TR-2:** "improve walking and bicycling facilities to be more convenient, comfortable, and safe, so that they become primary transportation modes. Although the Downtown West and adjacent areas will greatly improve pedestrian, bicycle, and other micromodality transportation modes due to the proposed improved network of streets and access to transit, the following locations need greater scrutiny to assure compliance with Safe Routes to Transit, San Jose Bike Plan 2020, and Vision Zero: Onsite Improvements

R.28

1. "Off-street path connections along Los Gatos Creek within the project site to fill in gaps in the existing trail, with an off-street path connection running along the western edge of Los Gatos creek between Auzerais Avenue and Park Avenue, as well as along the eastern edge of the creek from West San Fernando Street to West Santa Clara Street. These trail segments would be connected by on-street protected bikeways along Autumn Street between Park Avenue and the VTA tracks." A safe pedestrian and bicycle undercrossing is imperative here to assure safety for both recreational uses and transit access for commuters. This will be a major vehicular/bus intersection that will be incompatible with the heavy pedestrian, bicycle and other micromodality uses expected for the project area.

2. The new bridge on West San Fernando Street over the Los Gatos Creek Trail should include a bicycle path undercrossing along Los Gatos Creek

R.29

3. "The project applicant proposes to construct mid-block passages at several locations to facilitate pedestrian and bicycle access through the project site and break up the scale of larger blocks."

R.30

As part of this effort to provide access and break up larger blocks, the commercial building along Santa Clara Street just to the west of the San Jose Water Company building also needs to include this feature. Offsite Improvements

1. "Controlled at-grade crossing (crosswalk and curb improvements) for the Los Gatos Creek Trail across West Santa Clara Street at or near Delmas Avenue. This crossing would connect the existing segment of the Los Gatos Creek Trail within Arena Green, along the west side of the creek, with a new portion of the trail to be developed as part of the project on the east side of Los Gatos Creek between the VTA tracks and West Santa Clara Street." This area is slated for a much more intense use than at present: an office building, two residential buildings, an events center, the adaptive re-use of the San Jose Water Building, a large plaza, the Los Gatos Creek Trail, the Guadalupe River Park Trail, plus Arena Green and SAP center all converge here. Simple controlled-grade crosswalk and curb improvements are grossly insufficient for this level of activity on both sides of West Santa Clara Street. We are aware that an undercrossing is unfeasible. An overcrossing needs to be studied for this location along with a more robust analysis of pedestrian and micromobility issues.

R.31

2. West Santa Clara Street at Cahill Street is another location that will be unsafe for pedestrian and micromodalities. Two possible solutions might be to include a second BART station entrance at the north side of Santa Clara Street in front of SAP Center or an overcrossing.

R.32

3. Provide a detailed safety analysis with proposed solutions for Bird Avenue over Highway 280. The Gardner Academy on the south side of 280 in the Gardner Neighborhood includes an enrollment boundary north of Highway 280 and is currently a pedestrian and bicycle nightmare. A parallel pedestrian/bicycle bridge may be the safest solution here.

R.33

4. West San Fernando Street between Race Street and the project area is proposed to be a protected bike lane and currently experiences heavy pedestrian, motorized scooter, skateboard, and other micromodality usage and the bikeway includes a portion of Cahill Park's promenade. The public safety issues with this bikeway is alarming. An analysis and safety recommendations for this section of West San Fernando Street must be made.

R.34

5. A detailed micromodality management plan needs to be produced with robust community involvement and input.

R.35

Impact TR-2 Roadway Network Changes

"With the extension of Cahill Street and parallel Autumn Street, the project site would *maintain continuous north-south connections through the project site.*"

Autumn Street and Almaden Avenue do not connect to a major highway, as does Delmas Avenue; this would potentially increase VMT and lead to driver confusion, especially with egress for SAP Center, a new project Events Center and Logistics Center. The Arena Traffic and Parking Management Plan is a very detailed document created with the input of the adjacent residential neighborhoods and for 30 years has worked flawlessly to minimize traffic impacts from SAP Center on said neighborhoods. Removing Delmas Avenue between West Santa Clara Street and West San Fernando Street will have a significant negative impact from visitors to SAP Center, the new Events Center and the new Logistics Center. Google Maps and Waze, if not programmed properly, will automatically send drivers through residential neighborhoods in order to get to the nearest freeway onramp to the south of the project area, the Highway 87 southbound onramp at Delmas and Auzerias Avenues. The TPMP goals must continue to be met and the navigation apps must not send drivers into a residential neighborhood.

R.36

DANG recommends a pedestrian crossover on West Santa Clara Street: Elevated crosswalk with stairs, elevators and escalators for safe pedestrian crossing over W. Santa Clara close to Diridon Station.

R.37

DANG also recommends an elevated trail connection in the north end of the DSAP based upon the outcome of the DISC development. The final determination of the location and termination points would be coordinated with the public before the Diridon Station work has begun.

R.38

December 7, 2020

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

Via email

Downtown West/Google EIR Comments.

This letter will serve primarily as comments on the Downtown West EIR and Downtown West. Because the DSAP Plan and the Downtown West project are so inter-related, some comments may drift from a laser-focus on the EIR.

Today, I am writing as an individual who has been involved in a variety of community advocacy efforts, including park, riparian, and transit issues. By way of introduction to those who don't know me, I was recently awarded the Lifetime Achievement Award from the League of Conservation Voters of Santa Clara Valley. I entered into heady company with that award, so I am quite proud and I share greater detail in the footnote.¹

It is completely unclear whether the Downtown West Design Guidelines are considered part of the project description. If so, they should have been discussed in greater detail within each of the sections of the formal EIR. Further, the sheer volume of pages and changes from long-standing established city policies suggest requires additional time for analysis. Significant impacts are potentially buried within 132 pages if design guidelines are not discussed further. This letter merely touches on the concerns.

S.1

SCOPE

When and how will this EIR be revised or supplemented to reflect pending newest GP changes? Specifically, this Google EIR sets a unit and square footage ceiling. Recent actions at the General Plan task force suggest thousands of units will be shifted to downtown. What

S.2

¹ <https://www.scclcv.org/index.php/awards.html>

Other prior winners Cole Wilbur (2019); Rod Diridon Sr. (2018); Barbara Marshman (2018); Senator Dan McCorquodale (2016); U.S. Secretary of Transportation (ret.) Norm Y. Mineta (2015); Senator John Vasconcellos (posthumous) (2014); Don Weden (2013); Mondy Lariz (2012); Dianne McKenna (2011); Eric Carruthers (2009); Mary Davey (2008); Philip and Florence LaRiviere (2007); Peter Szego & Lee Sturtevant (2006); Jeff Oberdorfer (2005); Lois Hogle (2004); Larry Dawson (2003); Jim Compton (2002); Lilian Branon (2001); Bob and Judy Levy (2000); Trixie Johnson (1999); Byron Sher (1997); Alan Cranston (1996)

fraction are expected to be allocated to Google lands? Which to DSAP? Which to old Downtown? Will the allocation to Google/Downtown West be below their ceiling?

Circlepoint, the Environmental Consultant to DSAP argued in their letter accompanying the DSAP Administrative Draft that a simple addendum was necessary to that EIR². How will the increases affect that argument for DSAP? Shouldn't the administrative draft be revised to be a supplemental, or a new EIR? Or should the ENTIRE Downtown Strategy EIR be revised to reflect the thousands of new units.

↑
S.2
cont.

Thinking about Circlepoint's argument, how will unit increases allocated to Google lands affect this current EIR? Will revisions be made to this Google draft and re-circulated? Will an addendum or supplemental be required to reflect the increase?

↑
S.3

GENERAL PLAN AMENDMENTS

Google has submitted several General Plan Amendments.

The following one is both grammatically awkward and/or incorrect and its intent is unclear.

Specifically,

LU-1.9 Preserve existing Public / Quasi-Public lands **or include parks and open space improvements in redevelopment projects** in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use. **Public / Quasi Public lands located within the Diridon Station Area Plan may be re-designated to other uses provided that such uses will advance San Jose's employment growth or housing goals and include parks and open spaces within the development.**³

↑
S.4

Please explain the intention of this amendment. What, if anything, does this have to do with the Fire Training Center? Does this amendment grant permission for current parks to be destroyed for a private community gathering spaces such as a church, a new hockey stadium, or a music amphitheater? Would park conversion rules (ie requiring an election) still apply?

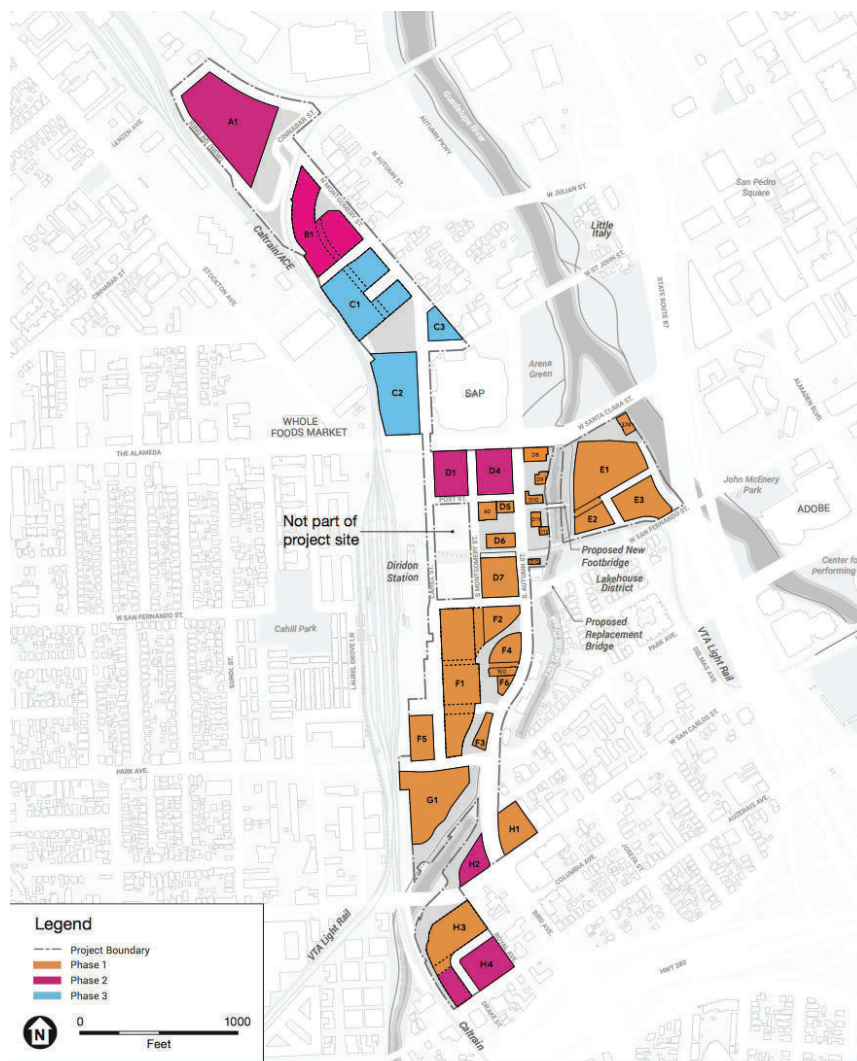
PHASING

The EIR Project description includes a phasing map. Recent community meetings show a different phasing. Please clarify.

↑
S.5
↓

² <https://www.sanjoseca.gov/Home/ShowDocument?id=65899>

³ Page 5. <https://www.sanjoseca.gov/Home/ShowDocument?id=65118>

S.5
cont.

RIPARIAN

100-foot setback – Lifetime Opportunity

The Google project and the City of San Jose have failed to follow the policies and intent of the City's various General Plan policies. The General Plan calls for a 100 foot setback. The City certified that it substantially conformed the Santa Clara County Consortium's "Land Use Near Streams". The City's Riparian Study and the various Downtown Designs Guidelines suggest 30 feet may be appropriate under certain circumstances. Importantly, neither the Riparian Study nor the Downtown Design Guidelines envisioned a redevelopment project where a single owner would scrape 80 acres, close streets, create new streets, re-locate and re-align streets and utilities. The city is proposing cooperating with this by vacating street dedications and facilitating reconfiguration.

Throughout the country, when cities have had such a major redevelopment opportunity, they have chosen to improve the quality of the river habitat and setback. Why not San Jose? Not

S.6

since the 1920s has there been such an opportunity to change the quality of this creek's habitat and its relation to built space. This is a rare, 100-year opportunity and San Jose is choosing to miss it and co-sign Google's choice for a minimum setback despite its protestations of nature as a priority.

What do regulatory agencies say about squandering this opportunity? How will their comments be integrated into the thinking on the EIR and the project?

How could Measure T funds (2018) for "Prevent flooding and water supply contamination" be used to increase the setback and protect the water quality?

S.6
cont.

100-year flood levels

Valley Water released a report that indicates that the 100 year flood height will be higher, due partially to climate change and changes in the modelling methodology. The portion that was shared does not indicate the context of the forecast. That is,

Is Valley Water's report a forecast for existing conditions? How will this forecast change over time with more peak concentrated events in individual watersheds, as shared by Valley Water at the Council Study session on Coyote Valley in 2018?

The report indicates that Google has options: replace West San Fernando bridge, remove plants from the stream and rehabilitate the vegetation, or use other flood mitigation. What are the impacts of each of the alternatives, not just Google's selection?

S.7

The EIR does not address what will happen over time, that is:

What would happen to the flood heights if the channel were not cleared? In ten years?

Is this clearing of the channel a one-time event? Is Google (and subsequent adjacent land owners) expected to clear the channel regularly? With what frequency? With what frequency will the water district update the model of the 100 year event?

Rehabilitation of the riparian corridor requires removal of invasive species and planting of replacements. In other habitat restorations, the removal of plant life has encouraged transient encampments. The requirement to form basins for watering creates a stair-step profile that is popular for campsites for the unhoused. Drip irrigation lines are frequently cut in order to be used as plumbing and structural supports for transient campsites. How will the applicant address these challenges? For how many years?

Gravel Deposits

Los Gatos Creek carries significant gravel load. Changes in the gradient of the creek change deposition rates. How will the applicant protect gravel beds used as habitat?

Los Gatos Creek carries high loads of large debris during peak events, including boulders and concrete used for retaining walls. During peak events, there is high velocity. Due to scouring

S.8

caused by these peak events, extensive repairs have been required within 2 miles of the project site. How will the applicant prevent scouring of creek bank?

↑ S.8
cont.

Vesting Map and Underground Parking near Los Gatos Creek

The Vesting Map indicates that Google is reserving underground rights adjacent to Los Gatos Creek. What is this for parking garages? How close will it be to the creek? Will a 30 ft setback be maintained? If not, how will the stability of the bank be maintained considering most of the habitat/plant life will be removed? The soil reports indicated high erosive characteristics. How will the applicant protect the bank from erosion after it has been destabilized from building an underground parking garage nearby?

The hydrology report did not discuss the multiple layers of the underground water table. The upper layers of the underground water table have a high flow rate. (California High Speed Rail 2010 Tunnel Technical Appendix analysis showed that “shotcrete” would be difficult to pour—with much disappearing in the flow of the underground water table.) How will this high flow rate affect the dewatering for parking garage construction? The same report showed water depths of 4 to 18 feet in the Diridon Station Area. This is different from the EIR report which states 25 ft to underground water. Please provide the dates and data for the EIR and explain the difference from CHSRA report.

S.9

During the summer, the Los Gatos Creek in the project area stays wet with one to three feet of water. It is fed by the adjacent water table. Underground structures change the flow of underground rivers. How will the construction of underground parking garages affect the depth of the water in the creek? How will the applicant maintain the depth of the water after the parking garages are constructed?

The prior holder of the entitlements on block E1 and E2 chose not to build over concerns of the interaction with the high water table and the parking garage causing the building to float. How will Google avoid this problem?

Vesting Map and Older Buildings on East Side of Autumn Street.

In the EIR’s project description section Figure 2.7 shows that the applicant has the intention of maintaining several older buildings along Autumn Street labelled D8, D9, D10, D11, and D12. Several of these buildings are within the 30 feet setback, with D9 and D12 at the top of bank. In the vesting maps pages 7A, and 9A these are called Lots 17, 18, 19, 20, 21, 22, and 23.⁴

S.10

What are the long-term plans for these properties?

Is there anything in this plan that prevents a future application to demolish these buildings and construct something to the FAA and General Plan height limits?

⁴ Downtown West Google Map. <https://www.sanjoseca.gov/Home/ShowDocument?id=65148>

The Downtown West Design Guidelines states (page 85) for S4.8.3

Los Gatos Creek Riparian Setback. Downtown West shall maintain a 50-foot riparian setback from the Los Gatos Creek Riparian Corridor for new building construction, consistent with the Riparian Corridor Policy Study Guideline 1C and City Policy 6-34 Section A. 1)-3).

If existing structures encroach on the Los Gatos Creek Riparian Setback, replacement structures are permitted subject to standards of Sections 5.5 and 5.6.

In section 5.5.7 (page 178) “If structural assessment reveals existing structures at Creekside Walk at Autumn Street (See Section 4.16) cannot reasonably be retained, replacement structures shall be permitted. Existing structures include blocks D8, D9, D10, D11, D12, and D13. Replacement structures shall not exceed existing block footprints within the 50-foot Los Gatos Creek Riparian Setback. Replacement structures shall be subject to applicable standards in Sections 5.6, 5.7, 5.8, and 5.13.”

S.11

If a new building, of any size, were built to replace these buildings, what setback would they have to conform to? Would the new buildings be allowed to have a zero setback and other intrusions within the 30-foot setback? If intrusion into the 30 ft setback is allowed, how is that compatible with the stated goal of environmental enhancement?

Pedestrian Bridge

Multiple maps show a pedestrian bridge located between West Santa Clara Street and the light rail tracks. Google’s Design How far is the pedestrian bridge from the West Santa Clara Street and the light rail tracks’ bridge? How far is it from the West San Fernando bridge? How does a pedestrian bridge conform to City of San Jose Riparian Study Guidelines⁵ and Santa Clara County Consortium Land Use near Streams?⁶

S.12

⁵ City of San Jose Riparian Corridor Policy
<https://www.sanjoseca.gov/home/showdocument?id=15579>

Table on Page 35 Interpretive Nodes/Riparian Corridor/Stream Crossings > 500 foot Intervals
Page 44 “Guideline 4D: Interpretive Nodes and Paths. Interpretive nodes and paths may penetrate riparian areas at intervals not to exceed an average of one every 500 linear feet of riparian corridor. This guideline allows for paths to cross creeks at sufficient intervals and provides opportunities for trail users and others to experience the creek environs while minimizing impacts to biotic resources”

⁶ Land Use Near Streams. <https://www.valleywater.org/contractors/doing-businesses-with-the-district/permits-for-working-on-district-land-or-easement/guidelines-and-standards-for-land-use-near-streams>

San Jose's guidelines state that no bridges that are within 500 feet of another crossing are allowed.

↑ S.12
cont.

Various Google documents use different language to describe this bridge and the plans. Please clarify what is intended. There are different environmental impacts from each design as well as different permitting requirements. According to Land Use Near Streams, more regulatory agencies are involved it support structures go inside top of bank.

One document has "The bridge will be a single span, with piers located outside of the TOB [top of bank] to the extent feasible." A separate document (DW Design Guidelines S4.8.6, page 87) has

S4.8.6 Creek footbridge design. A new Los Gatos Creek crossing shall be permitted within the Project between West Santa Clara Street and West San Fernando Street. This crossing shall use low impact design strategies. Examples of low impact design strategies include but are not limited to:

- Columnless, clear span footbridge within the riparian corridor.
- Perforated materials for sunlight and stormwater permeability.
- Footbridge footings, abutments, and construction ground disturbance to be outside the TOB to the extent feasible, and any disturbance of the creek bank to be restored to a natural condition.

The Diridon Station Area Plan Draft (DSAP) makes clear that a trail is expected to be constructed on the east side of the Los Gatos Creek between West San Fernando and West Santa Clara. However, it also states that due to the volume of pedestrians and potential for user conflict, the DSAP plan calls for a flyover trail from West San Fernando to West Santa Clara⁷ to serve trail users instead of office workers.

S.13

Please clarify the property ownership of the footings of the bridge. Will it be a pedestrian pathway from a Google property to another Google property? How is it appropriate to destroy public riparian habitat by providing a privately-owned walkway from one private property to another?

Frequently, unhoused persons use bridges footings and the loss of plant life to gain access to creek beds to build encampments. If Google gains approval to violate the City's Riparian Policy AND gains permission from various other government agencies to build the private and redundant pedestrian bridge, how will Google design the bridge so that transient access to the creek bed is minimized?

Viewing Stations and Decks and Klosks

The City of San Jose affirmed that its riparian policies are substantially in compliance with the Land Use Near Stream policies which specifically articulates that overhangs and decks are not

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⁷ Draft Diridon Station Area Plan 2020. Page 80. <https://www.diridonsj.org/fall2020-dsap>

allowed.⁸ The Downtown West Design Guidelines describe extensive decking, boardwalks and overlooks. The City's Riparian Setback policy calls for minimizing structures within the riparian setback with separations of 250 feet. The policy rejects multiple trails within the riparian setback. Applicant describes a plan for riparian enhancement, yet they plan to construct many structures and walking trails in addition to the multi-use trail. For what purpose are there so many structures? If applicant is desiring to educational facility, what other locations within San Jose, with more robust Creekside habitat would be able to absorb this intensification of use? To what extent would the decking and boardwalk structures serve as construction materials for transient encampments? How will multiple foot paths serve to provide access to the creek bed for inappropriate access to the riparian habitat by both those seeking to explore the creek bank and those who wish to carve a campsite on the bank? How will that increase in access serve to further degrade the riparian habitat?

S.13
cont.

Shade, Riparian Habitat and Re-Oaking

The applicant proposes constructing large buildings adjacent to the Los Gatos Creek. They provide a shade analysis for the structure bordered by West Santa Clara and Delmas Avenue. It gives a hint on the possible shade impacts to the re-oaking project and the renovation of the Los Gatos Creek bed. In addition, large buildings are planned to surround the creek north of West San Carlos. What shade impacts will there be? How will that affect the biotic productivity of the creek? How will shady habitat impact insect populations that are needed for birds and fish? If insect populations in the creek drop, will birds and fish still be attracted to the creek? How will buildings be designed to ensure a minimum of four hours per day of filtered sunlight on the creek? How will the creek rehabilitation be impacted by extensively shaded creek environment? What reduction in herbaceous growth is expected?

S.14

Applicant writes that re-oaking is a value and wishes to plant oaks in the riparian enhancement zones. However, the applicant's documents do not indicate which species will be selected nor how that species will be successful in a highly shaded environment. Applicant's consultant has verbally indicated that Valley Oak (*Quercus lobata*) will be planted. It does well when there is a water table within reach of its roots. This oak requires year-round access to water and forms large root structures to carry its above ground structure. Specimens are known to have dropped roots 25 feet to reach water. However, oaks that absorb too much water toss off limbs.⁹ What acorn source will be used to maintain genetic integrity? What successful stands of

S.15

⁸ Land Use Near Streams page 3.9. **III.A Overhang Top of Bank** Decks, pathways, buildings or any other structures (excluding road crossings, outfalls, and bank protection structures) may not overhang or encroach beyond or within the top of bank.

⁹ Re-Oaking Silicon Valley. https://www.sfei.org/sites/default/files/biblio_files/Re-Oaking%20Silicon%20Valley%20SFEI%20August%202017%20med%20res_B.pdf and Oak Woodland Management Plan for Santa Clara County https://www.sccgov.org/sites/dpd/DocsForms/Documents/CEQA_OaksPlan.pdf and California Native Plant Society CalScape [https://calscape.org/Quercus-lobata-\(Valley-Oak\)](https://calscape.org/Quercus-lobata-(Valley-Oak))

oaks have been planted in urban environments when surrounded by highrises that shade the environment most of the day? *Quercus lobata*'s growth habitat is large and spreading with heavy branches. How will long periods of shade impact the density and strength of the wood as the tree gets larger? Will trees have to be regularly harvested so that they don't get too big? What research analysis has been done on oak tree wood quality/density when raised in shade? Considering that soil studies by BART and CHSRA of Downtown West discovered locations where the water table was at a depth of as little as 4 ft, how will the oaks be protected from absorbing too much water? If oaks are planned for being on top of parking structures, how will the depth of soil be calculated to support the large canopy?

S.15
cont.

PARKS and OPEN SPACE

In this section, the discussion focuses on key questions—

- What's a Park? What's the role of Commercial operations in parks?
- Will there be adequate **PARK** land to meet resident's needs for recreation?
- What's the role of the Design Guidelines within the EIR process?
- When are the Design Guidelines finalized?
- Will the public's needs for park and recreation be served?
- What acreage meets those parks and recreations needs?
- Will commercial plans conflict with fulfilling park needs?
- What entity operates the parks and Google properties?
- What entity decides what meets the public's needs at construction and over time?

S.16
cont.

What makes a park in an urban environment?

New York City has much experience with an urban environment. The New York State Supreme court wrote this definition of a park when residents pushed back against the City of New York's establishment eating and drinking establishment within Manhattan's 3.7 acre Union Square Park.

"A park is a pleasure ground set apart for recreation of the public, to promote its health and enjoyment. Parks facilitate free public means of pleasure, recreation and amusement and thus provide for the welfare of the community. They must be kept free from intrusion of every kind which would interfere in any degree with their complete use for this end."¹⁰

¹⁰ *Union Square Park Community Coalition v. New York City Department of Parks and Recreation*, 2013 N.Y. Misc. LEXIS 81; 2013 NY Slip Op 30020U (1/25/2013). Quoted in Law Review, June 2013. George Mason University.

They also wrote,

"Park purpose" is an esoteric concept rather than a set formula, and divining it is an art rather than a science. Some uses are obviously more "park" than others; but on what side of the "park-versus-non-park" dividing line does a particular use fall?... [S]ome uses clearly are proper; some uses clearly are not; and some uses depend on the particulars. Furthermore, all uses could be plotted on a spectrum, from, at one end, unvarnished, pristine nature, undisturbed by civilization, to, at the other end, private pecuniary interest and common-denominator commercialism."

S.16
cont.

The court considered whether the use would be "open to all" and whether the commercial operations would displace other more unique park activities. They were untroubled by casual commercial operations, such as a snack bar providing refreshments that served in support of the activities that were only able to be performed in the park, such as jogging or playing an active game. They opined that they were troubled by expensive restaurants and a holiday market that "is pure, crass commercialism" and "the very antithesis of park use."

With this in mind, how will the City's parks stay focused on park and recreation and not be impaired by commercial activities that take from the primary purpose of parks.

Design Guidelines

Importantly, it is completely unclear whether the Downtown West Design Guidelines are intended as part of the EIR/Land Use and therefore something that will be accepted or rejected within the EIR. There has NOT been robust engagement on the specifics within the Design Guidelines which are overly proscriptive with very little flexibility to meet future needs. Please explain the relationship of the Downtown West Design Guidelines with the EIR. Please explain what, if any, robust discussion of design guidelines will be held? Will there be a charrette? Will the public be allowed to participate? Will individual public parks within the project go through a community outreach process or is what Google wrote the final decision to be accepted or not by the City Council? How will the guidelines be allowed to change over time? How can they be amended? Is any of this open for discussion?

S.17

Further, the Downtown West Design Guidelines split guidelines for parks and open space across multiple chapters. It makes the appearance of trying to hide something. The park/open space design guidelines should be collapsed into a single chapter for ease of reference—even if it means some standards are published twice. Electronic storage is cheap. For what reason were these standards separated? How does separating the park standards into separate chapters serve to enlighten and facilitate review by the public, the City staff and Council and future facility designers?

Who decides what the final elements and amenities will be in the Google-owned Private Parks? What entity is the final arbiter of design?

Inflated Acreage Numbers

S.18

The applicant commingles park acreage, riparian setbacks, habitat enhancement and walkways that facilitate pedestrian movement between buildings as though they are a single unit. They advertise **15 acres** of parks and open space, yet a deeper look shows a meager 4.8 acres of **public park land** to serve up to 5900 resident units (6000 to 10,000 people) and untold number of employees and visitors.

Please provide a sample calculation demonstrating how 4.8 acres meets the Parkland Dedication Ordinance, using assumptions of units, credits for private recreation, turnkey construction credits and which, if any, of the Google-owned “open space” qualifies for park credits.

“St John Triangle” at 1.51 acres is included within the 4.8 acres of public park land. However, this property is currently part of the SAP parking lot and owned by the City. Has the city sold this property to Google so that Google can dedicate it back to the city? If it has not been sold, please explain why this land is not being retained by the city so that it is not dedicated back at an inflated value?

The vesting map indicates that Lot 15 (or Lot 14 depending on the page in the document) will be on top of an underground parking garage. When did the City change from accepting dedication of only those properties that are *fee simple*? The complexities that the underground garage caused with the Hayes Mansion sale gave the Council another opportunity to remind staff that such future entanglements should be avoided.

S.18
cont.

Applicant’s Proposed distribution of unbuilt space.

City Dedicated Park and Trail	4.8 Acres
Los Gatos Creek Trail	0.53 acres
City Park	4.27 acres
Privately Owned Publically Accessible Park	4.12 Acres
Semi-Public Open Space	2.02 Acres
Los Gatos Creek Riparian Setback	2.20 Acres
Los Gatos Creek Riparian Corridor	0.29 Acres
Mid-block Passage	1.57 Acres

TOTAL ACREAGE OF “PARK” –only 8.9 acres.

The **privately owned publically accessible parks “may have more limited hours of public access than City-dedicated parks”**¹¹ Nowhere is there a published statement of access. Will the public be allowed one day per week? One day per month? One day per year—like Grammercy Park in New York City? Will this property be closed for Google events, such as conventions or sales trainings or retreats? Who decides when it is open or closed? Who decides when it is *too*

¹¹ Downtown West Design Guidelines. Page 71.

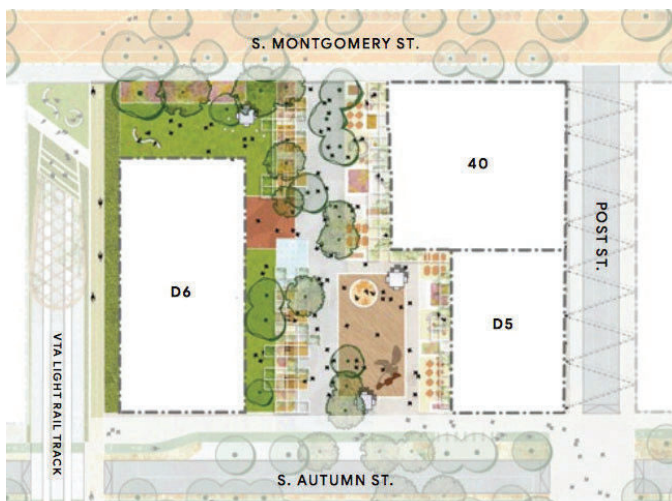
limited? How does limited access promote equity, a key principle of both San Jose's General Plan Park policies and *Activate SJ*?

As an example of a specific concern, the "Los Gatos Creek Multi-Use Trail" (0.28 acres) is within the Google-owned "Los Gatos Creek Park" which is comprised of 2.21 acres and is subject to Google's closure and limited hours. How will the City's Multi-Use trail stay open if Google controls the operating hours of all of the surrounding land? Will trail users be expected to detour? What reduction in park credit will be made as a result of limitation?

Semi-Public Open Space is described as property that is adjacent to City-dedicated park or privately owned park and used for commercial activities *such as* outdoor seating for restaurants and/or landscaping buffers. Google indicated that this was a strategy for activation. What other things could be placed in this private space? Open air stores? T-mobile booths? Who decides what is appropriate? How would this commercialization immediately adjacent to the *park* land potentially impair the use of parkland for recreation, for example, who/what prevents the restaurant users from spilling into the recreation area? What if people want to kick a ball or play tag? How will user conflict be resolved? Will the commercial properties needs take priority over other users?

By way of example, the "Social Heart" is designed so that it is nearly completely surrounded by this commercial activity—the semi-public open space. The proposed public park (0.57 acres—just over the bare minimum for dedication) is irregularly shaped with a shared use path along Light Rail, a small buffer lawn, and a plaza that could be activated. Its primary focus is the commercial activities (0.22 acres) in the *semi-public open spaces* along the building edges. How does this property's design compare to the definition of a park as illuminated by the New York court? How is the shared path along light rail any different from a typical easement next to a building and why should it qualify for parkland credits? It is a sidewalk. If the walkway is dropped from the dedication, does the remaining public park drop below 0.5 acres? If so, that is below the City standard for parkland dedication and the city should not accept its dedication. The 60% hardscape makes this space hot and unpleasant. Considering it is on top of a parking lot, it's more like a retail mall and better operated by a private entity.

S.18
cont.



Los Gatos Creek Riparian Setback, Los Gatos Creek Riparian Corridor, Walkways

Walkways are just that, walkways. The City is cooperating with the removal of streets for more buildable area. Walkways are not “open space;” they allow for the movement of people. They are cold channels of travel between tall buildings. They do not belong in a chart of “open space” but rather in a transportation and circulation chart.

Los Gatos Creek Riparian Corridor is a type of open space, but not useable and not a gift of Google to the citizens of San Jose. It is disingenuous to brag about the open space that Google is providing by including in proclamations “the project brings 15 acres of parks and open space.” The creek was already there. It will be there long after Google ceases to exist.

Los Gatos Creek Riparian Setback. Although Google makes a big deal of the setback, it is a required element and not a special gift. They are retaining the right to rebuild with the reduced setback when the old, non-historic buildings are not removed. Further they plan to add to these buildings. Although they intend to improve the landscaping, there is no improvement to the setback over the current setbacks because they are keeping all the buildings and adding to them. It is disingenuous to claim “open space” for landscaping around buildings that intrude deeply into the minimum riparian setback (in some cases to the top of bank). Further, San Jose Riparian Corridor policy calls for very limited passive recreation within setbacks, specifically trails. The additional elements proposed within the setback violate the policy and should not be built or installed.

Diridon Integrated Station Concept

The DISC may take some land from Google. Google has shown that 20% of their project is parks and open space and that 20% of the land taken would be parks and open space. They have declared this fair and equitable. However, community calculations show that ALL of the parkland that would be taken is city-owned parkland. How is this equitable? Please confirm. Also please address the truth of the following analysis:

S.18
cont.

S.19

If the city accepts the park dedication, its highest and best use becomes Parkland and will be worth less than when Google dedicates it. This, combine with the inflation of land values, the money received would buy much less land—if it is available.

Would it be accurate to say that Google has shifted the risk of parkland loss entirely to the city and the city mostly likely will have less parkland if the DISC is built?

Please explain this language about DISC land taking from page one of the Vesting Map.¹² Why with the City get less land?

NOTE RELATING TO DISC PROCESS AND POTENTIAL CONDEMNATION

1. ANY MODIFICATION TO LOTS, PUBLIC EASEMENTS OR IMPROVEMENTS SHOWN HEREON AS A RESULT OF THE PROCEDURE DESCRIBED IN DWDSG STANDARD S5.5.4 RELATING TO CONDEMNATIONS SHALL BE PERMITTED WITHOUT THE NEED TO AMEND THIS VESTING MAP OR APPROVAL OF A SEPARATE TENTATIVE MAP OR VESTING TENTATIVE MAP.
2. LOTS A & B SHALL BE IRREVOCABLY OFFERED FOR DEDICATION TO THE CITY AS OPEN SPACE PURSUANT TO THE ASSOCIATED PHASED FINAL MAP. AS OF THE APPROVAL OF THE VESTING MAP, IT IS ANTICIPATED THAT LOT A & B WILL BE 0.93 ACRES, AND THAT SUBDIVIDER WILL PROVIDE AN EXECUTED GRANT DEED TO THE CITY CONCURRENT WITH

THE ASSOCIATED PHASED FINAL MAP AT THE TIME OF APPROVAL OF SAID MAP TO TRANSFER LOTS A & B TO CITY.

1. IN THE EVENT THAT THE CITY ACCEPTS THE DEDICATION OF LOTS A & B, AND LOTS A & B INCLUDES 0.93 ACRES, SUBDIVIDER SHALL BE PERMITTED TO REDUCE THE SIZE OF ANY OF LOTS P,Q, R OR A PORTION OF LOT 14 (FUTURE AIRSPACE PARCEL) ON FUTURE PHASED FINAL MAPS BY 0.26 ACRES, OR TO OFFSET THE AMOUNT OF ANY PAYMENTS TO CITY PURSUANT TO CHAPTER 19.38 OF THE MUNICIPAL CODE THAT WOULD OTHERWISE BE REQUIRED PURSUANT TO THE [PARKLAND AGREEMENT BETWEEN THE CITY AND SUBDIVIDER DATED _____, 2021] IN AN EQUIVALENT AMOUNT.
2. IN THE EVENT THAT ANY PORTION OF LOTS A & B ARE CONDEMNED PRIOR TO THE CITY'S ACCEPTANCE OF LOTS A & B, SUBDIVIDER SHALL DEDICATE THE NON-CONDEMNED PORTION OF THE AREA SHOWN HEREON AS LOTS A & B TO
3. THE CITY, AND SHALL COOPERATE AS NECESSARY WITH THE CITY TO EFFECTUATE THE DEDICATION, INCLUDING, BUT NOT LIMITED TO, BY PROVIDING A REPLACEMENT GRANT DEED IF REQUIRED.

S.19
cont.

NORTH END PARK AND DISC

The north end of the Google project is surrounded by three railroad tracks. The DISC would elevate the tracks. What rules does the Federal Railroad Administration have for setbacks from elevated heavy rail? The DSAP indicates the possibility of using land underneath the tracks for recreation. Does the FRA allow this? UPRR possible an RFP in 2017 for a short-haul freight line for two of those tracks. Does short-haul freight fall under the Federal Transit Administration or the FRA? If under the FTA, do they have different rules? If the FRA allows recreation under heavy rail, please provide an example. If they do not, please provide information on how users of the park will be shielded from the noise from elevated freight? What noise levels will be

S.20

¹² Vesting Map. <https://www.sanjoseca.gov/Home/ShowDocument?id=65148>

created? If the park is built before the DISC is constructed, might the newly elevated track have to conform to Federal standards and provide specialized noise mitigations? Or will it be considered pre-existing?

↑ S.20
cont.

North End Park and Design

This park has the **only** active recreational elements of all 10 of the parks and parklets in the project application. It is adjacent to a Google office building and as far away as possible from the proposed housing. It has the appearance that Google is proposing this park with these amenities to meet the needs of their workers rather than the new residents of DSAP. For what reason was the largest park with the most active amenities placed next to the office building?

It is bisected by a perimeter road, reducing the usability of the space. For what reason was it design with such a wasteful and curving perimeter road? Why not access the office building parking lot via Lenzen and not the realigned perimeter Cinnabar street? There has been some discussion of opening either Lenzen or Cinnabar to Stockton Avenue after the DISC is built. If so, consideration should be made of the impacts of the increased traffic through the park if Cinnabar is opened. Further, the portion of the park that is adjacent to the southern branch of the railroad track is a useless property. At one point Google proposed a dog park, but the city has experience with linear dog parks and has found that they are underutilized (Discover Dog Park). Now, they are suggested a maintenance facility for the parks department. The Parks Department has a yard at Guadalupe Gardens and does not need a facility here. A better solution to this dead space is re-think the perimeter road. Alternatively, move one of the high rises to this location and in its now vacant footprint, dedicate a park that is closer to the residents, will not suffer from train noise and is not bisected by a perimeter road.

S.21

North Montgomery Pocket Park 0.35 acres

Bound by block B1 to the west north and south with maximum heights. Please calculate how many minutes of sun will this park get each day at different times of the year? How heavily used are pocket parks with very limited sun? How will the lack of use by traditionally housed persons lead to use by unhoused community members. Considering the "Re-oaking plan" proposed for the site can Valley Oaks survive the very limited hours of sunlight? .

S.22

Phasing

The posted project documents give one set of phases while presentation have been giving another set of phases. Please clarify. Also please clarify the approximate flow of park fees and land dedication. From most recent presentations, it appears that the North End park is scheduled for phase 3, long after the residential units are built and certificates of occupancy are issued. Please clarify whether the park would be built or put on hold until the DISC is built? If DISC timing is more like 25 years, will the North End park not be built? What happens to the park dedication if Google decides to abandon the project after Phase 2 and never build phase 3? Will there be no park? When does the City take possession of the dirt?

S.23

Census Data

The EIR includes an analysis of census data with respect to school age children, concluding there were few children. There's a flaw with this analysis. Multi-unit affordable housing built with 2 and three bedroom units are full of children. In the 2010 census, downtown multi-unit buildings (midrisers and highrisers) were not built with inclusionary affordable units. Google has made some commitments about inclusionary affordable housing. How might this change the profile of tenants? Will Google be choosing to build only studios and one-bedroom apartments? If so, there will be no/few children. Families need bedrooms. Google controls whether there will be children by choosing the number of bedrooms in each unit. There is nothing inherent in highrisers that preclude children.

S.24

The EIR Census Data should be updated to include the demographics of the housing type—what is the ratio of men vs. women?

Privacy Concerns

Google originally planned to construct a similar project in Toronto.¹³ It became embroiled in many conflicts including privacy concern. Data collection devices were to be embedded into the structures. Does Google (or its corporate affiliates or consultants) plan to collect data on the community's use of the public spaces? How will it collect data? Will measuring devices be embedded into the infrastructure? Will users get real-time feedback for their presence, eg an advertisement? If some sort of monitoring program is put into place, will buildings and parks have signage warning users that they are being monitored? Will there be a way for them to opt out? Without turning off their smart phones?

S.25

Operations

In contrast to the overwhelming proscriptive detail about park design, there is nothing revealed about park operations and management? How will the parks be managed? What group will make decisions? Will it be a single organization? How will it be funded? How will the interface be handled between commercial operations and park operations? How will maintenance be handled? What group will activate the park? What is the role of the community in the process in the decision-making process, if any? What role will the community have once there is a management group? Will neighbors be able to participate in a feedback loop or will they be told by the management group, "go away?" How will they City ensure that all city residents and visitors are treated equitably by the management group?

S.26

¹³ Alphabet is Google's parent company. Sidewalk Labs is a subsidiary.

<https://www.businessinsider.com/alphabet-sidewalk-labs-abandons-project-for-quayside-toronto-neighborhood-2020-5> <https://www.bloomberg.com/news/articles/2018-09-07/what-s-behind-the-backlash-over-sidewalk-labs-smart-city>
<https://www.fastcompany.com/90327859/sidewalk-labs-built-this-free-app-for-people-watching>

COVID and POST-COVID

The COVID pandemic has changed human behavior. There has been increased park usage documented by many agencies throughout the world.¹⁴ Locally, the Open Space Authority counted a 600% increase in usage. Despite closed playground, many San Jose parks experienced strong use patterns by walkers and family groups with imaginative play. Some bloggers are beginning to write how design will have to change so that parks and public spaces can meet human needs. No one knows whether we return to our prior behaviors, or have we fundamentally change. Will we want less density, more nature, options to step back from strangers and stay just in our pod? The bloggers suggest that park managers and designers need to improve flexibility in our existing and future parks so that they can meet the need of the next pandemic as well as whatever preference the community holds after this pandemic resolves. How is Google looking at their park design guidelines through the lens of COVID and POST-COVID?

S.27

EQUITY OF ACCESS and CULTURE

Google's values statements indicate an interest in equity and a valuing of what makes San Jose. However, the nuts and bolts of Downtown West Design Guidelines do not reflect these values in the parks. By way of example, the park designers are told to stick with the Google project palette. This suggests the parks will be uniform in appearance. That is so NOT San Jose. The guidelines for each park don't even hint at access for children, elderly, disabled, poor, language minority. With such a prescriptive set of design guidelines, the absence of mention is surprising. As one participant stated in a November community meeting, even the names of the parks are not culturally sensitive to the strong Latinx culture of San Jose. Photos and illustrations do not reflect San Jose's cultural diversity. How will Google reach out to specialized communities in a meaningful way to get feedback on the individual designs? This would mean deep focused discussions and interactive conversation, not hour-long overviews about Google.

S.28

TRANSPORTATION and PARKS

The underlying theory of Downtown West and the DSAP is that people who live and work their will be able to meet their needs without a car. How will the parks meet that need? Where can residents or workers go after work and play soccer? Play basketball? Go running? Commune with a forest? Play volleyball? Climb a wall? How do they get to the wilder spaces like those in

S.29

¹⁴ Parks and the pandemic, Trust for Public Land Special Report

<https://www.tpl.org/sites/default/files/Parks%20and%20Pandemic%20-%20TPL%20special%20report.pdf>

<https://kinder.rice.edu/urbanedge/2020/04/10/covid-19-era-renewed-appreciation-our-parks-and-open-spaces>

<https://gehlpeople.com/blog/managing-public-space-in-the-new-normal/>

<https://norcalapa.org/2020/07/equitably-resolving-public-space-in-the-time-of-covid-19/>

Alum Rock Park? Kelley Park? The Open Space Authority Parks? How do they do it without a car? Until there are realistic answers to those questions, the recreational needs of the people who live and work at Downtown West will not be met without a car. The current proposed parks's designs don't even come close.

↑ S.29
cont.

HEAT ISLAND EFFECT

The early pages of the Downtown West design guidelines mention parks as a strategy to counteract the heat island effect. With this in mind, it is surprising that there is a high percentage of hardscape, impervious and semi-pervious surfaces in the designs. How can parks serve to capture heat when they have been designed with 60% (or more) hardscape? In what ways could the percentage of hardscape be reduced?

↑ S.30

Thank-you for the opportunity to comment.

Sincerely,

Jean Dresden

cc

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Nicolle Burnham, PRNS Deputy Director

Larissa Sanderfer, PRNS Downtown West Project Manager

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December 8, 2020

City of San Jose

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RE: GRPC Comments on the Draft EIR for the Downtown West project (Google)

The Guadalupe River Park Conservancy (GRPC) submits the following comments on the Draft Environmental Impact Report (DEIR) for the Downtown West project in the Diridon Station area of Downtown San Jose, adjacent to the Guadalupe River Park. Our mission is to promote the Guadalupe River Park as a natural resource and civic greenway that connects the community to ecology in the heart of Downtown San Jose.

We appreciate the opportunity to address some details of the DEIR as they relate to parks, both existing and proposed, building orientation, connectivity, and riparian corridor impacts. The Guadalupe River Park is a park chain along the Guadalupe River that includes a multi-use public trail and four parks Downtown, including Arena Green. Arena Green is a 15-acre stand-alone park on both sides of the Guadalupe River that includes public art, picnic tables and benches, tennis courts, and a playground and carousel that have been closed for a few years, but that we hope to reactivate soon.

Inadequate Quality of Figures

Our first comment is related to the quality of the figures and the level of detail provided on the development proposal in the DEIR, which were not adequate to determine the aesthetic components of the project. As the site is located in an area sensitive to impacts to biological resources, the plans should be complete and understandable to the general public and decision makers.

Impacts to the riparian corridor and Guadalupe River Trail are dependent on detailed building information. Photo simulations and/or complete architectural renderings of the final intended building design would be immensely helpful in understanding the aesthetic nature of the project and impacts to parks, especially Arena Green, which is located in the heart of the project area. We ask that the Final SEIR include graphics that can provide an accurate level of detail for the determination of aesthetic impacts and impacts to parks, the trail, and riparian corridors.

While we understand the project team's process of submitting information at the master plan and design guidelines level, without more clarity on what and where specific building architecture or open space features are intended, it is difficult to provide the level of feedback that would be most helpful to the process. Additional clarity of building details and open space features, particularly around how this project would affect riparian corridors and other natural resources, recreation potential, and the surrounding community, should be vital for project approval.

T.1

Parkland Dedication and Public Open Space

We agree with the improvements being considered by the project to design a public realm that optimize connections to nearby regional transit services, enhance local walkability, and improve cycling linkages to adjacent neighborhoods and regional trails. However, we also have a number of concerns around the ambiguity of parkland dedication and public access to open spaces proposed in this project.

The proposed amount of public parks acreage is only 4.8 acres when the project's requirement per the City's Parkland Dedication Ordinance and the Quimby Act is for just under 39 acres. It appears from Section 3.12 of the DEIR that this requirement is not being met by the project, but could be met in the future; however, the environmental review for the additional parks is not included in the DEIR. It is our understanding that CEQA requires the whole project be evaluated, including future plans meant to mitigate impacts of the current project.

We are concerned that 15 acres of new parks and open space created will be in the form of hardscape plazas, "mid-block passages", and riparian setbacks. From the submitted plans it appears that project elements such as plazas, mid-block crossing, stormwater zones, riparian setbacks, adjacent spaces supporting commercial activities, and landscaped areas are being counted as parkland. While parks certainly can have many of those elements, these proposed open space uses need to lead with parks as the primary use to be considered parkland.

We also have other questions and concerns regarding the discussion of parks and recreation in the DEIR. For example, is "semi-private open space" and "project sponsor-owned open space" considered to be public? The explanation for how the amount of sponsor-owned open space to be provided can be "adjusted" (Appendix M) is confusing.

Without this information, it is difficult to determine how these requirements will be met, and how the community should expect these mitigation measures to come. If there will be new parks in the future, is land set aside for its future development? Would the project pay the fee instead? What are the provisions for the how those fees will be used? Would those fees be used in the project area for new public parks or improvements to existing parks? We contend that if there are no new public parks planned, the fees need to be used within the project area and surrounding open spaces to meaningfully reduce the local impact to a less than significant level.

The discussion of impacts to recreation in Section 3.12 is concerning. The section seems to state that because the project includes 15 acres of "recreational open space", most of which is not for public use, and a one-mile "on-street" bicycle facility, the "the proposed parks and open spaces would absorb a substantial part of the demand for parks and recreational facilities by new residents, employees, and visitors, as well as that of nearby residents and users.". The requirement is actually for approximately 39 acres open space and parks which is not being met by the project. The section also seems to state that there is room for improvement in the Guadalupe Gardens, which could also help meet the need. We agree and would welcome Google's active participation in the development of the 120-acre Guadalupe Gardens Master Plan area.

Whichever direction the project decides to pursue (new parklands or payment of fees), the documents need to reflect that direction and plan for those mitigation measures. We look forward to working with Google to ensure that this required element of the project is adequate and successful.

Park and Trail Design

Again, the level of detail in the document makes it extremely difficult to determine where actual parks will be located or what their specific designs entail. Figure 2.9 of Appendix M only shows "high" and "low" levels of "active use areas". We would need more detail for this important element of the project, which is critical to allow for a determination of whether the project is consistent with the recently released ActivateSJ Strategic Plan, which includes the City's vision for parks in the City as well as guidelines for the design and development of new parks.

We support trail connections along Los Gatos Creek, but we observed that those connections appear to be on-street and cannot be considered to be open space areas. We would like any future planning for trails and trail connections to

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T.3

focus on trails actually along the River and Creek. Further, we would support an evaluation to determine whether a trail connection could be constructed as part of the re-construction of the vehicle bridge over Los Gatos Creek to allow an on-creek trail.

↑ T.3
cont.

Riparian Setback and Riverfront Design

We feel strongly that riparian corridor setbacks cannot be counted towards the project's parkland requirement. These very sensitive wildlife and vegetation habitats are protected by the City's Riparian Corridor Policy. While the policy allows reduced setbacks Downtown rather than the City-wide standard of 100 feet, the priority of these areas must be to preserve and maintain the health of the corridor and reduce the potential for impacts to bird and aquatic species due to poor water quality, excessive noise, and human intrusion both in the long-term and during construction.

The GRPC supports the development of the project site; however, it appears from some of the materials in Appendix M, that some of the future buildings along the Guadalupe River and Los Gatos Creek will put their "backs" to the River and Creek. Again, from the plans, it is very difficult to determine if this is the case. In order for a creek trail system to be inviting and activated, workers and residents must have appealing and convenient access to it. Loading docks, trash dumpsters, and other "back-of-house" uses must be located away from the creek and trail due to their noise and intrusion impacts. Building frontages and public and private spaces have an opportunity to embrace both Los Gatos Creek and the Guadalupe River. We recommend the project team seriously consider elements of *Envision San Jose 2040 General Plan* – Goal PR-5 – Grand Parks, and the *Guadalupe River Park & Gardens Urban Design Guidelines* (2003) for development in proximity to the Guadalupe River, particularly between Santa Clara and San Fernando Streets.

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We can find no project objective that supports limiting impacts to the riparian corridor habitat, and inclusion of bird safe design features. We highly recommend that such objectives be considered to better allow an accurate comparison of project alternatives. We fully support the use of bird safe design as required by the City of San Jose and the American Bird Conservancy. We support the "stepping back" of buildings from the riparian corridors to reduce these impacts.

Noise Impacts to the Riparian Corridor and Adjacent Parkland

As project construction is anticipated to extend for many years, we need more clear recommendations on how noise impacts will be addressed, particularly as it relates to its impact on riparian wildlife, and for various events hosted in Arena Green. Coordination and a noise mitigation process is needed to ensure that Arena Green remains a flexible and desirable location for events and festivals. Limiting construction noise, particularly in the evening, will not only benefit the nearby residents, but also allow for the local wildlife periods of respite as they migrate to and through the riparian corridor.

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Aesthetic treatments of noise barriers should also be considered. To ensure that the walking and biking experience of the trail and connecting sidewalks is inviting during the construction period, we recommend barrier treatments such as artwork, education posters, timed spotlights, and a Guadalupe River Park map to encourage trail use throughout the construction period.

Shadow Impacts

Section 3.9 of the DEIR (Land Use) includes an analysis of how the proposed 180- to 209-foot-tall buildings will shade existing parks and publicly accessible open spaces. The analysis states:

"the maximum effect of the proposed project would increase the area shaded by 3.5 percent of the park area, at 3 p.m. on the winter solstice. At the other times analyzed, the increase in the area of Guadalupe River Park shaded would range from 0 percent to 1.8 percent. Because shadow cast by the proposed project would amount to less than 10 percent of the area of Guadalupe River Park at all times analyzed, the impact would be less than significant."

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We are unsure if this determination of “less than 10 percent” is comparing the impact to the entire Guadalupe River Park (over 11.5 million square feet), or only to Arena Green (slightly over 653,000 square feet). McEnery Park is also part of the Guadalupe River Park open space network, yet was considered to be a stand-alone park that was qualitatively evaluated. If the entire river park was considered, the percentage is significantly diluted and the analysis incorrect. Direct impacts to Arena Green, a stand-alone park, must be evaluated for a significant shadow impact. Arena Green requires a complete quantitative analysis of its very own to evaluate significant impacts. As the only major green space in and around the project area, shadow impacts to Arena Green would have a significant impact to how residents, workers, and visitors use the site, and affect its viability as an event space in the future.

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cont.

Additionally, the cumulative impacts of the project with the previously approved development on the San Jose Water Company property must be evaluated; however, we cannot find this discussion in the DEIR.

Local Transportation Impacts

GRPC is encouraged by the proposed improvements that will allow trail connectivity. We believe that these improvements will make the trail more accessible to local workers and residents and increase bicycle commutes. Again, we are assuming that trail access and thorough travel will not be adversely affected, however, the site plan makes it difficult to determine. The project also includes a new footbridge over Los Gatos Creek, which we welcome as it appears that the bridge will be clear span and any impacts to the riparian corridor will be mitigated. We do want to be sure that the new bridge will allow public travel by both pedestrians and bicyclists.

T.7

Mitigation Plan Recommendations

We believe that all planned mitigation for project impacts should be adjacent to or in proximity to the project area. The key to mitigation success in this area is enhancements to water quality and native vegetation and trees, ongoing maintenance of these corridors through invasive and plantings management, and ongoing removal of litter, illegal dumping, and other sources of trash and pollutants. We propose that all mitigation for impacts within the riparian corridor be conducted in the project area along either the Guadalupe River or Los Gatos Creek or both.

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We also recommend that planting, design, and ongoing maintenance of the project area integrates the Guadalupe River and Los Gatos Creek, either through complementary plantings, opportunities for people to view/engage with the river, maintenance to remove non-native and invasive species, reduce litter from entering the waterways, and environmental awareness opportunities. These measures will connect workers, residents, and visitors to the importance and interconnectedness of the Guadalupe River and Los Gatos Creek.

Other Priorities

While this letter directly addresses the environmental impacts of this project, we submit other comments based on the DEIR and the Google plans around other GRPC priorities - particularly around **public life, environmental awareness,** and **social equity for park accessibility.**

Public Life & Environmental Awareness

We believe a key measure of the success of how a development benefits the local community is its ability to promote public life at the intersection of development and the River Park. We recommend that the project development team factor certain elements into the project that foster public life and inspire environmental awareness, particularly to the thousands of new workers and visitors to the development.

- Ensure physical and visual connection from the Downtown and DSAP area to our natural resource. This may be achieved through architectural interventions, planting selection, art, or other treatments to the ground floor experience;
- As the River Park is a public park, and thus, is publicly accessible; we request to ensure that the ground floor of the project area is accessible as well, especially during park hours;

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- Where possible, increase the amount of bike parking, bike repair features, and strategically located public seating (particularly when a view of the river is available). The latter ensures that users of all ability-groups and ages have a comfortable experience exploring the Guadalupe River Park;
- Incorporate native plantings and informational signage within the ground floor project boundary to highlight elements of the River Park, Los Gatos Creek, and local ecology;
- Contribute capital and maintenance capacity improvements to Arena Green that supports increased use from new workers and visitors to the development, and enhance the quality of life to the nearby community.

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Social Equity for Park Accessibility

The project will create many benefits to nearby neighborhoods and businesses, and these benefits should also be enjoyed by those currently living and working in our community. We also believe that doing so would provide more benefits to the project, particularly for the food and retail establishments, and the park, through increased connection of diverse neighborhoods.

- Signage directing community members to and through the project and to the Guadalupe River Park or Arena Green should be in multiple languages (minimum Spanish, Vietnamese, and English);
- As part of the project's private security portfolio, we recommend contracting with homeless service case managers, and partnering with the City's park rangers to address the complex conflicts that may occur in this area;
- Consider opening up space to host local nonprofits, neighborhood meetings and events, and storage for local events and river/trail clean ups, to facilitate ongoing community capacity building and park stewardship;
- Consider retail and commercial options that serve building tenants, the local community, parks and trail users, and programs that connect the tenants, neighbors, and River Park.

T.10

The Google Project will be a key development project acting as a gateway to downtown San Jose and the Guadalupe River Park, potentially connecting thousands of new visitors to our natural asset. We believe there is an opportunity to showcase this potentially landmark project as a leading sustainable development standard, highlighting the integration of buildings and ecology. Aiming high for these standards are of particularly importance as our City embarks on this new wave of commercial and high-rise development.

Regards,



Jason Su
Executive Director

Cc: Jodi Starbird



438 Coleman Avenue
San Jose, CA 95110
408-298-7657
guadalupeconservancy.org
EIN: 77-0166797



Housing | Health | Children & Youth

December 8, 2020

Attn: Shannon Hill,
Environmental Project Manager City of San Jose,
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower, San Jose CA 95113-1905
E-mail: shannon.hill@sanioseca.gov

RE: Downtown West Mixed Use Plan in San Jose, CA (Google) AB 900 Application

Dear Ms. Hill:

The Law Foundation of Silicon Valley provides comments to the Google EIR. Specifically, the Law Foundation wishes to address the inadequacy of the EIR's analysis of potential indirect displacement as a result of the Google development. We request that the City reanalyze the environmental impacts of the potential displacement that the Google development will have, in order to fully access the mitigation measures necessary to address the indirect displacement.

We are strongly concerned that the EIR concluded that there would be no substantial indirect displacement given that the Google Project will bring nearly 30,000 jobs to the Downtown Core, and, as the EIR predicts, potentially 80,000 related jobs to the Downtown Core.¹ Without adequate housing commitments, it is a foregone conclusion that there will be people who live in San Jose who will be displaced by this development. The sweeping conclusion that no indirect displacement will occur is based on many assumptions made in the EIR without data to support those allegations. Given the massive size of the Project, we are troubled that the EIR concludes that there will be no indirect displacement as a result of the project.

Specifically, the EIR assumes that many of the construction and Google jobs will be held by San Jose residents, or that transportation will exist to get to support residents who live out of San Jose. There is no data to support that the near 30,000 Google jobs will be filled by people who already live in San Jose, or that the construction jobs will be held by those that live in San Jose. The EIR has no information about Google employees, and whether Google hires locally or

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¹ DRAFT EIR, 3.11-22.

outside the area. It is well-known that the growth of tech companies has led to displacement in Silicon Valley. To conclude bringing a huge campus of over 30,000 employees in a community where there is already a lack of affordable housing will not lead to displacement is troubling and unsupported by the data provided in the current EIR.

While we acknowledge that Diridon is a transportation hub, there is no information in the EIR that supports that individuals either working at Google or in jobs created by Google will be able to use public transportation for commuting, especially given the fact that Google has only committed 5000 homes in the Downtown core area. The lack of public transportation options is especially stark for low-income communities in San Jose who are facing displacement into the Central Valley. There is no analysis in the EIR about whether those residents who are being displaced will be able to affordably use transit options from Diridon to the Central Valley.

Additionally, there are assumptions that both Google's housing commitment and the City's Anti-Displacement policies will mitigate any potential displacement. First, despite the City's efforts, the City is well below its RHNA obligations for low, very-low, and extremely-low income families.² The EIR specifically states that the project represents 37% of job growth predicted in San Jose, but only 4.8% of the housing unit growth.³ While the City is certainly planning for additional housing, given that the City continues to fall below its RHNA obligations for affordable housing at low, very-low, and extremely low levels, the EIR is making a huge assumption that enough housing will be built to mitigate the impact of that many new jobs created in the Downtown core. The EIR should look at the feasibility of housing development at all affordability levels in determining whether or not the influx of at least 30,000 workers in the Downtown core will conclusively be mitigated.

Therefore, we ask the City to reconsider the indirect impacts of displacement at Diridon in its EIR. We welcome the opportunity to discuss these comments with you further by contacting me at Nadia.aziz@lawfoundation.org or (408) 280-2453.

Sincerely,



Nadia Aziz, Directing Attorney
Law Foundation of Silicon Valley

cc:

Ricardo Benavidez, Google

Rosalynn Hughey, Director of Planning, Building, and Code Enforcement, City of San Jose

² Housing Element Progress Report, 2019, available at <https://www.sanjoseca.gov/home/showpublisheddocument?id=56616>.

³ DRAFT EIR 3.11-20.

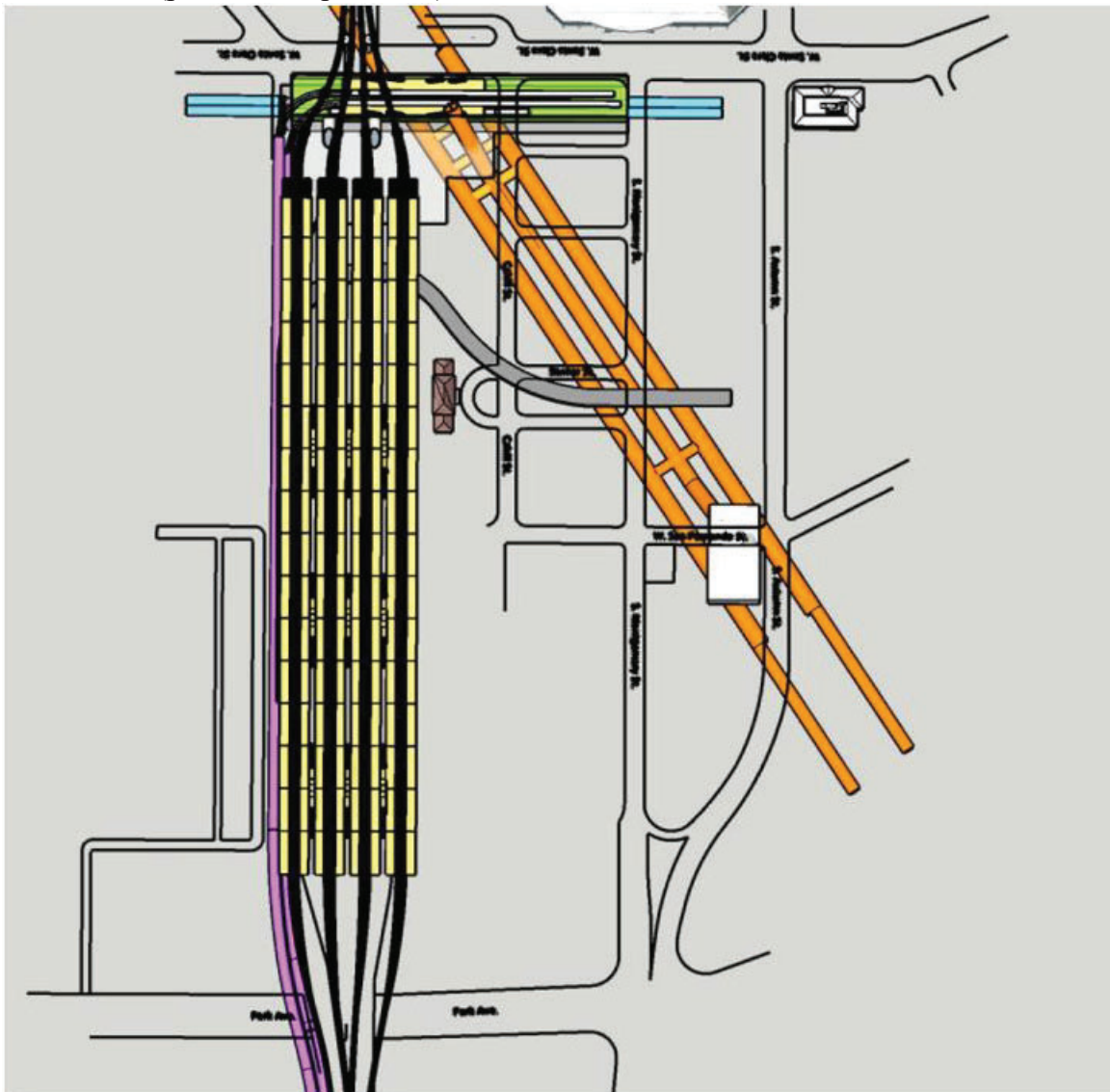
Roland Lebrun
December 8th 2021

Dear Ms. Hill,

Further to my November 22nd 2019 scoping comments <https://www.sanjoseca.gov/Home/ShowDocument?id=65095> (page 69), thank you for the opportunity to comment on the Downtown West DEIR with the introduction of a station configuration alternative designed to eliminate conflicts, including the requirement to demolish the Southern Pacific depot Main Building Landmark.

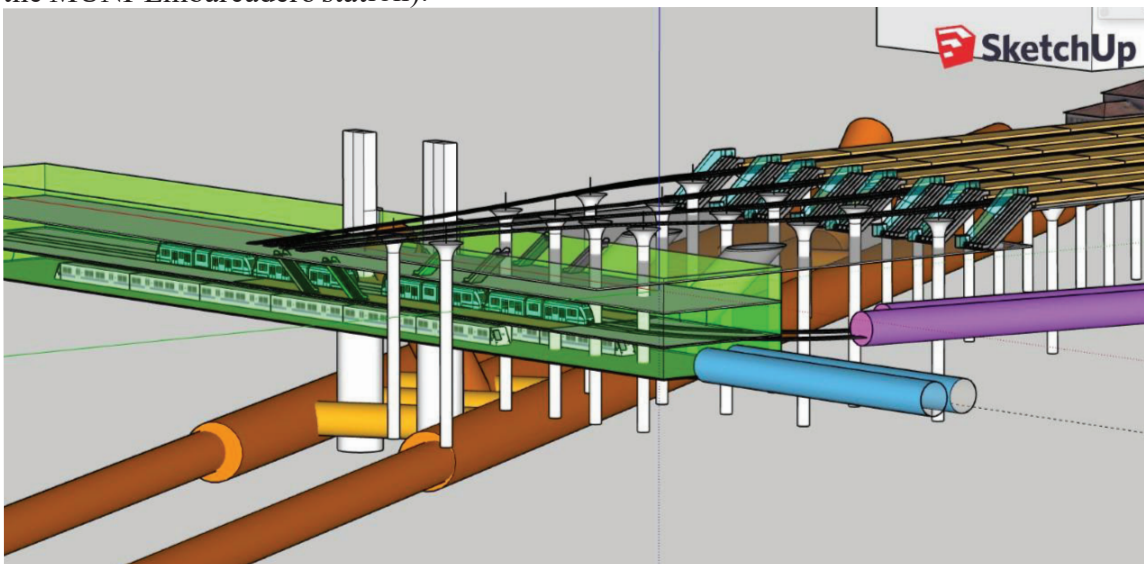
The proposed elevated station will have 6 main entrances (3 on each side):

- Santa Clara (public transportation)
- Paseo de San Fernando (active transportation)
- Park (private transportation)

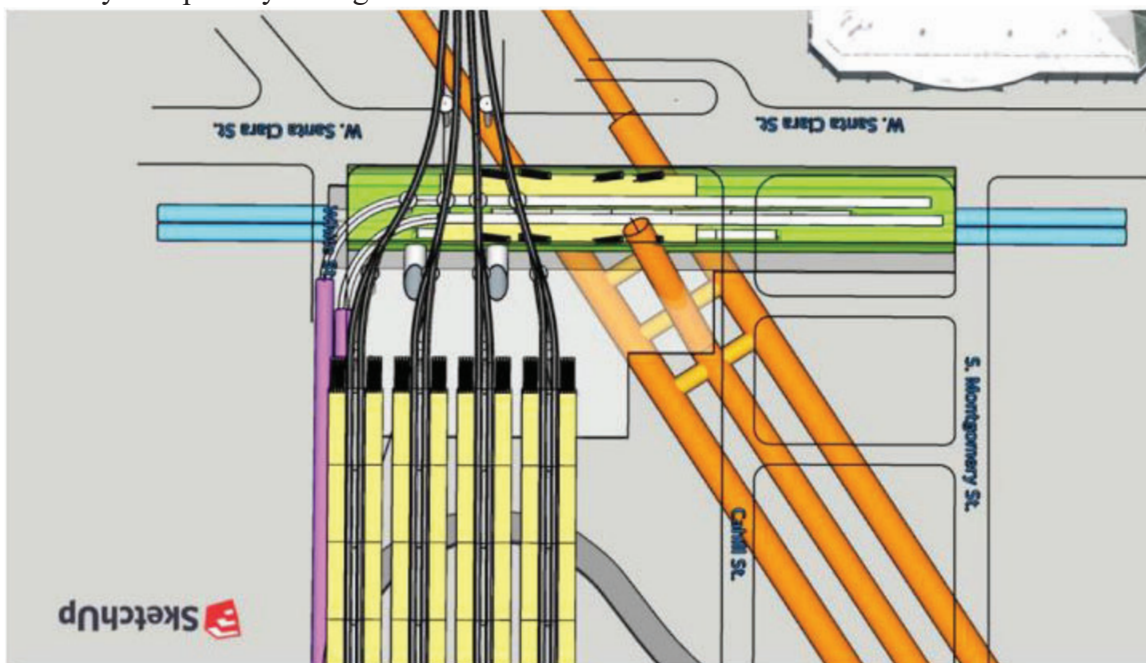


V.1

Construction phasing will start with the relocation of the light rail tracks to a tunnel (purple) between Sunol and White Street to the light rail (yellow) platforms located between the concourse and the BART (green) platforms (this configuration is similar to the MUNI Embarcadero station).



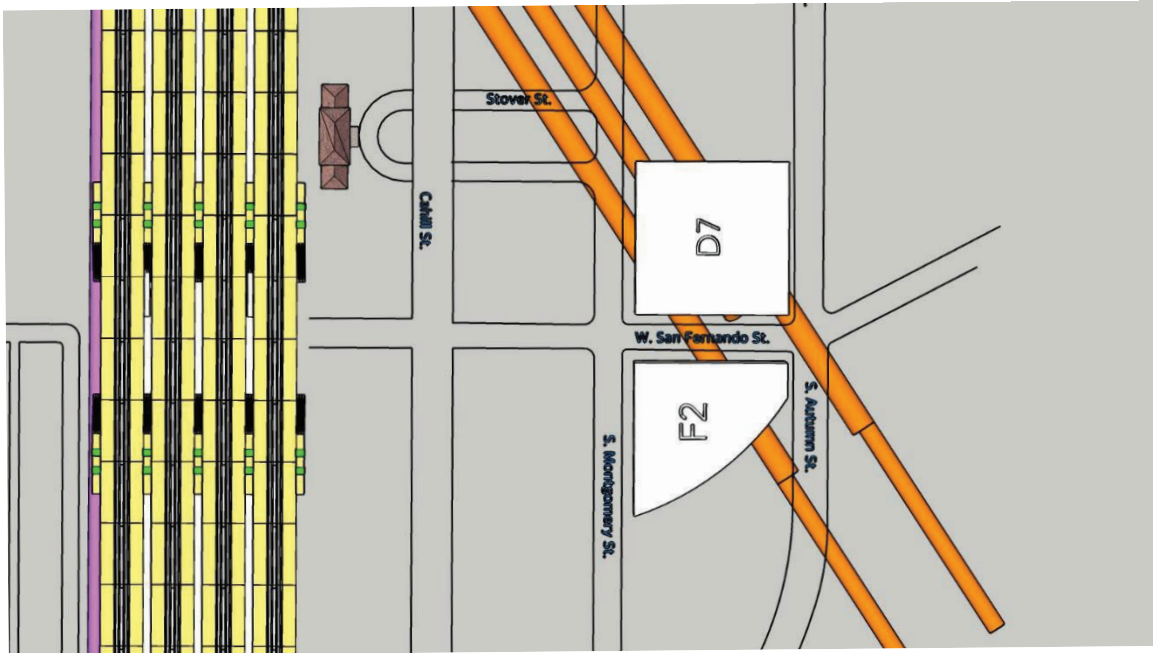
Next, the two west-most heavy rail tracks and platforms will be raised above the area currently occupied by the light rail station and tracks.



Please note that the extended heavy rail platforms will be centered between Park and West Santa Clara to eliminate conflicts with Parcels A, B & C. Additionally, the number of elevated station tracks will be reduced from 10 (or 11 as currently proposed) to 8 to eliminate throat expansion(s) beyond the existing right of way.

V.1
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The 9th and 10th tracks will be located underground, one on each side of the future Airport connector concourse (orange). This concourse will connect to the West Santa Clara BART/LRT concourse (above) and a southern entrance at the West San Fernando/Autumn intersection (within building F2 and/or D7).



Please refer to <https://www.sanjoseca.gov/Home/ShowDocument?id=65095> (page 71) for additional information.

Respectfully presented for the applicant's consideration.

Sincerely,

Roland Lebrun

Madeline Silva Khan
Director
State Infrastructure Projects

Pacific Gas and Electric Company
77 Beale St., Mail Code B28R
San Francisco, CA 94105
415-973-7096
Email: M6SK@pge.com

December 08, 2020

Cindy Muller
Director, District Systems & Energy
1212 Bordeaux Drive
Sunnyvale, CA 94089

**Re: Pacific Gas and Electric Company (PG&E) Review of the Draft
Environmental Impact Report for the Downtown West (Google) Project**

Dear Ms. Muller,

Pacific Gas and Electric Company (PG&E) appreciates the opportunity to review the Google Draft Environmental Impact Report (DEIR) for the Downtown West (Google) Project. PG&E provides additional details and comments regarding the PG&E work that will be needed to interconnect and serve electricity to Google's project. The Downtown West (Google) Project is expected to require new transmission-level or distribution-level electric service and upgrades to existing electrical utility facilities. Two options for service are presented in the DEIR.

Since PG&E's facilities are under the jurisdiction of the California Public Utilities Commission's (CPUC), PG&E will need to seek separate authorization from the CPUC in order to construct the necessary upgrades. Permitting for the construction of transmission facilities under CPUC jurisdiction can take a considerable amount of time; however, the CPUC's General Order 131-D provides utilities an exemption from CPUC permit requirements for certain projects that have undergone environmental review by another agency as part of a larger project, such as the Downtown West (Google) Project, and have found less-than-significant impacts from construction of PG&E's facilities. For projects that qualify for the exemption, a much shorter noticing process is required.

To avoid delays and added costs in the CPUC permitting process, PG&E recommends adding the following information to the Google project's environmental analysis in an effort to qualify the interconnection work for an exemption from CPUC permitting. Because the CPUC has control over its own permitting practices, however, PG&E makes no representations as to the adequacy of this information for purposes of CPUC permitting or exemptions.

W.1

A. Expected Electric Service

As noted above, two options for service are presented in the DEIR. While both options are discussed in most sections of the DEIR, only the first option is mentioned at page 3.4-20 in the DEIR's Energy chapter. The second option should be added to the analysis in this chapter.

The following paragraphs provide additional detail concerning the two options:

Option 1: New 115 kV switching station dedicated to Google

- **Switching Station:** PG&E would construct a new switching station, dedicated to Google's project, with a 115 kV bus and control room. The 115 kV bus and control room would be housed in a new building located on property within the Google development with adequate land and access rights. The new building is proposed to be approximately 80 feet x 100 feet x 35 feet tall with a basement. It is anticipated to be located next to the Google substation.
- **PG&E 115 kV Transmission Lines:** The switching station would receive 115 kV power from PG&E's El Patio-SJ Station A 115 kV Transmission Line, which would be extended and looped into and out of the proposed switching station building through a new 115 kV bus. The existing overhead transmission line from El Patio Substation would transition from overhead to underground near West San Carlos Street and enter the basement of the PG&E building. The existing overhead transmission line from San Jose Station A would transition underground at or near the southern property line of Station A and also enter the basement of the PG&E building. It is anticipated that the underground routing of the circuits would follow the existing overhead routes until both turn eastward towards the PG&E switching station. PG&E will require equivalent land rights for the underground circuits.

At Google's request, PG&E would place approximately 1,500¹ feet of the existing SJ Station A – SJ Station B Transmission Line underground starting just north of Station A and transitioning back overhead at the northern Project Area boundary. PG&E will require equivalent land rights for the underground circuits.

At the locations where the existing overhead transmission lines transition to underground, a steel monopole transition structure will be required for each circuit. During the final design phase, PG&E will determine if communication and system protection equipment will be required at any or all transition structures.

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¹ Please note that the DEIR indicates "approximately 1,300 feet" (see, e.g., DEIR at 2-57), but PG&E has determined that 1,500 feet is more likely.

The heights of the transition structures will vary as necessary to maintain required ground to conductor clearances. The heights of the two existing towers at West San Carlos Street and at the southern property line of SJ Station A are 135 feet and 90 feet respectively. The heights of the two existing power poles on the SJ A-SJ B lines are 51 feet and 82 feet. The new transition poles will likely have roughly similar heights to the existing structures they replace. The transition structures will require reinforced concrete pier-type foundations approximately six to eight feet in diameter. If communication and system protection equipment are required, a fenced area of approximately 50 feet by 50 feet may be required at any or all the transition structures.

- **115 kV Transmission Lines to New Development:** Two new 115 kV circuits would be constructed from the switching station to provide electrical power to the adjacent Google-owned substation. At the Google substation, transmission-level voltage would be reduced to distribution level to serve the new development. The proposed design is to route these circuits from the basement of the PG&E building underground into the adjacent Google substation.

Minor modifications within the existing El Patio and San Jose Station A substations would be required to support the project.

Option 2: Equipment replacement at PG&E's San Jose Station A

- **Station A:** PG&E would replace the 115 kV, 12 kV and 4 kV buses, three existing transformers, and the existing control room within the existing substation property. The new 115 kV bus and control room would be housed in a new building, and the new 12 kV and 4 kV buses would be housed in metal-clad switchgear buildings. The transformers would be located on outdoor concrete pads. No new property would be required.
- **PG&E 115 kV Transmission Lines:** Station A would continue to be fed from both the El Patio and San Jose Station B 115 kV lines. Substation modifications would be required to align the circuits with the new equipment, and temporary transmission line reroutes would be needed for PG&E to complete construction while continuing to supply electric service to customers in the area.

As described under Option 1, the existing SJ Station A-SJ Station B line would be placed underground between Station A and the northern Project Area boundary, a distance of approximately 1500 feet. New transition structures, related equipment, and equivalent land rights for the underground circuits would be required. (See Option 1 for additional details.)

- **12 kV Distribution Lines to New Development:** Up to four 12 kV circuits would be constructed underground from PG&E's existing substation to

W.1
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provide electrical power to the Downtown West (Google) Project. PG&E would provide either 12kV service (primary service) that Google could step down in voltage behind the meter at the Google substation, or 120/240/480-volt service (secondary service).

Minor modifications within the existing El Patio and San Jose Station B substations would be required to support the project.

Option 2 has the advantage of not only serving the Downtown West (Google) Project's needs at 12 kV distribution voltage, but also increasing Station A's capacity to serve the area's forecasted increased electrical demand. In contrast, installing a new switching station dedicated to the Google project under Option 1 would serve the Google project's demand but would not increase area electrical capacity to serve other loads. As a result, Option 1 would require PG&E to construct additional facilities at Station A or elsewhere in the area to serve other area demand.

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B. Comments Applicable to Either Option

1. Large-truck access to PG&E's existing substation

For either of the options presented, access for large trucks to PG&E's existing San Jose Station A substation would need to be retained in the City's plans. Figures 2.3 and 2.8 indicate that Otterson Street, which is the only vehicular access route into Station A, will be removed and become a pedestrian path. In order to operate and maintain the substation, PG&E requires access to Station A by trucks hauling trailers that may be 50 feet long and require a large turning radius. Adequate access to Station A for large trucks must be accommodated in any plan to remove Otterson Street.

W.2

2. Spacing Requirements Between Underground Transmission Circuits

During the engineering phase, the routing of the underground transmission circuits will be determined. PG&E's standard utility practice requires a minimum of 15 feet between parallel circuits to prevent reliability issues due to mutual circuit heating that could impact the ratings of the cables or potential dig-ins hitting both circuits. This standard could most likely impact space and land rights requirements in two locations under Option 1: (1) the extension of the El Patio-San Jose A circuit into and out of the PG&E switching station and (2) the two underground 115kV circuits extending from the proposed switching station to the Google substation.

W.3

PG&E looks forward to partnering with Google on this project and appreciates the opportunity to provide comments on the DEIR for the Downtown West (Google) Project.

Sincerely,

Madeline R. Silva Khan

Madeline Silva Khan
Director
State Infrastructure Projects



PLANT 51 HOMEOWNERS ASSOCIATION
San Jose, California

via electronic mail

December 7, 2020

City of San José
Department of Planning, Building and Code Enforcement
Attn: Shannon Hill, Planner III
200 East Santa Clara Street, 3rd Floor Tower
San Jose CA 95113-1905

Re: Downtown West Project
Draft Environmental Impact Report (DEIR) Comments

Dear Ms. Hill,

On behalf of the Plant 51 Homeowners Association (Plant 51 HOA), please accept this letter as our formal comments on the DEIR for the Downtown West Project. Plant 51 is a 265-unit residential condominium community located immediately to the west of the Project Site, behind Diridon Station along Bush Street. As such, our community is positioned to be especially impacted by construction and operation of the Downtown West Project. The HOA provided a scoping letter on this project this time last year, which is enclosed for reference. We have reviewed the DEIR and have the following comments:

- **Construction-Related Noise:** The DEIR correctly recognizes the environmental impact of construction- and demolition-related noise to nearby residences. In this regard, we concur that preparation of a Master Construction Noise Reduction Plan (*Mitigation Measure NO-1c*) is warranted. However, this plan should be prepared now and be included as part of the DEIR so that its effectiveness and enforceability as a mitigation measure can be adequately evaluated. Moreover, the Master Construction Noise Reduction Plan should also address the following concerns so that it sufficiently mitigates potential noise impacts to our community:
- The Master Construction Noise Reduction Plan should regulate noise generated by construction of the Project's new public and private infrastructure, such as new roadways and subsurface utilities. As currently worded, the Plan would only address noise generated by construction of new buildings.
 - Noise monitoring station locations should be identified now. Given our proximity to the Project Site, we believe that a monitoring station should be installed on our building so that noise that can be adequately monitored during the 10-year construction period.

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- The term "extreme noise-generating activities" is undefined. Absent this term being defined in the DEIR, the enforceability of the Master Construction Noise Reduction Plan is suspect since the basis for enforcement is not established.
- The Master Construction Noise Reduction Plan indicates that the "contractor(s) shall consider means to reduce the use of heavy impact tools, such as pile driving..." There is no question that pile driving will result in excessive noise levels for Plant 51 residents since the Project's tallest buildings—those requiring pile driving—will be constructed on the parcels nearest our community. As such, instead of requiring the Applicant to "consider" alternative methods of pile installation, the DEIR should *require* alternative methods be implemented (i.e., pre-drilling of piles and use of wood blocks to reduce metal-to-metal contact noise).
- The applicant's selected noise complaint liaison/community liaison should be accessible by email and texting, in addition to telephone, so that a written record of complaints can be maintained and audited if not acted upon in a reasonable period.

X.1
cont.

- **Construction-Related Air Quality:** The DEIR identifies a significant and unavoidable impact with regard to the Project exposing sensitive receptors to substantial pollutant concentrations, including residents within 1,000 feet of the Project Site, such as the Plant 51 community. As it pertains to construction emissions, it is imperative that the efficacy of the proposed construction-related mitigation measures be continually monitored over the 10-year construction period as to minimize the impact to our community. To this end, we request placement of air quality monitoring station(s) on our building to gauge air pollutants during construction.

X.2

- **Light and Glare:** The DEIR does not appear to analyze whether the project would result in new sources of substantial light or glare which would adversely affect day or nighttime views in the area. Specifically, as we have previously noted in our scoping letter, since it can be anticipated that many of the new structures will incorporate glass curtain wall sheathing, the potential impact of solar reflectivity to our easterly-facing condominium units should be analyzed since such an impact could adversely affect daytime views of these residents and peaceful enjoyment of their homes (by forcing them to close window blinds to avoid glare).

X.3

It is noted that the *Downtown West Design Standards and Guidelines* incorporate guidance regarding glare reduction in new Project buildings. However, the DEIR should review adequacy of these guidelines to determine if they are sufficiently enforceable and effective to limit the impact of new sources of light and glare that may be incurred by the Project.

- **Transportation/Circulation:** We understand that level-of-service (LOS) degradation, in and of itself, is no longer an environmental consideration under CEQA. However, a substantial reduction in operational efficiency of an intersection can have second-order effects beyond mere vehicular congestion. The DEIR's Local Transportation Analysis, indicates that The Alameda/Stockton intersection will fall to a LOS 'F' with implementation of the Project.

X.4

Existing traffic volumes presently result in unacceptable waiting periods for pedestrian crossings at this intersection. Moreover, this intersection already contributes to excessive queuing on The Alameda (eastbound) that obstructs a mid-block pedestrian crossing at Bush Street. By worsening this current condition, the Project would conflict with various State, regional, and local policies described in the "regional framework" pertaining to safe and convenient pedestrian mobility.

While *Mitigation Measure AQ-2h*, requiring preparation of an "Enhanced Transportation Demand Management Program" is appreciated as a means to reducing vehicular trips generated by the Project, physical mitigation is also required to address our concerns. Specifically, the DEIR should incorporate a mitigation measure requiring the Applicant to reconfigure The Alameda/Stockton intersection to eliminate signal control to White Street and reconstruct the White Street entrance to a single-lane driveway (solely to service Grand Prix Glass and railway operations).

White Street is no longer a public street, having been vacated to adjacent owners by the City in 2001 (see enclosed documents). Eliminating signal control and reconfiguring the entrance as a driveway will allow a more seamless pedestrian crossing and improve overall operation of the intersection. This will allow for reduced waiting times for pedestrian crossings in all directions, in furtherance of State, regional, and local policies.

Lastly, to prevent excess vehicular queuing on The Alameda from obstructing the mid-block pedestrian crossing at Bush Street, we also request that "KEEP CLEAR" markings be installed on The Alameda (eastbound) at the intersection with Bush Street.

We thank you for your consideration of these comments. If you have any questions, I may be contacted at (408) 368-0013 or by email at elizabeth.fama@gmail.com

Sincerely,



Elizabeth Fama
Plant 51 HOA President

Encl: Plant 51 EIR Scoping Letter
White Street Vacation Documents

Cc: Devora Davis, District 6 City Council Member
Plant 51 HOA Board Members
Dan Oscarson, Plant 51 Community Manager

X.4
cont.



PLANT 51 HOMEOWNERS ASSOCIATION
San Jose, California

via electronic mail

November 20, 2019

City of San José
Department of Planning, Building and Code Enforcement
Attn: Shannon Hill, Environmental, Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San Jose CA 95113-1905

**Re: Notice of Preparation (NOP) of Draft Environmental Impact Report (DEIR)
Downtown West (Google) Mixed-Use Project**

Dear Ms. Hill,

On behalf of the Plant 51 Homeowners Association (Plant 51 HOA), please accept this letter as “scoping comments” in response to the NOP for the Downtown West Mixed-Use Project.

The Plant 51 community is located immediately to the west of the Project Site, behind Diridon Station along Bush Street. As such, our community is positioned to be especially impacted by construction and operation of the Project. The Plant 51 HOA, therefore, wishes to ensure that the DEIR thoroughly evaluates the potential environmental impacts of the Project to our community. Specifically, the following:

- **Transportation/Circulation:** Please evaluate the addition of project-generated vehicular trips to the queuing capacities of the Alameda/Stockton intersection. Existing traffic volumes already result in unacceptable waiting periods for pedestrian crossings at this intersection, which will only worsen with completion of several approved projects along Stockton Avenue. Moreover, this intersection already contributes to excessive queuing on The Alameda (eastbound) that obstructs a mid-block pedestrian crossing at Bush Street. Ultimately, it is critical that pedestrian and bicycle movement not be further impaired by vehicular congestion associated with the Project.

In this regard, the DEIR should analyze all known mechanisms to discourage new vehicular trips and encourage public transportation usage by employees and residents. For example, the DEIR should evaluate requiring employer/landlord-paid transportation passes (e.g., VTA SmartPass) for all employees and residents; severely restricting the creation of new parking facilities (and/or ensuring that such parking is appropriately priced) in order to minimize the “latent-demand” effect of providing free parking; and limiting the number of inbound vehicular trips into the Project Site tied to an ongoing trip monitoring mechanism.

- **Construction-Related Vibration and Noise:** Due to our community's proximity to the Project Site, construction-related vibration and noise could obstruct the free use of property, particularly those residences with outdoor recreational spaces. The DEIR should evaluate the incorporation of the highest-degree of sound attenuation measures that will limit noise impacts. Of particular concern is pile-driving activity occurring during weekends, which would unreasonably interfere with the comfortable enjoyment of our homes. Lastly, we would also recommend placement of noise monitoring station(s) within our community to ensure ongoing compliance with noise-related mitigation measures.
- **Construction-Related Air Quality Risk:** Construction of the scale proposed by the Project will result in significant generation of dust, exhaust, and particulate matter. Our community houses many families with young children, elderly, and disabled individuals who are especially vulnerable to such contaminants. As with construction-related noise, we also ask that air-quality monitoring station(s) be placed within our community to ensure ongoing compliance with air quality-related mitigation measures.
- **Light and Glare:** Since it can be anticipated that many of the new structures will incorporate glass curtain wall sheathing, please ensure that the DEIR looks at the potential impact of solar reflectivity to our easterly-facing condominium units.

The Plant 51 HOA also hereby requests that the City send by electronic mail, if possible or U.S. Mail to the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:
 - Notices of any public hearing held pursuant to CEQA.
 - Notices of determination that an Environmental Impact Report ("EIR") is required for a project, prepared pursuant to Public Resources Code Section 21080.4.
 - Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
 - Notices of preparation of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21092.
 - Notices of availability of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
 - Notices of approval and/or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
 - Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.

- Notices of determination that a project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- Notice of any Final EIR prepared pursuant to CEQA.
- Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092, which requires agencies to mail such notices to any person or organization who has filed a written request for them with the clerk of the agency's governing body.

Please send notice by electronic mail, if possible, to DOscarson@gocompass.com and elizabeth.fama@gmail.com. If notice must be provided by US mail, please address to :

Compass Management Group, Inc.
ATTN: Daniel Oscarson
77 Las Colinas Lane,
San Jose, CA 95119510

We thank you for your consideration of these comments. If you have any questions, I may be contacted at (408) 368-0013 or by email at elizabeth.fama@gmail.com

Sincerely,



Elizabeth Fama
Plant 51 HOA President

Cc: Dan Oscarson, Plant 51 Community Manager

RC:GF
06/26/01

RESOLUTION NO. 70521

**RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE VACATING A PORTION OF WHITE STREET AND
RESERVE A PUBLIC SERVICE EASEMENT (PSE)**

WHEREAS, the vacation of the portion of White Street described in Section 3 of this Resolution is being conducted pursuant to and in accordance with the provisions of Chapter 3 or Part 3 of Division 9 of the Streets and Highways Code of the State of California; and

WHEREAS, on June 5, 2001, the City Council adopted Resolution No. 70388 ("Resolution of Intention") declaring its intention to vacate the portion of White Street described in Section 3 of this Resolution and to reserve a public service easement over the area vacated; and

WHEREAS, the Resolution of Intention gave notice that on Tuesday, the 26th day of June 2001 at 1:30 p.m., in the Council Chambers of the City Council, in the City Hall of the City of San Jose, the Council would hear any and all persons interested in or objecting to the vacation of said portion of White Street; and

WHEREAS, the Resolution of Intention giving notice of the date, time and place of the public hearing was published in the manner prescribed by law; and

WHEREAS, notices of the proposed street vacation, stating the purpose of the Resolution of Intention and the time and place set for the public hearing, were posted in the manner prescribed by law; and

WHEREAS, prior to the public hearing the plat map approved by the Director of Public Works on May 14, 2001, entitled "Plat To Accompany Description For Street Vacation Of A Portion Of White Street" and showing the portion of White Street proposed for vacation and the public service easement proposed for reservation ("Plat Map"), was filed in the Office of the City Clerk and made available for examination by any persons desiring to do so; and

WHEREAS, on June 26, 2001, at 1:30 p.m. in the City Council chambers, the City Council heard any and all persons interested in or objecting to the proposed vacation of the portion of White Street, and received and considered evidence submitted; and

WHEREAS, at the public hearing on the vacation of the portion of White Street described in Section 3 of this Resolution, the City Council had before it a report from the Director of Public Works to the City Council, dated June 5, 2001, identified as "EXHIBIT A" and incorporated herein, and the Plat Map, identified as "EXHIBIT B" and incorporated herein.

RC:GF
06/26/01

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted at the public hearing, makes the following findings of relevant fact:

- A. The portion of White Street proposed for vacation has not been used and is in a blighted condition. In addition, in conjunction with the Cahill Station Redevelopment project, White Street has been incorporated into the project for a private parking facility. Therefore the portion of White Street described in Section 3 of this Resolution is not necessary for use as a public street presently or in the future; and
- B. The Planning Commission considered the request to vacate White Street as a condition of approval for the Planned Development zoning for the residential development of the site and found the proposed street vacation to be consistent with the City's General Plan and recommended approval of the proposed vacation, as reported in the report from the Planning Commission to the City Council dated March 13, 2001, attached hereto as "EXHIBIT C" and incorporated herein; and
- C. There are a number of public facilities on the portion of White Street described in Section 3 of this Resolution; and
- D. All affected public utilities have been contacted and have no objections to the proposed vacation so long as a public service easement is reserved; and

SECTION 2. The City Council makes the following conclusions and finding based upon an analysis of the above facts:

- A. The portions of White Street described in Section 3 of this Resolution and depicted in the Plat Map are not necessary for present or prospective public street purposes; and
- B. Pursuant to the provisions of Section 892 of the Streets and Highways Code of the State of California, the portion of White Street proposed for vacation is not useful as a nonmotorized transportation facility; and
- C. The public convenience and necessity requires the reservation of a public service easement over the entire area of the street proposed for vacation; and

Res. NO. 70521

RC:GF
06/26/01

D. The proposed vacation is consistent with the City's General Plan.

SECTION 3. Based on the above stated facts, conclusions and findings, the City Council hereby vacates the following portion of White Street subject to the reservation of a public service easement over and beneath the subject area, as hereinafter described, for the purposes of constructing, maintaining, operating, replacing, removing or renewing the existing, or any future, public facilities located thereon:

The portion of the street proposed to be vacated and the public service easement reserved over and beneath the area are all that property situated in the City of San Jose described as follows:

Beginning at the most northwesterly corner of Lot 2 as described in that certain deed recorded in Document No. 2545187, Santa Clara County Records, said corner also being on the southerly line of The Alameda; thence along said southerly line North 86°46'35" East 60.00 feet to the most northwesterly corner of Lot 18 as shown on that certain map of the J.A. White Subdivision recorded in Book "A" of Maps at Page 6, said corner being on the easterly line of White Street South 3°34'29" East 455.00 feet to the most southwesterly corner of Lot 10 as shown on said map of the J.A. White Subdivision; thence South 86°46'35" West 60.00 feet to a point on the westerly line of White Street; thence along said westerly line of White Street north 3°34'29" West 455.00 feet to the point of beginning.

SECTION 4. The City Clerk is directed to record a certified copy of this Resolution in the Santa Clara County Recorder's Office.

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Res. No. 70521

RC:GF
06/26/01

SECTION 5. From and after the date this Resolution is recorded, the portion of White Street vacated will no longer constitute a public street.

ADOPTED this 26th day of June, 2001, by the following vote:

AYES: CAMPOS, CHAVEZ, CORTESE, DANDO, DIQUISTO, LeZOTTE,
REED, SHIRAKAWA, WILLIAMS, YEAGER; GONZALES

NOES: NONE

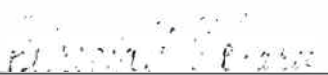
ABSENT: NONE

DISQUALIFIED: NONE



RON GONZALES
Mayor

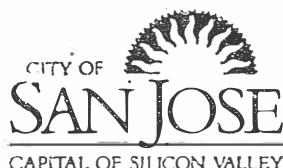
ATTEST:



PATRICIA L. O' HEARN
City Clerk

Res. No. 70521
COUNCIL AGENDA: 06-05-01
ITEM:

EXHIBIT "A"



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Rajeev Batra

SUBJECT: WHITE STREET VACATION

DATE: 05-29-01

Approved

Date

COUNCIL DISTRICT: 6

REASON FOR ADDENDUM

City Council is requested to approve this resolution on this agenda to allow for a public hearing to be held after expiration of the 15-day noticing period on June 26, 2001.

RECOMMENDATION

Adoption of a resolution of intention to vacate a portion of White Street and reserve a public service easement (PSE) and setting a public hearing on June 26, 2001 at 1:30 p.m. CEQA: Resolution No. 69355.

BACKGROUND

Cahill South, LLC has submitted an application for the vacation of a portion of White Street. This vacation is a condition of approval for the Planned Development zoning for the residential development of the site.

According to the title reports submitted, the City has an easement for street purposes over the portion of White Street proposed for vacation.

ANALYSIS

Staff has determined that this portion of White Street is not needed as a public street due to non-use and blighted conditions, and must be vacated to be consistent with the street pattern of the approved zoning. All concerned utility companies have consented to the street vacation with the reservation of a PSE. Accordingly, the area proposed for vacation is also proposed to be reserved as a PSE.

The actions required for the vacation of the subject right-of-way are:

Res. No. 70521

HONORABLE MAYOR AND CITY COUNCIL
05-29-01
Subject: White Street Vacat
Page 2

June 5, 2001 at 7:00 p.m.: Council considers the adoption of a resolution of intention which:

1. Declares its intention to vacate the subject portion of White Street and reserve a public service easement;
2. Sets a public hearing June 26, 2001 at 1:30 p.m.;
3. Directs the City Clerk to file the vacation map and advertisement proposed vacation and public hearing; and
4. Directs the Director of Public Works to post the area with Notices of the Proposed Vacation and Public Hearing.

June 26, 2001 at 1:30 p.m.: Council conducts a public hearing and considers a resolution of vacation, which vacates the subject portion of White Street and reserves a public service easement.

PUBLIC OUTREACH

The public was afforded the opportunity to comment on the proposed development during the planning process. In addition, the Planning Commission considered and approved this vacation proposal which has given the public another opportunity to provide input and comments.

COORDINATION

The required resolution has been reviewed by the City Attorney's Office. The vacation has been coordinated with the appropriate public utility companies and the Planning Commission has approved the vacation.

CEQA

Resolution No. 69355.



RAJEEV BATRA
Acting Director, Public Works Department

Res. No. 70521

LOCATION MAP

SHOWING THAT PORTION OF WHITE STREET
TO BE VACATED (WITH RESERVATION OF A
PUBLIC SERVICE EASEMENT)



AREA TO BE VACATED



PLAT MAP

SHOWING THAT PORTION OF WHITE STREET TO BE VACATED
(WITH RESERVATION OF A PUBLIC SERVICE EASEMENT)



AREA TO BE VACATED

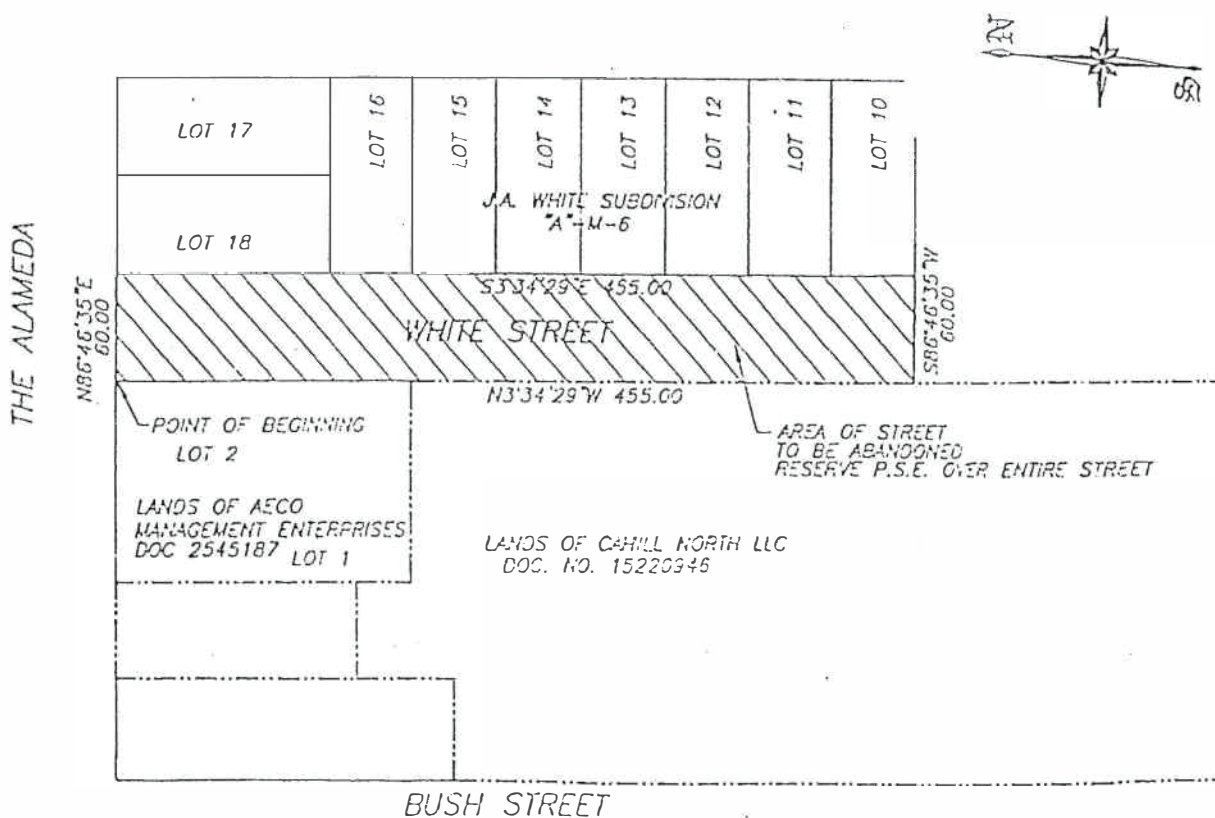
FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS 5th DAY OF
June, 2001, AND APPROVED BY SAID CITY COUNCIL THIS 5th DAY OF
June, 2001 BY RESOLUTION NUMBER 70388

Carlin D. Spinks, Deputy
CITY CLERK, CITY OF SAN JOSE

Rm Batra
RAJEEV BATRA

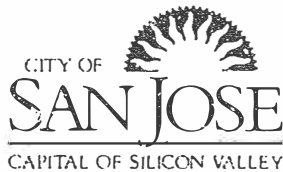
APPROVED THIS 14th DAY OF May, 2001

ACTING DIRECTOR OF PUBLIC WORKS, CITY OF SAN JOSE



PC AGENDA: 3-28-01

ITEM: 3.g.



Memorandum

TO: PLANNING COMMISSION

FROM: James R. Derryberry

SUBJECT: SEE BELOW

DATE: March 13, 2001

COUNCIL DISTRICT: 6

SUBJECT: VACATION OF WHITE STREET SOUTHERLY OF THE ALAMEDA

BACKGROUND

This is a request to vacate White Street, southerly of The Alameda. The request to vacate the street is in conjunction with an adjoining residential development (File No. PDC98-03-027). The right-of-way is no longer necessary as the developer is constructing private parking for the residential development. Jim Pollart, the project owner, submitted the request.

The Department of Public Works has no objections to the proposed vacation and recommends that it be approved. All concerned utility companies have been contacted and have no objections to the proposed vacation, provided that a public service easement is reserved.


This vacation is in conformance with the adopted San José 2020 General Plan Land Use/Transportation Diagram. The proposed vacation is also in substantial conformance with the adopted Midtown Specific Plan, which allows for flexibility in use to facilitate the preservation of historic resources. The vacation allows required parking for a proposed residential project to be constructed without affecting the historic Del Monte Warehouse building, which is directly adjacent to the portion of White Street to be vacated.

CEQA

This project was found to be adequately considered by a Final EIR entitled, "Cahill Station Residential Redevelopment," and findings were adopted by City Council Resolution No. 69355, on February 1, 2001.

RECOMMENDATION

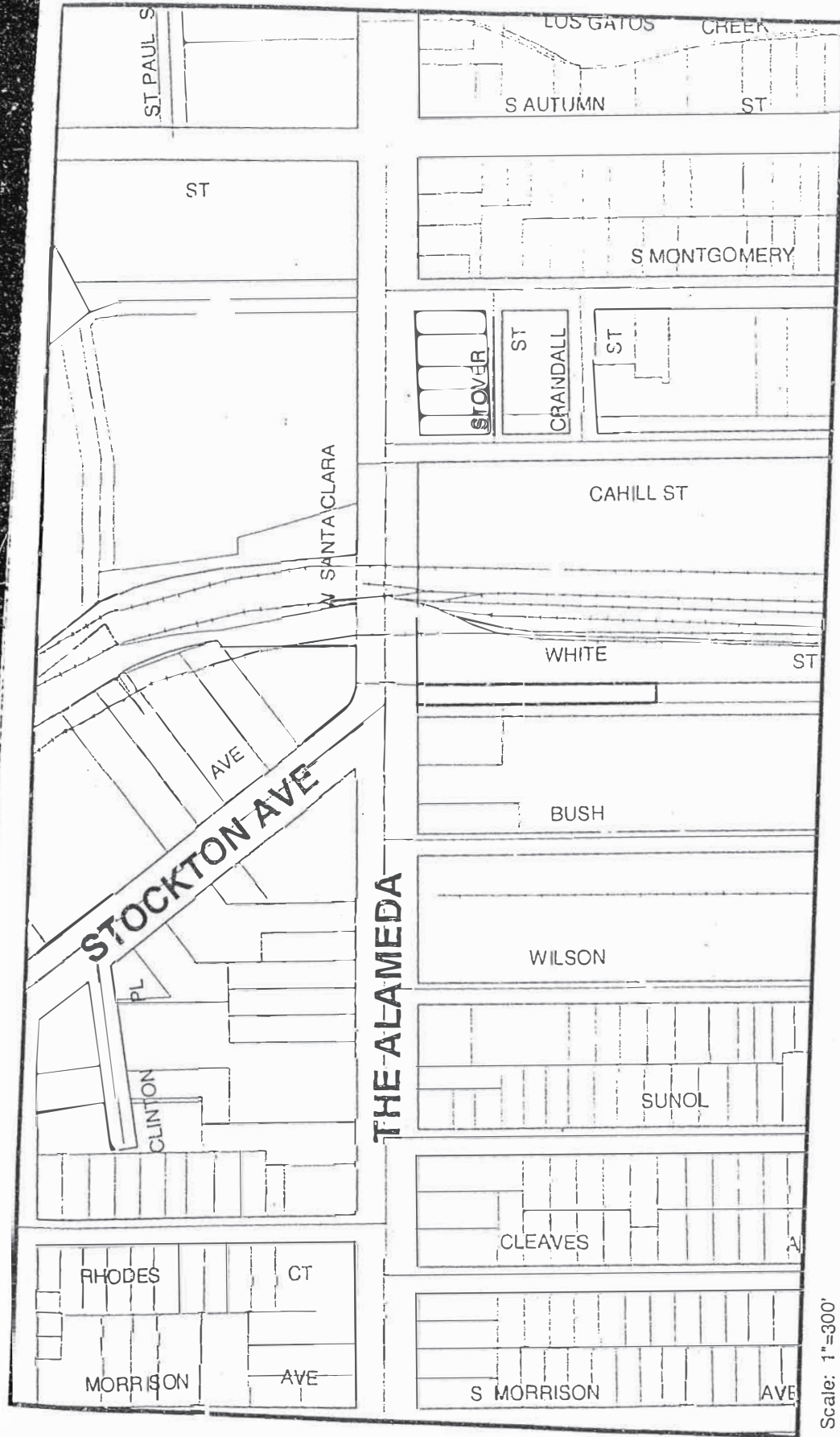
Planning Staff recommends approval of the vacation to the satisfaction of the Director of Public Works.


for James R. Derryberry, Director
Planning, Building and Code Enforcement

Attachment

c: Winnie Pagan, Public Works

Jim Pollart, 424 Kent Drive, Mountain View, CA 94043



File No: White Street Vacation

District: 06

Quad No: 83

Res. No. 70541



Memorandum

TO: Akoni Danielson
Planning and Building

FROM: Barry Ng
Public Works

SUBJECT: SEE BELOW

DATE: 01-31-01

SUBJECT: THE VACATION OF WHITE STREET

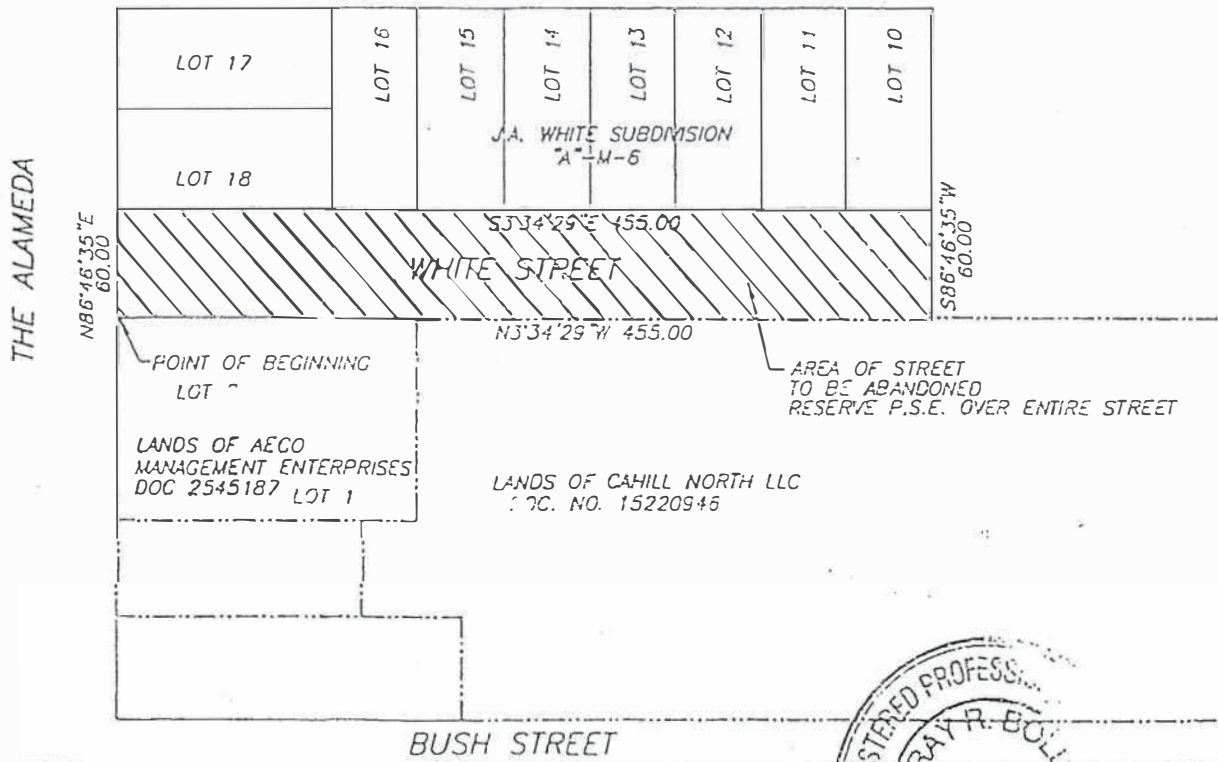
The Public Works Department is currently processing an application to vacate White Street. This vacation is a condition of approval for the zoning of Cahill Station Plant 51 (PDC98-03-027).

Public Works has reviewed the application and has determined that this area is no longer needed for public street purposes, however, public utilities remain within the proposed right-of-way to be vacated. All concerned utility company letters are currently being processed and will be forthcoming before the Planning Commission Hearing date. A public service easement will be reserved over the entire portion of the right-of-way proposed to be vacated.

Attached is a copy of the application. Please conduct the appropriate environmental review, review for General Plan conformance, and agendaize this item for a Planning Commission hearing at the earliest possible date. If you have any questions, please contact me or Gerry Fabella at extension 5161.

BARRY NG
Project Engineer
Development Services Division

BN:gf
3-13092
attachments
PCM(11/29/2000)



PLAT SHOWING
WHITE STREET VACATION

DATE: 1/15/01
SCALE: 1"=100'
DRAWN BY: B. BEAMAN
CHECKED BY: P. L.

Charles W. Davidson Co.
A CALIFORNIA CORPORATION
CONSULTING CIVIL ENGINEERS
255 W. JULIAN ST. #200, SAN JOSE,
CA 95128 (408) 295-9162

Res. No. 70521


ORIGINAL

Exhibit "A"

Description of White Street
Right of Way to be Vacated

Beginning at the most northwesterly corner of Lot 2 as described in that certain deed recorded in Document No. 2545187, Santa Clara County Records, said corner also being on the southerly line of The Alameda; thence along said southerly line North $86^{\circ}46'35''$ East 60.00 feet to the most northwesterly corner of Lot 18 as shown on said certain map of the J.A. White Subdivision recorded in Book "A" of Maps at Page 1, said corner being on the easterly line of White Street; thence along said easterly line of White Street South $3^{\circ}34'29''$ East 455.00 feet to the most southwesterly corner of Lot 10 as shown on said map of the J.A. White Subdivision; thence South $86^{\circ}46'35''$ West 60.00 feet to a point on the westerly line of White Street; thence along said westerly line of White Street North $3^{\circ}34'29''$ West 455.00 feet to the point of beginning.

Charles W. Davidson Co.
Ray R. Bold



R.C.E. 14218
License Exp. 3-31-01





**PRESERVATION ACTION
COUNCIL OF SAN JOSE**

History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105
www.preservation.org

December 8, 2020

VIA EMAIL (shannon.hill@sanjoseca.gov)

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

**RE: DOWNTOWN WEST (GOOGLE) DRAFT EIR
GP19-009, PDC19-039, PD19-029**

Dear Ms. Hill,

Thank you for the opportunity to provide comments on the Draft EIR for the Downtown West (Google) Project, a proposed 81-acre redevelopment located entirely within the surrounding Diridon Station Area, a 262-acre planning area (pending proposed boundary expansions) subject to the Diridon Station Area Plan (DSAP) adopted by City Council in 2014 and a proposed DSAP Amendment currently under review. The Downtown West (Google) Draft EIR identifies **nine** CEQA-eligible historic resources within the project site itself, and an additional **four** historic resources listed or eligible for listing in the City of San Jose's Historic Resources Inventory (HRI). Within 200 feet of the project site, the DEIR identifies an additional **27** CEQA-eligible historic resources and **10** HRI-listed or eligible historic resources. While HRI-listed properties are not considered historic resources under CEQA, both the 2014 DSAP EIR and the *Envision San José 2040 General Plan* require projects to explore all feasible alternatives to demolition of these HRI resources as a condition of development approval (see *Downtown West Draft EIR*, 3.3-60).

As proposed, the Downtown West (Google) Project is slated to demolish **five of the nine** CEQA-eligible historic resources and **all four** HRI-eligible historic resources within the project area, along with at least **30** additional buildings, some more than 100 years old, not found to qualify as historic resources. **The Preservation Action Council of San Jose (PAC*sj) strongly opposes the sheer scope of these proposed demolitions and finds the required preservation alternatives analysis included in the Draft EIR to be disappointingly cursory, fundamentally incomplete, and insufficient to justify the project's approval as currently proposed.**

PAC*sj BOARD

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Ben Leech

President
André Luthard

VP Advocacy
Mike Sodergren

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Patt Curia

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John Mitchell

Gratia Rankin

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Lynne Stephenson

Y.1


**PRESERVATION ACTION
COUNCIL OF SAN JOSE**

History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105
www.preservation.org

Before addressing specific deficiencies and suggesting additional analysis to align the Draft EIR with CEQA law and City policies, PAC*sj wishes to **reiterate our general support** for the Downtown West (Google) Project in its overall scope and project goals. We do not believe that the objectives of preservation and redevelopment are mutually exclusive. In fact, we commend the project's stated commitment to *"incorporate high-quality urban design, architecture, and open spaces with varied form, scale, and design character to enliven San José's downtown"* and to *"preserve and adapt landmark historic resources and assets where feasible to foster a place authentic to San José, and foster contemporary relations to San José's history"* (Project Applicant Objectives 2.14.7, DEIR p. 2-74). We strongly support those elements of the plan that propose the preservation and adaptive reuse of existing buildings on-site, and we strongly encourage the project applicant and City to pursue additional preservation and adaptive reuse strategies to better align the project with its stated goals and City policies.

Historic Resource Identification

With a few notable exceptions addressed below, PAC*sj generally concurs with the determinations of historic eligibility included in the Draft EIR and appreciates the thorough documentation undertaken by project consultant Architectural Resources Group included as DEIR Appendices E1-E3. However, we respectfully request a reassessment of the following properties by the City's Historic Preservation Officer and/or qualified consultant:

- **Kearney Pattern Works and Foundry (40-53 S. Autumn St.)**

PAC*sj strongly supports the EIR determination that this property meets Candidate City Landmark eligibility and qualifies for listing in the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR). We also support its planned relocation approximately 30 feet to the south to accommodate planned street improvements. However, we question the property's proposed period of significance (1922-1949) and the exclusion of certain character-defining features from the preservation and relocation plan, namely the c.1958 addition fronting S. Autumn Street and its prominent shed-roofed elevator tower. These features of the property are functionally and visually integral to the property and are well over 50 years old. Given the company's noted significance in the early years of Silicon Valley's technology economy (the firm manufactured custom components for IBM, Hewlett-Packard, NASA, and others), a strong case can be made for extending the property's period of significance beyond 1949 and incorporating the 1958 addition into the preservation plan.

Y.2


**PRESERVATION ACTION
COUNCIL OF SAN JOSE**

History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105
www.preservation.org

- **Patty's Inn (102 S. Montgomery Street)**

We concur that this property is a recognized HRI Structure of Merit but question its ineligibility for Candidate City Landmark status. While modest in architectural style, the building represents a significant vernacular building type (the Italianate false-front) that portrays “the environment of a group of people in an era of history characterized by a distinctive architectural style” (City Landmark Criteria 5) and embodies “distinguishing characteristics of an architectural type or specimen” (Criteria 6). In addition, its status as one of San José’s oldest surviving taverns and its remarkable continuity of use over more than a century represents significant “character, interest [and] value as part of the local... history, heritage [and] culture” (Criteria 1) and its “exemplification of the culture, economic, social, or historical heritage of the City of San José” (Criteria 4).

Y.3

- **Poor House Bistro (91 S. Autumn Street)**

We concur that this property is a recognized HRI Structure of Merit but question its ineligibility for Candidate City Landmark status. The building’s distinctive Neoclassical design elements portray “the environment of a group of people in an era of history characterized by a distinctive architectural style” (City Landmark Criteria 5) and embody “distinguishing characteristics of an architectural type or specimen” (Criteria 6).

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- **311-313 N. Montgomery**

This 1895 Folk Victorian wood-framed dwelling was determined ineligible for any historic designation, yet its date of construction, building type, architectural style, and close proximity to similar resources suggest that it be included as a contributing resource in the proposed Candidate City Landmark district encompassing the immediately adjacent and contiguous 559-567 W. Julian Street properties.

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- **75 S. Autumn Street, 691 W. San Carlos Street**

Both of these c.1915 workers’ cottages warrant consideration as potential Structures of Merit given their age, characteristic vernacular style, and relative integrity.

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Preservation Alternatives Analysis

CEQA regulations require that an EIR explore all reasonable, feasible project alternatives that would reduce or avoid negative impacts to historic resources, and that preservation alternatives which meet most of the stated project objectives must be given full consideration. The Draft EIR presents only a cursory discussion of preservation alternatives, analyzing only the complete preservation of all nine CEQA-recognized historic resources *in situ*. PAC*sj recognizes that this alternative, while meeting many of the stated project goals, has significant disadvantages for the overall success of the Downtown West Project. However, this “all-or-nothing” analysis does not sufficiently address a number of other feasible, logical, and mutually beneficial preservation strategies that would preserve at least some of these resources *in situ* and/or within the project site itself. Given

Y.7


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the sheer size of the proposed project and the number impacted properties, we do not expect the Draft EIR to address every conceivable preservation alternative. Rather, we suggest an alternative preservation strategy based on relative historic significance, practical feasibility, and alignment with project goals. We therefore respectfully request the following additional alternatives be incorporated into the EIR analysis.

- **In-Situ Preservation of National Register-Eligible Resources**

Of the five CEQA-eligible historic resources currently proposed for demolition, only two—the Sunlite Baking Company (145 S. Montgomery Street) and Democracy Hall (580 Lorraine Avenue)—have been determined eligible for listing in the National Register of Historic Places. These properties therefore merit additional analysis. Because the Draft EIR contains very limited information about the buildings proposed to replace these structures—in fact, the EIR acknowledges that these new buildings have yet to even be designed—it is grossly premature to determine that the preservation and incorporation of these historic resources into the new development is infeasible.

- **Sunlite Baking Company (145 S. Montgomery)**

Arguably the most architecturally and historically significant resource currently slated for demolition, the Sunlite Baking Company is a one-story Art Deco industrial building with a series of large one-story additions to its side and rear. In its limited analysis of preservation alternatives, the Draft EIR makes no distinction between the building's small historic core and its large later additions, and incorrectly assumes that its preservation would prohibit certain site circulation improvements (namely, the extension of Cahill Street south to Park Avenue) (*Draft EIR*, p. S-5). PAC*sj finds no compelling reason that the property's 1936 main block cannot be preserved and incorporated into new development on the larger Block F1 site, as is proposed for the Hellwig Ironworks Building immediately adjacent at 150 S. Montgomery.

- **Democracy Hall (580 Lorraine Avenue)**

The Draft EIR also fails to meaningfully explore the reasonable preservation alternatives for Project Block H1—currently envisioned as a mix of medium-rise and high-rise residential units—with the National Register-eligible Democracy Hall remaining *in situ* on a small portion of the site. Claims that its preservation would significantly reduce the site's development potential are not substantiated by any meaningful analysis.

- **On-Site Relocation Analysis**

PAC*sj strongly encourages the project applicant and the City to explore the feasibility of relocating historic resources within the project area itself—a reasonable preservation alternative totally unaddressed in the current Draft EIR. Though we commend the EIR for its inclusion of a relocation study in Appendix E3, we respectfully request that this analysis be expanded and supplemented in the following ways:

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cont.

Y.8


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- **Expand relocation analysis to include Structures of Merit**

While we acknowledge that Structures of Merit are not CEQA-eligible historic resources for the purposes of EIR review, we strongly encourage the City and project applicant to explore all feasible relocation options for those Structures of Merit that would otherwise be demolished by the proposed project, as mandated by the Diridon Station Area Plan EIR (pp. 229-30) and other established City policies. This analysis should include relocation to receiver sites within the project area itself.

- **Explore receiver site potential of Project Blocks D9-D13**

The current project proposes the retention and adaptive reuse of numerous existing, small-scale non-historic structures located along the east side of Autumn Street. While PAC*sj encourages the adaptive reuse of some of these structures, we also believe this area has significant potential to accommodate relocated historic resources (CEQA-eligible and/or Structures of Merit) that would otherwise be demolished by the project, and we encourage the prioritization of this zone as an on-site receiver site, even if this involves the strategic removal of some existing non-historic structures. This strategy would be fully compatible with the project's vision for this area as a cluster of small-scale, active-use buildings supporting local businesses and cultural amenities.

- **Modify applicable criteria for on-site and off-site receiver sites**

We question the conclusion that eligible receiver sites, either on-site or off-site, must necessarily maintain the cardinal orientation of the original site, especially in cases where the resource does not include obvious orientation-dependent features (north-facing skylights, etc). There is substantial precedent in San Jose for relocations that do not meet this ideal standard, which we believe is unnecessarily constrictive. We note that the primary goal in relocating a historic resource is **not**, as the relocation analysis contends, to maintain any certain designation eligibility, but simply to prevent its unnecessary demolition. In this scenario, certain loss of integrity is assumed.

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Impacts to Adjacent Historic Resources

- **Diridon Station**

While the Draft EIR is primarily focused on impacts to the 81-acre project area itself, it rightly identifies a number of issues potentially impacting adjacent historic resources. First among these are the project's relationship to the adjacent Diridon Station complex, a designated City Landmark and National Register Historic District. On multiple occasions, PAC*sj has raised concerns that the Downtown West (Google) Project assumes the preservation of the historic depot building *in situ*, while other area plans call for its

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relocation or even demolition. Coordination between the Google project, the DSAP planning process, and the Diridon Integrated Station Concept Plan is absolutely essential, and all concerned parties should make every conceivable effort to proactively anticipate potential conflicts that could lead to the station's demolition.

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○ **160 N. Montgomery Street**

While currently outside but immediately adjacent to the project area, the c.1900 Victorian residence at 160 N. Montgomery Street is currently owned by Google. PAC*sj questions why this parcel was not included within the defined project area, and we request that any other Google-owned parcels adjacent to or near the project be identified. We are extremely troubled by the proposed relocation of this property (see *Downtown West Design Standards and Guidelines*, p. 226) for the sole purpose of avoiding adjacency requirements across the street. Not only is this property a recognized Candidate City Landmark, but would contribute to a potential Candidate City Landmark District bounded by Julian, Autumn, St. John, and Montgomery, as identified in the DSAP EIR. This entire area should be reassessed for district eligibility as part of the current Draft EIR analysis.

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○ **Julian Street Inn (546 W. Julian Street) and Recent Past Resources**

The Julian Street Inn (1990) is a highly significant architectural and cultural resource designed by notable architect Christopher Alexander. Though less than 45 years old and therefore not included in the EIR analysis of potential adjacent historic resources, the building is likely eligible as a Candidate City Landmark (which has no age requirement). Given the anticipated thirty-year buildout of the proposed Downtown West (Google) Project, other on-site and adjacent resources should be periodically reassessed for historic significance as they approach and exceed the EIR's 45-year age guideline, including but not limited to 595 Park Avenue (architect and construction date unknown).

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Proposed Mitigation Scope

Finally, PAC*sj finds the project's limited mitigation measures (CU-1 through CU-8) to be grossly out of proportion to the project's proposed adverse impacts to on-site historic resources and cumulative impacts to historic resources in the surrounding greater downtown area, and we encourage a far more comprehensive and robust mitigation strategy commensurate with the magnitude of the project itself. At a minimum, this mitigation strategy should include the following:

- A substantial financial commitment on the part of the project applicant to support the relocation and rehabilitation of impacted historic resources and Structures of Merit, including receiver site property acquisition. The project currently proposes contributions equal only to the cost of demolition, which in most cases would be inadequate to support the successful relocation and rehabilitation of an impacted property.

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- A substantial financial commitment on the part of the project applicant to support additional historic resource surveys and other proactive planning efforts in the surrounding Diridon Station Area, which will undoubtedly be subject to increased development pressure as a direct result of the Downtown West project.
- Required documentation of all impacted CEQA-eligible historic resources and Structures of Merit should include both interior and exterior documentation. Industrial resources should be documented to the standards of the Historic American Engineering Record.
- Required commemoration and interpretation should be informed and guided by a robust community engagement process and a multi-party stakeholders group.

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We thank you for the opportunity to provide these comments and look forward to their incorporation into the Final EIR.

Sincerely,

Ben Leech
Executive Director
Preservation Action Council of San Jose



December 8, 2020

Via Electronic Mail: shannon.hill@sanjoseca.gov

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

RE: Sharks Sports & Entertainment LLC Comments Regarding Google's Downtown West Mixed-Use Plan Draft Environmental Impact Report
File Nos.: GP19-009, PDC19-039, and PD19-029; SCH #2019080493

Dear Ms. Hill:

Sharks Sports & Entertainment LLC (SSE) submits the following comment letter regarding the Draft Environmental Impact Report, dated October 2020 (DEIR) for the **Downtown West Mixed-Use Plan** (the project). SSE supports the redevelopment of the Diridon Station area, consistent with the objective of the Diridon Station Area Plan (DSAP) to *"ensure the continued vitality of the San Jose Arena, recognizing that the San Jose Arena is a major anchor for both Downtown San Jose and the Diridon Station area, and that sufficient parking and efficient access for San Jose Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the San Jose Arena's on-going success."*

Our review indicates that the DEIR does not contain necessary project description elements, sufficient evaluation of certain significant impacts, and identification of adequate mitigation measures to meet the requirements of the California Environmental Quality Act (CEQA). Thus, the DEIR fails to provide the City Council with the information necessary to make an informed decision regarding the project, which must consider the potential negative effects of the project on the Arena. It is our sincere hope that by drawing attention to these issues now, the DEIR can be revised to provide complete, accurate, and realistic information to the City Council, as well as to the general public, so that the project will be modified and mitigated as needed to protect the Arena.

In the "Side Letter Regarding Future Discussions" (AMA Side Letter) signed concurrently with the amended and restated Arena Management Agreement on August 15, 2018 (attached as **EXHIBIT A**), the City and SSE agreed to the following mutual intention: "We believe that with

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proper planning, the Diridon Station area can support robust corporate development, a multi-modal transportation system, and a successful world-class sports and entertainment arena. However, the plan must also address critical needs of the SAP Center regarding transportation and parking.”

OVERVIEW

SSE is the parent company of San Jose Arena Management, LLC, which manages the SAP Center (Arena) – an 18,000-seat regional multipurpose event center located adjacent to the planned Diridon Station – pursuant to an Arena Management Agreement (AMA) executed with the City on August 15, 2018. The AMA formalizes the City’s long-standing obligation to work closely with SSE on all development projects near the Arena to ensure that appropriate measures are taken to protect Arena operations. (See Sections 21 and 23 of AMA attached as EXHIBIT B)

With over 170 events in a typical year, the Arena is one of San Jose’s most consistent and impactful economic catalysts, and a critical asset to the City’s economic success. The SAP Center operations support over 5,000 FTE jobs, generate more than \$250 million in annual economic impact, and provide millions of dollars in direct general fund revenue for the City.

As a regional event center, the Arena usually attracts more than 1.5 million people every year to San Jose’s downtown area, drawing a diverse crowd from throughout Santa Clara, San Mateo, Santa Cruz, and Alameda counties and beyond. One of the reasons the Arena has been successful is because of the excellent access to this location by major highways and surface streets with adequate capacity. The geographic region from which the Arena draws is primarily suburban, and therefore mass transit is not a viable option for the majority of the Arena’s guests. Although in some areas transit opportunities may be improving for daily commuters, transit generally does not work well for Arena guests who attend evening or weekend events on an occasional basis.

Because attendance at events is discretionary for Arena guests, if they cannot travel to and from the Arena in a reasonably convenient and efficient way, they may choose not to attend at all. Accordingly, the Arena’s success depends on a large supply of convenient parking nearby, as well as highly functional and efficient vehicle ingress and egress. This important fact has been acknowledged by the City since the construction of the Arena and the inception of the original AMA, and was recently reaffirmed by the City in the 2014 DSAP and the 2018 AMA.

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Past predictions of mass transit use for Arena events have been grossly overestimated. After approximately 20 years of light rail operation, the use of light rail to attend Arena events is trivial – typically averaging less than 2% of patrons for regular Sharks games, and even less than that for special events. Similarly, travel by Caltrain for Arena events is minimal – less than 5% of patrons for regular Sharks games, and less than that for special events.

There is no evidence in the record that this situation has dramatically changed (or will change). The 2040 San Jose General Plan, supported by Traffic Demand Modeling by Hexagon Transportation Consultants Inc., predicts that 20 years from now 60% of all trips will still be by automobile. The 2019 General Plan Annual Performance Review indicates that the drive alone mode currently is used by over 75% of San Jose commuters – down only a few percentage points in the last decade. The fact is that automobiles are the primary means of transportation in the South Bay, and will be for the foreseeable future, notwithstanding “goals” and “predictions” put forth in the DEIR and the related draft amendments to the DSAP released on October 30, 2020 (after the Downtown West DEIR was circulated on October 7, 2020).

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According to the DSAP amendments, about 85% of total trips within the Diridon Station area (trips that start and/or end in the Diridon Station area) currently are made by automobile – 60% of which are in single-occupancy vehicles and the remaining 25% of which are in carpools and/or shared ride services. The goal stated in the DSAP amendments would flip this around by 2040, such that 75% of the trips within the DSAP area will be via transit, carpooling, walking, or biking. However, there is no study explaining how this goal was selected, nor any evidence that it is likely to be achieved.¹ In addition, the 75% figure appears to be inflated, by apparently counting each transfer from one transit system to another as a separate trip.

Similarly, in this DEIR, all of the presentations in the traffic, noise, air quality, and greenhouse gas sections have underestimated impacts by assuming, without any supporting data or scientific analysis, that 75% of all trips in the area will be via transit or on foot. There are no facts in the record or studies to confirm this to be the case. This assumption appears to be based on the premise that by severely limiting the availability of parking, the vast majority of

¹ Even if the share of drive alone trips were to dramatically drop in the next 20 years from the current 60% (as reported in the DSAP amendments) to the targeted 25%, the massive increase in density would mean that the total automobile trips in the Diridon Station area will still increase dramatically.

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people will use mass transit as their primary means of travel, because they will have no other choice. However, such premise is unfounded, as we describe further under Section 3 below. Furthermore, as stated above, in the case of Arena guests whose attendance at events is optional, they may make the choice to simply not attend – the consequences of which will be disastrous for SAP Center.

The conclusions in the DEIR are contradicted by the analysis of SSE's traffic engineers Krupka Consulting and Wenck Associates and SSE's parking consultant, Watry Design. (**EXHIBITS C, D, and E**) These experts have undertaken professional analyses of the relevant transportation, circulation, and parking impacts in the Diridon Station area. The memos attached as exhibits hereto are incorporated by this reference into this comment letter. We ask that responses be provided for each of these memos, as well as our other attached exhibits, as they were prepared to address issues with the DEIR that are critical to SSE.

Amazingly, the traffic analyses for the DEIR do not identify any traffic impacts. A VMT "tool" is somehow utilized to determine that a project of 7.3 million square feet of office and 5,900 residential units in an area with an admittedly "small street grid network" would have less than significant impacts. That makes no logical sense. In addition, the Local Transportation Analysis (LTA) that was prepared had NO project plan, and therefore local impacts in the LTA are generalized and described at a program-level. The actual impacts from the standpoint of circulation, driveway operations, or site access have not been described, even though that would normally be done for a project level EIR in San Jose. To conclude less than significant traffic impacts using an unexplained and inappropriate tool, coupled with a lack of any specific information about local impacts, does not comply with CEQA.

Google has indicated the project is designed to support approximately 30,000 employees. To reduce car trips, Google has proposed an aggressive TDM program with the goal of reaching a mode shift whereby only 25% of employees (7,500) would drive alone to work. However, reaching such an ambitious mode shift goal is highly speculative, as shown by the disappointing results of TDM programs for other campus projects. For example, see the article attached as **EXHIBIT K**, regarding commuter mode share at North Bayshore in Mountain View, where Google's global headquarters are located. As described in the article, mode shift goals have fallen significantly short of reality, despite the abundance of biking and transit options.

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Even if somehow the best-case mode shift scenario is achieved, approximately 7,500 employees will be driving alone in vehicles and will need to park somewhere. However, the project proposes to provide only 4,800 parking spaces for the office development. The DEIR fails to provide an explicit disclosure of this shortfall, and provides no mitigation for this significant impact.

In actuality, the parking shortfall that can be discerned from the DEIR is woefully smaller than a realistic analysis would reveal. The combined projects of Downtown West and DSAP amendments together would increase the area population twentyfold and increase daily car trips dramatically (from 19,200 to 136,600) over existing conditions while reducing street lane capacity on the two primary north-south and east west corridors by 50%. It defies logic to assert that traffic congestion will not worsen significantly under this growth scenario or that operating conditions for the Arena will not be harmed.

The DEIR fails to cite any industry-standard parking analysis for the DSAP and Downtown areas. VTA and the High Speed Rail Authority incorrectly based their parking assumptions on a mere survey of existing and future parking in the area without addressing demand, and therefore could not legitimately identify how many spaces would be available to meet the applicable parking demand. It is baffling that there continues to be no scientific study of parking impacts in the DSAP area, including the project site. Many documents, including the recently released DSAP amendments, continue to promise the preparation of a parking study or assessment that has yet to materialize. Meanwhile, the project is planning to provide significantly less parking than is typically required at even the lowest levels specified under the Municipal Code, and if that should prove problematic (which is bound to happen), then as a back-up plan the project plans to utilize unidentified off-site parking in unspecified amounts or locations. Hypothetical undisclosed possible mitigation does not meet the CEQA requirements for disclosure and mitigation.

We continue to remind the City that an industry standard, scientific parking assessment, as has been promised for years (and as is required under Section 21 of the AMA), must be prepared for the Diridon Station area. To our knowledge, there exists no fact-based assessment that can support a finding that adequate available parking will be provided to replace parking lost due to transit and development projects, to meet the parking demands created by those projects, to satisfy the City's obligations under the AMA, or to ensure safe and convenient access for

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workers, residents, patrons of SAP Center, and transit users at Diridon Station. There is no information in the DEIR regarding possible locations for off-site parking, nor is there a description of what a system for shared parking might entail.

For the foreseeable future, access to the Diridon Station area and the Arena will remain automobile dependent, but the DEIR ignores that difficult truth. To mitigate adverse environmental effects, adequate parking must be included in the project under any reasonable planning horizon. There is no evidence that a “minimal parking” plan will work as the applicant and City planners hope and pray it will. Optimism is not a substitute for realistic analysis.

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SSE’S INVOLVEMENT IN PLANNING REVIEW

SSE has been actively engaged in nearly every environmental or planning process affecting the Diridon Station area over the last twenty-five years, including the Diridon Station Area Plan (DSAP), the BART Phase II Extension to San Jose, the Caltrain Electrification project, the High Speed Rail to San Jose project, and the more recent Diridon Integrated Station Concept (DISC) plan. SSE has participated in scoping and identifying issues related to travel access, increased traffic volumes, parking supply and demand, pedestrian safety, and construction impacts, by submitting multiple comment letters related to the projects.

SSE has been incredibly concerned about all aspects of development in and around the SAP Center, in large part because the potential impacts from such development could negatively affect the successful operation of the Arena, both during construction and permanently. The City is well aware of these concerns, and in the AMA executed on August 15, 2018, the City reaffirmed its obligation to work closely with SSE on all development projects near the Arena to ensure that appropriate measures would be taken to protect Arena operations.

For example, with respect to parking, Section 21.1.1 of the AMA provides that “City shall coordinate with Manager regarding significant land use and development decisions within the 1/2 Mile Radius, to ensure that the required number of Available Parking Spaces is maintained.” That section further provides that “projects would be required to analyze and identify the projected parking demand, demand management strategies, and the parking supply to be provided by the project. The analysis would identify the impacts of the project on the existing parking supply within the Diridon Station Area and suggest ways to mitigate the impact if it is

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deemed significant. The analysis would also include an assessment of spaces impacted or needed during construction.”

Section 21.2.3 of the AMA provides that the City must coordinate with SSE “regarding any material changes to the design, configuration or operation of the major streets and intersections in the vicinity of the Arena to the extent that they may have a direct impact on the safe and efficient flow of vehicular, bicycle, and pedestrian traffic to and from the Arena, including Autumn Street and the intersection at Autumn Street and Park Avenue.” It goes on to state that the parties “shall work together in good faith with the goal of achieving the best overall function of the streets and intersections for the benefit of both the Arena and all other development in the Diridon Area.”

The City’s acknowledgement of SSE’s critical role and interest in development around SAP Center, and its commitment to work with SSE to ensure that new development will not threaten the viability of the Arena, were key reasons for SSE’s willingness to extend the term of the AMA. Unfortunately, although the City and SSE have had numerous meetings and discussions about many of the issues described in this comment letter, the City has not yet adequately addressed SSE’s concerns. We hope that by again presenting our concerns in this comment letter, the City will more fully understand SSE’s position and rationale and will be willing to work with SSE to ensure that the project will not impair the success of the Arena.

As stated in the AMA Side Letter:

We understand that the issues surrounding the development of the Diridon Station Area are complex, and the situation is constantly evolving. It will likely be many years before the parking and transportation “ecosystem” in the Diridon Station Area is stabilized.

Until such stabilization occurs, we will need to meet and confer regularly and often to discuss the ongoing public and private development projects in the Diridon Station Area, to try to find ways to facilitate the transformation of the Diridon Station Area into a master-planned transit-oriented community while meeting the access and parking needs of the SAP Center.

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DRAFT EIR REVIEW

Our comments on the DEIR are generally organized under the following topics, which follow in the order of the Sections referenced below:

- Section 1: The lack of a complete project description and the deferral of project details and approvals until future development is proposed, rendering the DEIR a “program-level” document and not a “project-specific” document
- Section 2: The lack of replacement parking for SAP Center
- Section 3: The lack of a real, industry standard parking study, as has been promised by the City for years and the unsupported and incorrect assumption that there is consistently available, convenient parking in other locations of Downtown that can provide parking for Arena patrons on event nights
- Section 4: The inclusion of a “minimal parking” project objective that is in conflict with the AMA and DSAP, and will damage the existing business community
- Section 5: The lack of an alternative that respects the legally binding Arena Management Agreement (AMA) between the City and SSE related to parking lots A, B, and C and ignores the consequences of adequate parking not being provided
- Section 6: Transportation document review
- Section 7: The lack of specific mitigation measures with performance standards, as required by CEQA
- Section 8: The lack of information provided related to impacts during construction
- Section 9: The economic consequences to SAP Center – and Downtown

SECTION 1. LACK OF A COMPLETE, STABLE PROJECT DESCRIPTION

The DEIR violates CEQA because of its elastic and incomplete project description. The project description in *Chapter 2 Project Description* is not well defined and is not stable or finite as required by CEQA. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185. (An accurate, stable, finite project description is an essential element of an informative and legally sufficient EIR.) As explained below, given the information available at this time, the only appropriate CEQA process is a program EIR.

The project is very complex and the largest single development ever proposed within Downtown San Jose. It is the construction of new 81-acre, 65-building “city within a city” on

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lands that were once or continue to be developed. The project includes roughly 6,000 residential units, 7.3 million square feet of office, approximately 700,000 square feet of miscellaneous uses including retail, community space, an event center, and warehousing, up to 1,100 units of public and private hotel uses, 15 acres of parks/plazas, independent utilities, and new and vacated streets. Virtually each one of these project elements would on their own require a detailed CEQA analysis. The fundamental flaw with the DEIR is that instead of using the CEQA process appropriate for a project of this magnitude, which is the preparation of a program EIR, the City is allowing the applicant to bypass vital project-specific environmental review.

There appears to be no fewer than 25 discretionary actions for the project, including but not limited to a Development Agreement with Infrastructure Plan, General Plan amendments, DSAP Amendment, Downtown Strategy 2040 amendment, Municipal Code amendments, a Planned Development (PD) rezoning with a General Development Plan, and a PD permit with design standards and guidelines. The City is required by CEQA to provide enough project description information to allow for an accurate evaluation and review of environmental impacts needed for the discretionary actions that rely on this EIR (CEQA Guidelines Section 15124).

Section 15124 of the CEQA Guidelines requires the following: “(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic.” None of the maps included in the DEIR can be considered detailed enough for an accurate evaluation of environmental impacts, let alone for a “project-level” environmental review document. The inability to accurately state the approvals for the project is another indication that this is an inappropriate use for a project EIR.

Section 2.1.7 *Summary of Project Elements* gives the public the first of indication that the project does not have a finite complete project description, which deficiency pervades the project description. The section states the following:

The project would also include the adoption of the Downtown West Design Standards and Guidelines, an enforceable series of design-focused standards, along with advisory guidelines, that would govern development on the project site and would be approved as part of the Planned Development Permit and Planned Development Zoning District (refer to Section 2.12, *Downtown West Design Standards and Guidelines*, and Appendix

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M). Finally, the project may include further land assembly by the project applicant.
 (Emphasis added)

Sections 2.3 *Development Program* and 2.12 *Downtown West Design Standards and Guidelines* demonstrate the very troubling and inadequate premise described throughout the project description that the project is defined by “site-specific Downtown West Design Standards and Guidelines that would “govern development on the project site”. Section 2.3 states:

These enforceable standards and advisory guidelines, provided in draft form Appendix M, would be considered for approval as part of the City Council’s deliberations on the Planned Development Permit. The site-specific Downtown West Design Standards and Guidelines would specify which of the City’s existing Downtown Design Guidelines and Complete Streets Design Standards and Guidelines continue to apply to the project and which are superseded or modified by the project’s site-specific Downtown West Design Standards and Guidelines (refer to Section 2.12, *Downtown West Design Standards and Guidelines*, for additional information). (Emphasis added)

There is no way the public or the stakeholders can divine what is being proposed when the standards are still in draft form and it is unknown which would apply. This is not a project description as required by CEQA.

Section 2.12 goes on to state:

Because they would be adopted as part of permit approval, the Downtown West Design Standards and Guidelines would impose mandatory standards—enforceable by the City—on the project’s design and implementation with respect to land use, open space, building design, public rights-of-way, sustainability, and lighting and signage. In this way, the Downtown West Design Standards and Guidelines would ensure compliance with the City-adopted program for the project site. In addition to the mandatory standards, the Downtown West Design Standards and Guidelines would contain subjective guidelines that would encourage or discourage certain design treatments and approaches but would not be mandatory. (Emphasis added)

This is not a finite, complete, and stable project description as defined and required by CEQA. It is the project description for a program-level project or concept plan where future subsequent

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environmental review will be completed when project details are known. It is not a project-specific description. In fact, design standards and guidelines that only provide illustrative renderings without specific development information such as the siting, massing, orientation, appearances, and access locations of up to 65 buildings at various heights on an 81-acre site, makes it impossible for the reader to imagine what the project might entail.

Under CEQA, which requires meaningful disclosure to the public, a project description cannot simply rely on the reader's imagination to compile such vital information. Project descriptions for EIRs approved in San Jose typically have extensive, detailed renderings and site plans showing the public the project. Further, rezoning applications for very detailed Planned Development (PD) Permits must be on-file with the City prior to circulation of any environmental documents.

A stable and finite project description cannot depend on concepts such as "Design Standards and Guidelines," especially those that could be modified or superseded, as a means to determine environmental impacts. The project as described in the DEIR could result in several different development scenarios that future developers may or may not follow for development of the site. These concepts, rather than actual development details – none of which may ultimately be constructed – do not meet the requirement of a stable or finite proposed project. The result is that it is impossible to analyze the environmental impacts. The project description can only be considered to be an ambiguous "envelope" of development, and a "blurred view of the project", in violation of CEQA. *County of Inyo V. City of Los Angeles* (1977) 71 Cal. App 3d 185

For example, page 187 of the Downtown West Design Standards and Guidelines (DWDSG) (Appendix M of the DEIR), includes the following confusing statement:

Relevant DDG standards and guidelines that apply to Downtown West pedestrian level design include DDG Sections 5.3.1.a, 5.3.1.b, and 5.3.2 unless superseded by the DWDSG.

This seems to state that the Downtown Design Guidelines (DDG) are the governing standards and guidelines rather than the DWDSG. Are decision makers and the public expected to comb through the DDGs and figure out which, and the extent to which, certain standards and guidelines are superseded in order to extract a project description? This situation results in

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more questions than answers in terms of a project description for an 81-acre development project of this magnitude that is intended to include General Plan amendments, a PD rezoning, a PD permit, a project-specific General Development Plan and the acquisition of easements from privately and publicly owned parcels.

Figure 2-3 of the DEIR includes general land uses within the project site, but includes no elevations of proposed buildings as the City usually requires for such projects. Particulars on massing, heights, building materials, orientation, access, etc. must be imagined by reading a technical appendix and cobbling together what the proposed buildings might look like, building setbacks, their street orientations, general heights, massing, and all other project elements are left to the imagination. We must then determine whether the applicable design guidelines and standards are those that currently exist or are those that are proposed to be modified. A hopeless task.

The majority of the decision makers and public are not urban planners and cannot be expected to interpret such details on their own. By not requiring this information in a graphic form block by block, we are all left to imagine the overall look, feel, interaction, and circulation, and to guess what the impacts to surrounding neighborhoods and structures will be, both in the long-term and during construction.

What exactly does “enforceable” mean in the context of this DEIR? Without a detailed General Development Plan, which is required for all PD Permits in the City of San Jose, neither the public nor the decision makers have any assurances that exact project details and required CEQA mitigation will be known or implemented. So, it is not clear what will be enforced.

California courts have rejected arguments that allow a lead agency to assume that CEQA requirements are met when the project description in an EIR includes only a conceptual impacts envelope, even where the worst-case scenario of environmental effects have been assumed, analyzed, and mitigated. In fact, CEQA’s purposes go beyond an evaluation of theoretical environmental impacts. Project descriptions have been found to fail to meet the requirements of CEQA Guidelines Section 15124 (regarding project descriptions) where they omit technical construction characteristics such as site plans, cross-sections, building elevations, or illustrative massing to show what buildings would be built, where they would be sited, what they would look like, and how many there would be.

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The only graphics of what the very large, complex project may look like (described in the DEIR as “illustrative renderings” and “examples”) are found on Figures 2-11 through 2-18. These figures are described in Section 2.12.7 *Renderings of the Proposed Project* as follows:

To provide illustrative examples of the scale of the proposed development, the project applicant has prepared a series of before-and-after renderings of the proposed project, some at a sketch level and some photography-based, that provide examples of how the project form and massing could be realized. These images are presented as Figures 2-11 through 2-17 at the end of this chapter, following page 2-8180 (sic). These figures are intended to illustrate the general scale of development, but not to depict actual proposed building forms. Individual building designs would be consistent with the Downtown West Design Standards and Guidelines and would be presented for review and approval by the City before the issuance of building permits. At that time, building-specific renderings would be available for review by City staff and the public, providing greater detail regarding the appearance and materials of each proposed structure. (Emphasis added)

By admission, these “illustrative examples” (not even true depictions) do not show actual proposed buildings. They certainly do not give an adequate amount of detail regarding what the buildings will actually look like, siting, access, heights, or how they will relate to each other or existing surrounding development. What are the shade and shadow impacts to existing and future public parks? Will the proposed buildings in proximity to a natural waterway be constructed of reflective materials that can be detrimental in terms of bird safety, night sky, and heat island effects? Because this vital information is not included in the project description, an assessment of potential environmental impacts is not possible.

We learn later in the DEIR that the document does not contain a section on aesthetic impacts. While it may be argued that Senate Bill 743 dictates that an aesthetic impact can no longer be considered under CEQA in determining the proposed project’s physical environmental impacts within a transit priority area (DEIR page 3-2), that does not mean that a DEIR is not required to have an adequate project description consistent with CEQA. Quite the opposite is true. Without an aesthetics section to disclose the particular design elements of a project, the public is left in the dark.

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Section 2.3.8, *Central Area of the Project Site* of the DEIR includes the following:

In addition to the event centers largely reserved for applicant use, the project would include one or more publicly accessible, indoor live entertainment venues in the project's central area. The venue(s) would likely be on Blocks D4, D5, and/or D6. The venue(s), which could include live music, would operate 5 to 6 days per week, with anticipated daytime events (11 a.m.–3 p.m.) held Wednesday through Sunday and nighttime events (7–11 p.m.) held Thursday through Saturday. There could be up to about 15 events per week. The venue(s) would total, in aggregate, up to 12,000 gsf, with a maximum (aggregate) capacity of approximately 500. This 12,000 square feet of floor area would be encompassed within the project's previously described total of 500,000 gsf of active use space. (Emphasis added)

Not enough information is provided in the above description of “indoor live entertainment venue(s)”. Blocks D4, D5, and D6 are located directly south of SAP Center west of S. Autumn Street, and evening events currently occur at SAP Center on Thursdays through Saturdays. How many venues are proposed? How many events will occur Thursday through Saturday? What are the details on vehicle and pedestrian circulation during multiple events? How will traffic and parking conflicts, that will undoubtedly occur, be dealt with? These are required items that a DEIR must fully disclose and analyze.

The project is inappropriately relying on draft documents. Page 2-3 of the Diridon Station Area Plan (DSAP) Amendment section of the DEIR states that the City initiated amendments to the DSAP in 2019 to account for changes in planning assumptions related to the fact that a ballpark is no longer considered in the DSAP and to propose new height limits. The proposed DSAP amendments are intended to adapt the DSAP to updated circumstances and to “support and facilitate DSAP implementation relative to both private development and public investment.” These “initiated” amendments to the DSAP are only in draft form, were released three weeks after the Downtown West DEIR, and environmental review of the DSAP amendments has not been completed.

The DEIR section related to the draft DSAP amendments on pages 2-3 and 2-4 goes on to state that “Expected changes include reallocating development capacity from other General Plan–designated Growth Areas elsewhere in San José and updating the plan’s existing sections

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pertaining to land use, design, transportation, and public spaces. The DSAP boundary is anticipated to be expanded eastward to the Guadalupe River between West Julian Street and to encompass Los Gatos Creek between West Santa Clara Street and north of Park Avenue.” These are not minor changes.

In addition, the City has released (October 23, 2020) “CEQA Findings” for an amendment to the San José Downtown Strategy 2040 for the amendments to the DSAP which are required to allow additional development plus the Downtown West project.² (**EXHIBIT F, Circlepoint Memorandum**) Apparently, a CEQA Addendum to the Downtown Strategy 2040 FEIR has been prepared since release of the Downtown West DEIR, but not released for public review. The combined additional allowed development of these two required actions (DSAP and Downtown Strategy amendments) is over 14 million square feet of office and approximately 10,000 residential units!

What happens if these two amendments, neither of which have undergone environmental review, are not approved? The EIRs prepared for the DSAP (2014) and Downtown Strategy 2040 (2018) were both project- and program-level. Without adequate information on how the project can move forward in advance of the environmental review and approval of these foundational amendments, we can only come to the conclusion that two violations of CEQA are occurring. First, that the baseline upon which environmental review is based is inaccurate because the Downtown Strategy 2040 has not yet been approved, and second, that the ultimate project is being broken down into smaller pieces segmenting the project in a way that diminishes the totality of the environmental impacts. This is a violation of CEQA.

A. Baseline

Section 15125 of the CEQA Guidelines Section 15125 provides the following guidance for establishing the baseline:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or

² <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/area-plans/diridon-station-area-plan>

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if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

As the Guidelines section makes clear, ordinarily the appropriate baseline will be the actual environmental conditions existing at the time of CEQA analysis (typically when the Notice of Preparation [NOP] is published). Subsequent amendments to the Downtown Strategy 2040 (without environmental review) have been released by the City (**EXHIBIT F, Circlepoint**) since the release of the Downtown West DEIR.

As stated in the attached CEQA Portal Paper (**EXHIBIT G**) prepared by the Association of Environmental Professionals (AEP), establishing an appropriate baseline is essential, because an inappropriately defined baseline can cause the impacts of the project to be under-reported. In fact, a considerable number of CEQA documents have been challenged over the choice of a baseline for a given project, and many CEQA documents have been invalidated for the use of an inappropriate baseline.

The greater the amount of development included in the baseline condition, the smaller the difference is between the existing condition and the project condition (and therefore impacts are reduced), especially in the case of traffic, air quality, greenhouse gas emissions, and noise. The dramatic increase in residential and office development Downtown appears to have been included in the baseline to inflate the existing condition such that the difference between the existing condition and the project condition was under-disclosed.

Had the City already approved the necessary Downtown Strategy 2040 amendments in advance of considering the proposed project, we could have some level of comfort that this was not the case. To have released these proposed amendments including the DSAP amendments AFTER the release of the DEIR is highly irregular and potentially misleading. The fact that the project description is so flawed that this vital information cannot be determined, renders the subsequent analysis suspect, leading to the conclusion that impacts reported in the DEIR have been diminished as a result.

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B. Segmentation

As stated above the amendments the DSAP and the General plan are actually integral to the Downtown West project. Breaking apart the project and placing some of it in these proposed amendments is segmenting the actual project. Segmenting the Downtown West project hinders developing a comprehensive mitigation strategy. To correct this, the “whole of the action” must be evaluated. The DEIR must include all components and approvals required for the proposed project. Section 15378 of the CEQA Guidelines provides the following definition of a project:

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvement to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contacts, grants subsidies, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

CEQA case law has established the following general principles on project segmentation for different project types. **EXHIBIT H (AEP, Project Description)**, describes these principles and why a complete project description is the foundation of sound environmental review. The portal paper cites multiple cases regarding segmentation pertinent to the proposed project:

- For a phased development project, even if details about future phases are not known, future phases must be included in the project description

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if they are a reasonably foreseeable consequence of the initial phase and will significantly change the initial project or its impacts. *Laurel Heights Improvement Association v Regents of University of California* (1988) 47 Cal. 3d 376.

- For a planning approval such as general plan amendment, the project description must include reasonably anticipated physical development that could occur in view of the approval. *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398.
- For a project requiring construction of offsite infrastructure (e.g., water and sewer lines), the offsite infrastructure must be included in the project description. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713.

The portal paper gives examples of CEQA violations that are similar to what we describe in this comment letter. For example, if a wastewater treatment plant is proposed, without knowing what treatment processes are proposed and the proposed capacity of the plant, an assessment of whether the operation of the plant would meet water quality standards for the waterway where discharges would be made cannot be assessed. When a project is phased, a specific schedule of the phases and detail as to what portions of the project will happen in each phase is required as well as temporary or permanent relocations required, if applicable. If this cannot be provided, subsequent environmental review is required.

Section 2.4.11, *Other Proposed Revisions to the Diridon Station Area Plan* explains that other amendments to the DSAP are also required. This fragmentation is not conducive to a finite, stable project description. These other revisions include updating the DSAP land use plan and changing the discussions of open space, street typologies, population and employment forecasts, parking, affordable housing and public art. These are significant revisions. The DSAP amendments and the Downtown West project are one project as they include many of the same properties and are interdependent, and therefore breaking them up into two different projects is segmentation under CEQA. The City has essentially admitted that they are inextricably tied together, by considering them and approving them all together as described on the City's webpage at <https://www.diridonsj.org/diridon-station-area-plan-google-project>. That page states:

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The DSAP amendment process will consider and incorporate Google's proposal. The City Council will consider approval of the City-initiated DSAP amendments, Google planning entitlements, and all associated environmental documents and legislative changes as part of a comprehensive planning process. The City aims to complete this process by mid-2021.

The 2014 DSAP project underwent extensive public involvement and reflects the desires of the community. Changes to that plan must therefore be approved and in place prior to approval of the proposed development that must conform to the plan. Not the other way around. The amendments to the DSAP are required for approval of the Downtown West project, yet details of the proposed (but not approved) DSAP amendments were not known at the time the Downtown West DEIR was circulated. Although the DSAP Amendments are now out in draft, it is impossible to know at this time what the final DSAP Amendments will be.

Page 2-4 includes another troubling statement:

With respect to the proposed project, this EIR assumes that project approvals would include Planning Commission and City Council consideration of project-specific General Plan and DSAP amendments. Accordingly, this EIR analyzes the environmental impacts of development under all project-specific General Plan and DSAP amendments.

How can this be true when the specific amendments were not known when the DEIR was released and cannot be found in the Downtown West DEIR? Again, the DEIR is described to include "project-level" environmental review. If the community is not enlightened as to what the amendments and other project details are now as the project is being proposed, then in reality the DEIR is programmatic and future environmental review is required for project-level review as specific projects are proposed.

Another example of the apparent segmentation of the project is that an Initial Study/Mitigated Negative Declaration (IS/MND) for the Fire Training Station and Emergency Operations Relocation Project (ER20-180) was released for public review on October 20, 2020 after release of the Downtown West DEIR. The current location of the fire training center is within the Downtown West and DSAP project boundaries; however, it is unclear how the relocation, which we assume will include the demolition of structures, will affect surrounding land uses within the

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DSAP and Downtown West areas. Are those impacts considered to be part of the Downtown West project or the relocation project? Decision makers and the public cannot be expected to chase down impacts through a variety of environmental documents.

Section 2.4.10 *Proposed Changes to the General Plan Growth Allocations by Area* describes that the project would require a General Plan amendment to “reallocate 5,575 housing units and 6,306,000 gsf of commercial/office uses from other General Plan growth areas outside of the Downtown to the Downtown.” The previously referenced “CEQA findings” document seems to state that development from other locations of the City is also required for the Downtown Strategy 2040 amendments.

Where in the City would this growth come from? This proposal could greatly affect other areas of the City, especially those Urban Villages slated for transit-oriented development along Bus Rapid Transit lines. This would be in direct conflict with the goals and policies of the Envision San José 2040 General Plan and compromise the future success of vital transit projects. As we know, a City’s transportation network must work on a system-wide basis. People must be able to conveniently travel throughout the City, not just within Downtown. If a lack of development outside of Downtown compromises the success of bus transit systems, suburban areas will falter. Traffic impacts of how the transfer of development from other parts of the City to the project site must be evaluated now in conjunction with the Downtown West project and not relegated to the future.

Section 2.4.12 *Zoning Districts* again states that the true project description is really “Downtown West Design Standards and Guidelines” (DWDSG). We are unaware of any other development proposal in the City (other than as part of an Urban Village or Specific Plan) that has allowed such a skeleton description for a project that includes General Plan amendments, area plan amendments (which are not yet approved), a PD rezoning, and PD permit.

The entitlements for the project more appropriately should have been processed similarly to that of an “Urban Village” or a “Specific Plan” rather than a PD Permit. As defined by the City’s Envision San José 2040 General Plan, Urban Villages are developed at a General Plan or “program-level” and the General Plan establishes an Urban Village Planning process. Major Strategy #5 to promotes the development of Urban Villages to shape the transformation of strategically identified and historically underutilized Growth Areas into higher-density, mixed-use, urban districts or “Urban Villages” which can accommodate employment and housing

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growth and reduce the environmental impacts of that growth by promoting transit use and walkability. This description is better suited for the proposed project, which does not meet the definition of the project-level PD Permit process.

We are concerned that the DWDSG which govern the development within the project boundaries are not truly enforceable. For example, page 196 of the DWDSG relating podium development design standards includes a box of “Contextual Considerations.” These contextual considerations relate to industrial forms, architectural expressions of ecology, and building materials for building facades. Yet, these important considerations do not appear to be design standards. We understand the need for some flexibility in design for 65 buildings, but the level of detail provided does not allow a meaningful evaluation of potential environmental impacts during construction and in the long-term, as required by CEQA.

For example, the DWDSG document includes specific language acknowledging that they can be functionally ignored should circumstances change so long as general design intent goals can be demonstrated. See page 16 of Appendix M of the DEIR. There is also no clear provision in the DWDSG document or the related development regulations about what street sections and associated street improvements will ultimately be constructed by the applicant. As an example, it is not possible to determine how many lanes will be available for automobile use on Santa Clara Street or determine the pedestrian experience for patrons arriving or departing the Arena, both of which will have a dramatic impact on the function of the SAP Center and guest safety.

C. On-Site Utilities and “Utilidor”

The proposed Utilidor description is so vaguely described that it is impossible to determine their potential environmental impact on the project area. The project description summary that begins on page 2-1 and other sections of the project description of the DEIR vaguely describe “A district systems approach to delivery of on-site utilities,³ including designated infrastructure zones with on-site centralized utility plants totaling up to 130,000 gsf”.

Footnote (3) states:

A “district” utility system essentially entails creating an on-site utility network separate from, though sometimes linked to, the citywide or regional networks.

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District systems are most commonly used for building space heating and cooling, but may also be employed to generate and distribute electricity, collect and treat wastewater and stormwater, and the like. A small mutual water system serving a rural area is another common example of a district utility system. District systems shift from individual building systems such as chillers and cooling towers to centralized facilities such as central utility plants serving multiple buildings to enable more efficient operations.

To state that the “on-site utility network is separate from, though sometimes linked to, the citywide or regional network” does not provide adequate information for this important project component. What systems will be linked to the citywide or regional networks and how will this affect existing demand for these services?

For example, the information provided in Section 2.8 *Utilities* of the project description (beginning on page 2-48) states that the project proposes a district systems approach “to handle at least some of its utilities.” Further, it is stated that services “would be delivered through district-wide infrastructure, rather than individual and building-specific systems” where “feasible.” We believe that a district-wide system, consistent with the findings of the infrastructure recommendations of the DSAP is appropriate. However, more information on how these systems will affect existing residents and uses in the Diridon Station area, Downtown, and potentially beyond, must be known now for an accurate evaluation of impacts.

Especially concerning is the description of “utilidors” to be included in the project to convey privately owned utilities to and from project buildings. The utilidor “could include” “sanitary wastewater collection, recycled water, thermal water (chilled and hot water), electrical distribution, communications, and solid waste collection and distribution.

The DEIR states on page 2-49 (Section 2.8.9):

The utilidor is intended to be constructed on private property to the maximum extent feasible, but may need to cross or be constructed within public rights-of-way to service the project. Where it would cross existing streets, the proposed utilidor could be constructed using a jack-and-bore method to pass beneath existing utilities in the street, thus avoiding physical disturbance of existing utilities and street closures. Should the utilidor be constructed within existing

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roads, existing public and private utilities may need to be relocated or consolidated. (Emphasis added)

It remains unknown where the utilidors will go or what will be in the utilidors. That is an insufficient project description for such a vast undertaking. This use of utilidors is very complicated and has not been used to this extent before in San Jose. Plus, utilidors are typically constructed by public agencies, not private property owners. The location of the utilidor (Figure 2-9) merely describes the “proposed utilidor alignment options.” (Emphasis added)

Does the applicant and the City really know where it would be located or how it will connect to either existing or future energy sources? The proposal raises many questions without the details needed to understand potential impacts to existing development and traffic during construction; or even the potential taking of private property. Please provide this information.

The utilidor is also expected to cross Los Gatos Creek in “one or more of three options” and under the existing UPRR and light rail tracks (page 2-49 and Figure 2-9) “in the northern portion of the site.” Different construction types include are anticipated including “jack-and-bore” and “existing utilities may need to be relocated.” Figure 2-9 shows at least two rail crossings, and twelve right-of-way crossings at major roadways, including West Santa Clara and West San Fernando Streets. Construction methods and the locations and duration of roadway closures, and how existing utilities will be relocated must be included in enough detail so that a CEQA level review can be conducted.

D. Wastewater Treatment

There is a reason most cities, including the City of San Jose, have located their wastewater treatment and solid waste facilities away from sensitive receptors including existing and future residential development. These uses can be noxious, noisy, and disruptive, especially when truck access and hauling routes are not known. Oxidizing, filtering, and disinfecting wastewater to an “unrestricted use” level (tertiary treatment) can be odor inducing and this project could include two such on-site water reuse facilities. The same can be said for solid waste collection and hauling.



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Page 2-52 of the DEIR states:

District treatment of wastewater would require new construction of a private sewage collection network and construction of a water reuse facility on the project site. If an on-site district water reuse facility is pursued, up to two on-site water reuse facilities would treat project-generated wastewater for reuse to meet demands for non-potable water, such as for toilet and urinal flushing, irrigation, and cooling.

The district water reuse facility(s) would have the capacity to treat project-generated wastewater to disinfected tertiary (unrestricted use) recycled water standards as described under Title 22 of the California Code of Regulations. Per those regulations, the wastewater will be oxidized, filtered, and disinfected. The wastewater treatment process and supporting treatment equipment would be co-located with the thermal plant in up to two proposed central utility plants (described in Section 2.8.14, *Central Utility Plants and District Utilities*)."

The section regarding central utility plants and district utilities goes on to state that "on-site utilities and services could be consolidated in central locations to enable local management of resource demands on the project site. Solid waste could be collected and transported at "terminals"; however, the exact locations of these facilities is unknown. It inadequately states that "Trucks would collect the waste from the central terminal(s)"

It seems the project wants to keep all available possible systems and scenarios open. It is not known if wastewater generated by the project will be treated at a private system (or how often) or at the City's Regional Wastewater Treatment Facility (RWTF). It is also not known how wastewater would be transported to either a private or the public system or how existing facilities and pipes would be affected with the project. How many truck trips could be generated by all of the possible variations of the treatment process, including the off-hauling of residual solids ("sludge")? Where would the hauling routes be located and how would the hauling be programmed? Where will the thermal plant be located?

The "Southern Infrastructure Zone" includes at least 10 parcels of land in proximity to existing and including future residential land uses. The "Northern Infrastructure Zone" includes at least two parcels of land, with existing residences located to the east of the area. Future residential land uses are proposed to the south of this area. Where exactly would such a facility be

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located? An evaluation of potential impacts cannot be provided if the locations of such facilities are not defined, especially since sensitive receptors would be affected.

The Wastewater section also states that the project could integrate the wastewater treatment with heat recovery or rejection, yet no details are given to explain how such a system might work or exactly where it would be located. Will on-site wastewater treatment and solid waste collection require the use of diesel generator either for treatment, pneumatic collection, or for emergency use? Are the necessary generators included in the 47 emergency back-up generators described as being needed for proposed buildings over 75 feet in height? If not, the analysis of air quality, greenhouse gas, and noise impacts are not correct. The DEIR does not include enough detail to determine potential impacts to nearby land uses and visitors to the project area, especially since the location of the wastewater facilities is not known. Please provide the missing information.

Because the location, number size and operations of the wastewater and thermal plants is not disclosed, including them in the current DEIR is premature.

E. Stormwater

On page 2-54 of the DEIR, it is stated that a new, larger outfall to Los Gatos Creek is needed. However, there is a footnote (64) that states the following:

In connection with the DSAP program, the City has identified three additional outfalls that must be upsized to 24 inches in diameter—from South Autumn Street and West San Carlos Street into Los Gatos Creek, and from West San Fernando Street into the Guadalupe River. These are separate from the proposed project.

This footnote is confusing in terms of what is actually proposed by the project and what is being deferred to another time. Are these additional outfalls required for the proposed project? If so, the environmental review for them should be included in the Downtown West DEIR. If they are only included in the DSAP project, they have not undergone project-specific environmental review. If the Downtown West project uses up the capacity provided by the new, larger storm outfall, will future development and the ability to facilitate storm and flood flows in the DSAP area and Downtown be affected?

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Page 2-54 includes the following demonstrating that the stormwater part of the project description is incomplete:

The proposed right-of-way vacations (discussed in Section 2.7, *Transportation and Circulation*) would necessitate the relocation or removal of some existing storm drain infrastructure, including an existing storm drain in South Montgomery Street. The existing pump station at the fire department training facility would need to be relocated to avoid conflicts with the proposed building design. This pump station may be relocated within the same parcel, or within the existing street right-of-way if space is available. The potential relocation site(s) would be evaluated further when building designs for this block reach a sufficient level of detail (e.g., actual building footprints) to allow consideration of more specific plans for the existing pump station. The project applicant would coordinate with the City of San José to determine acceptable approaches to and sites for such relocations. (Emphasis added)

The potential locations for pump stations, and wastewater treatment and solid waste collection facilities should be known at the time a project is proposed, not relegated to a future date. If a pump station is to be located within an existing street right-of-way, construction-related impacts could be significant depending on its location. Without this information, environmental impacts related to noise, air quality, and traffic cannot be assessed. Further coordination and future evaluation “to allow consideration of more specific plans” is not adequate for such a complex project, wherein the public and surrounding land uses could be significantly affected.

Section 2.11 *Flood Control Improvements* contains a discussion regarding a new vehicle bridge at West San Fernando Street over Los Gatos Creek to allow for flood conveyance. A new vehicle bridge is a major project that typically triggers a complete EIR just for it. There is insufficient detail provided in the project description related to this major component of the project. There is not even enough detail provided to meet the requirements of the regulatory agencies from whom the applicant must obtain permits. This inability to provide minimally sufficient detail for a vehicle bridge demonstrates that this should be a program EIR instead of a project EIR, since subsequent environmental review will be required for this major piece of infrastructure.

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F. Future Approvals

The lack of information regarding the major elements of the project leads to an inability to correctly and adequately name the future approvals that will be required and will use this EIR, as required by Section 15124 (d)(1)(A-D). Section 2.15 *Uses of the EIR and Required Project Approvals* seems to state that the Planned Development (PD) rezoning and General Development Plan will be approved as one action; however, it is not clear how many PD Permits will be granted and when the public will get the opportunity to review specific development proposal(s). In multiple locations of the project description, there are cryptic statements regarding future approvals and potentially, environmental review. However, the number and types of approvals that will rely on this EIR and in the order in which they will occur, are not presented in the detail required by the CEQA Guideline.

Projects in San Jose are required to not only have applications on file for PD rezonings, but also for proposed PD Permits prior to and during preparation of the environmental document. The “approval body” for PD Permits is the City Council. We are unclear as to how project approvals will be granted for this project. A PD rezoning and PD Permit typically go to the planning commission and City Council together with the environmental document for approval. How can that occur in this case when the PD Permit(s), which is the document with required project details, has not been prepared? This process needs to be explained. Will the public be made aware of all future approvals? How?

It also appears that the Director of Public Works will be responsible for approval of the “horizontal infrastructure improvements, such as utilities, streets, streetscapes, and the like”, (Footnote 72 and page 2-79). These details should be known at this time, as they are for other projects in the City, and proposals should be circulated to the public prior to approval in accordance with standard City procedure. Please present what approvals are going to the Director of Public Works.

According to the *Downtown West PD Zoning/Design Conformance Review* section (page 2-79), the General Development Plan would establish a Downtown West PD Zoning/Design “Conformance Review” process “to ensure that development within the project site substantially conforms with the requirements of the Plan, the Downtown West Design Standards and Guidelines, applicable provisions of the Municipal Code, and the other applicable standards and guidelines noted above. We know of no other project in the City of San Jose

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where “Conformance Review” has been implemented for future project approvals. It is impossible to evaluate this proposed development when it is not disclosed now and when it is eventually disclosed it could be changed again by the conformance review process. When will CEQA review be provided for elements of the project that go through the Conformance Review process?

The section goes on to state:

The project applicant would be required to submit a Conformance Review application to the City’s Department of Planning, Building and Code Enforcement for vertical improvements and open space. The application would have to include information specified in the General Development Plan, including, as applicable:

- Proposed land uses and allocation of square footage for each;
- Building heights; and
- Requests for minor modifications to and other authorized relief from the Planned Development Permit, if sought.

The Director of Planning, Building and Code Enforcement or the Director’s designee would evaluate the Conformance Review application on the basis of a Conformance Checklist to be submitted by the applicant and/or developer of a particular building, structure, or physical improvement (refer to Appendix M for the Conformance Checklist). The Conformance Checklist would describe the criteria established in the General Development Plan and the Downtown West Design Standards and Guidelines against which a determination of conformity can be made by the Director. Compliance with clear and quantitative mandatory standards in the Planned Development Permit and Downtown West Design Standards and Guidelines would be required; however, compliance with non-mandatory guidelines, while encouraged, would not be required.

We know of no other project of this scale in San Jose that has been implemented in such a way that large subsequent development projects can be approved without any public input. We also have never known the City to utilize such a “checklist” for approval of what could be very large commercial and/or residential projects, and it appears that its completion can be done by

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anyone in the Planning Department. Will building materials, orientation, and ingress and egress locations have been decided once a checklist is submitted?

It appears as if the project would have one General Development Plan (which is not included in the DEIR) and multiple subsequent developments that will only be reviewed for consistency with standards that have not been approved. Consistency with “Guidelines” appears to be optional. Further, as stated in Section 2.4.12 *Zoning Districts*, the project will be assessed based on a “subsequent design conformance process.” What is this process? What are the performance criteria? When and how will the public be brought into the process?

These standards and guidelines are described in the project description as “enforceable.” With a checklist by staff? How will the public and surrounding neighborhoods be part of this process? Will actual development applications with engineered drawings be required by the City as they are now? The lack of detail in the DEIR allows future developer(s) and applicant(s) entirely too much flexibility and does not give the decision makers the information they need to make an informed decision. Information regarding the project is left up to the imaginations of those who might be affected.

It appears that the only component of the project that could undergo subsequent environmental review is the “other interim land uses.” (page 2-18) How can interim land uses require future environmental review when details regarding them are no more concrete than those of the proposed project? Again, the project as currently proposed is conceptual in all regards and future project-level environmental review must occur for each phase of development.

The City has not determined what, if any, subsequent environmental analysis would be required when additional project details become available. What future environmental review is contemplated for each of the elements of this project. The City cannot make a final determination of General Plan, specific plan, municipal code or policy conformance until project specific details are available. General Plan conformance is based on the entirety of the General Plan goals and policies and not solely the Land Use/Transportation Diagram designation. When will the details omitted from the DEIR be made available? When is General Plan conformance expected? What additional environmental disclosure will be provided for General Plan, specific plan and municipal code conformance?

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Under the AMA (**EXHIBIT B**), the City has an obligation to work closely with SSE on all development proposals near the Arena to ensure that appropriate measures will be taken to protect Arena operations. This includes referring notification of preliminary review applications, environmental documents, traffic and parking analyses, construction traffic management plans, and transportation and parking management plans, among others. Therefore, the future preparation of any plans as it relates to the proposed Downtown West must come to Arena Management in draft form for review and comment. This includes the TDM plan, all subsequent Transportation Analyses (TAs), Local Transportation Analyses (LTAs), construction management and staging plans and schedules, construction worker parking schemes, Recommended Temporary Traffic Control Plans (RTTCP), proposed street network changes, truck haul routes, etc. It is difficult to see how the City will be able to comply with its obligations when the DEIR implies that these standard documents will not be prepared as part of the EIR for this project.

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G. Phasing

The phasing of the project is described too generally and could therefore vary greatly. Specific impacts per phase cannot be deciphered. Will development be capped per phase, meaning the applicant can move to other sites not in the earlier phases as long as they don't exceed the building amounts/envelopes? How will we know this is being enforced? If Google ends up selling portions of the site to other developers, this would affect the ultimate phasing of development and the severity of all environmental impacts analyzed. This is not discussed or planned for.

Z.12

The phasing section of the DEIR (Section 2.13) does not address many very significant phasing issues. For example, it appears that development in and around the SAP Center will not happen until the final phase. However, there is no information on construction staging locations during this phase or when Cahill Street would be extended to the north adjacent to SAP Center. Is the project proposing that development will occur in Phases 1 and 2 without the Cahill extension? Further, many projects in San Jose depend on street right-of-way for construction and equipment staging, including the placement of cranes. How will this affect traffic during construction, especially if multiple projects are under construction at the same time? Where in the DEIR is this disclosed and analyzed? SSE must be involved in the preparation and review of

any construction staging and mitigation plans because it is a major stakeholder in the area, and also per the requirements of the AMA.

The phasing described in the DEIR is speculative and incomplete, and therefore each phase should be subject to subsequent environmental review allowing the public and decision makers to be part of the environmental process. Please present detailed timing for each phase and a detailed scope of the work to be accomplished in each phase.

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SECTION 2. LACK OF REPLACEMENT PARKING FOR SAP CENTER

Section 2.7.6 *Off-Site Transportation Improvements* includes a section entitled “SAP Center Parking” (page 2-45 of the DEIR). The proposed project includes the development of Lots A, B, and C (which currently provide SAP Center with vital parking), with commercial and residential uses. Therefore, the loss of this parking is an impact of the project. The section states on page 2-47:

Therefore, replacement parking in the vicinity is considered a reasonably foreseeable, if indirect, future consequence of the project.

Contrary to the above, this is a direct impact to a public use that will occur as a result of the project and it should be identified and mitigated as part of the proposed project – not deferred to some later date, which is a violation of CEQA. This is especially true since we have no assurances of when future environmental review will occur for the “replacement” parking. The fact that Google is not a party to the AMA is irrelevant. If parking for a public use is being removed as part of the project, it needs to be replaced as part of the project, which is true for any similar situation in San José.

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Moreover, under agreements signed by Google concurrently with its option agreement with the City, the development of certain replacement parking spaces, specifically on Lot E and the Milligan site, is a condition precedent to Google’s right to develop its properties along Delmas Avenue at Santa Clara Street. Therefore, replacement parking on Lot E and the Milligan site is inextricably linked to the project. Although Pages 2-46 and 2-47 of the DEIR state that any of the options for replacement parking may or may not occur, the City is obligated to construct parking on those two sites under the AMA and its agreements with Google.

In furtherance of this obligations, the City has prepared plans for these parking facilities. Thus, environmental review for them could have been included in the proposed project. There is no reason why these projects, which would have provided hundreds of parking spaces to replace parking on Lots A, B, and C, are not included in the project. The details regarding their construction are at least as detailed as those of the proposed project.

As for the other options, the Platform 16 project is on-hold without any date known for completion, and negotiations with the County over the West Julian Street parking have stalled. As for the Adobe project, SSE has reviewed the plans and has determined that the parking in that structure does not have adequate post-event egress, among other issues.

The “other potential parking sites that are available throughout the DSAP area” either would not exist post-project or have not been identified, in which case it is not possible to determine if any of them are conducive to Arena event parking. The point is, enough is known about the existing situation to have allowed environmental review for the required replacement parking. To have stated that “it would be speculative to provide specific detail on potential future changes to SAP Center parking” is no more problematic than all the other speculative or unknown elements of the project for which the applicant is seeking approval.

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SECTION 3. THE LACK OF AN INDUSTRY STANDARD PARKING STUDY

The DEIR wholly fails to identify, evaluate, propose mitigation for, or otherwise address the parking issues raised previously by SSE in multiple City documents and during the NOP process for the proposed project.³ In particular, the DEIR does not include an actual parking availability and demand study, nor does it analyze parking availability after the removal of large swaths of parking that will occur as a result of planned Downtown Strategy and DSAP development.

As explained in CEQA Guideline Section 15125. Environmental Setting:

[T]he purpose of this requirement [to accurately describe the environmental setting] is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.

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³ In fact, the community had similar concerns as shown in Table 1-1 of the DEIR.

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In this case, we can find no accounting in the DEIR as to how many parking spaces will be lost as a result of the proposed project. We only find how the project will provide a dramatically reduced number of spaces when compared to the Municipal Code, based on a TDM program with no specific performance measures or means of accounting for success. Given that the project requests a dramatic reduction in required parking, existing parking is being removed without replacement (**EXHIBIT I Parking within 1/3-mile**), and with no new parking included in the future BART and HSR projects the DSAP area will be short by thousands of parking spaces.

A transportation and parking evaluation is something the City of San Jose would require in an EIR for any other large project in the Diridon Station area. The City, per the AMA (**EXHIBIT B**), is obligated to consider and mitigate adverse impacts on the Arena caused by major projects in the Diridon Station area, particularly impacts related to parking and transportation. The AMA states:

For the BART and High Speed Rail transit projects, the City will request that the lead agency conduct a project parking analysis – The analysis should include a projection of parking demand, demand management strategies, recommended supply solutions, and potential impacts on the existing parking supply within the Diridon area, including suggested ways to mitigate the impact if it is deemed significant. The results of any parking analysis will be provided to Arena Management for review and comment. The City will consider Arena Management’s timely feedback in formulating comments that the City forwards to the lead agency as part of the project development and approval process.

Page 2-4 of the DEIR states that “The City will also prepare implementation plans for shared parking, infrastructure financing, and affordable housing.” As previously stated, this information has not been forthcoming and it is unclear when it will be provided. The discussion on page 2-46 of the DEIR provides that “As part of its current broader effort to update the DSAP, the City is also updating the parking analysis.” This updated parking analysis should be part of the proposed project, which is within the boundaries of the DSAP.

There is no evidence as to where off-site parking, shared or not, will be located or what actual parking demands will be. Section 11.2 of the LTA (Appendix J2) is not a parking supply or demand assessment and certainly does not meet industry standards for a parking demand analysis.

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The implementation plans for the project and amendments to the DSAP, Downtown Strategy 2040, and General Plan must be known now for a meaningful evaluation of environmental impacts of this project to occur. There are far too many moving parts for the public and decision makers to have the ability to meaningfully participate in the environmental process for the project.

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Further, *Section 2.3.10, Parking* of the DEIR acknowledges that the project “proposes reduced parking in accordance with Municipal Code” because it is located within 2,000 feet of an existing transit station or growth area, provides the required number of bicycle parking spaces, and includes a “robust” Transportation Demand Management (TDM) program.

The amount of parking proposed does not come close to meeting the minimum stated requirements set forth in the Municipal Code, even with the application of a 15% reduction. With the reduction, the DEIR states that 10,290 total off-street parking spaces would be required.⁴ However, the project includes only 7,160 spaces, or less than 70% of the requirement. The section then goes on to speculate “Some commercial parking could also be provided at off-site location(s), should such off-site parking be developed separately from the project in the future. In addition, a portion of the residential parking spaces could be designated as shared spaces, meaning that they could be used by office employees when not occupied by residential users.” (Emphasis added) This statement fails to identify any actual available or potentially available parking.

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In the City of San Jose, all projects are required to include a detailed description of where and how parking requirements will be met. We are perplexed that such a large project is not being required to meet this basic project requirement. We know that many high-tech firms do not allow shared parking with residential and other uses for security reasons. Similarly, residential projects do not typically share with other uses, particularly for evening uses such as Arena events. For this reason, a comprehensive shared parking arrangement, based on a parking study that utilizes proven scientific data, is long over-due.

⁴ As shown in **EXHIBIT X** (Watry Memo), there is a discrepancy between the DEIR, LTA, and Appendix H of the DEIR as to the number of required parking spaces.

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To depend on parking in the future that has not been proposed and may not exist is improperly deferring a potential impact to a later time. Section 2.3.10 of the DEIR states that shared parking “can reduce the total number of spaces needed to serve a combination of uses, compared to single-use parking serving the same uses. Shared parking can reduce overall parking demand of a mix of uses by 10 to 20 percent in most cases, and potentially by 50 percent or more. The project would therefore meet a minimum of 94 percent of the residential parking requirement. However, the project would provide only about 62 percent of the non-residential parking spaces typically required by the Municipal Code.”

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This statement is unsubstantiated and confusing. The statement says that these reductions “can” reduce the parking requirements based on sources from 2015 (too old) and from San Diego (not San Jose) (footnote 38). The sources do not support a reduced parking requirement, and because much of the project area currently provides surface parking that will be eliminated by the project, how can this be true? Please explain. Deferring the answers to these questions does not allow adequate environmental review. Again, a parking study that is based in proven science must be completed now.

As stated in **EXHIBIT E (Watry Design)**, Appendix H of the DEIR does not provide a clear understanding of how shared parking is being applied to reduce the amount of parking required to support the shared parking analysis. The parking analysis relied upon for the project parking demand requires a 75% shift in mode share. This means that 75% of single occupancy vehicle drivers who would normally be anticipated to drive to the project must shift to alternative methods, such as bicycles, walking or light rail. The DEIR partly uses the ULI model to calculate a predicted mode shift. However, as presented in the DEIR the model assumes the best case outcome for each TDM inputted into the model. This is flawed, because each individual TDM performance measure must be disclosed now so reviewers can determine its effectiveness and ascertain whether the model inputs are valid. Currently there is no evidence in the record to support the ULI model calculations presented in the DEIR.

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In addition, to close the gap between the ULI model mode shift of 65% and the 75% mode shift needed to support the shared parking analysis, the DEIR assumes that “market forces” will add 10 additional percentage points to the mode shift and thereby achieve a 75% mode shift. There are no facts in the record to support this 10 percent jump in the mode shift calculation to reach the 75% mode shift relied on in the DEIR for its parking calculation. In short, a 75% mode shift

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is unrealistic. The non-validated best case assumptions used in the ULI model are not supported by evidence in the record. Finally, the mode share jump from 65% to 75% is unsupported by the model and is not based on any evidence in the record.

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There is also no evidence that increased parking demands caused by future transit riders at the San Jose Diridon Station and new development would be met by any available parking in existing or new parking facilities. The City has not prepared a comprehensive parking survey for the Downtown and/or DSAP area. This is especially important as the BART and HSR projects do not include any parking for transit users or a valid parking study⁵.

The fact that the future BART and HSR projects coming to the Diridon Station will not be providing any parking for transit users means that the parking demands created by those projects will put pressure on the already-paltry parking supply planned to be included in the project. The project certainly does not include enough parking for transit users, and there is no analysis to demonstrate that there are offsetting effects associated with increased transit service at the station such that parking demands of station users and SAP Center patrons would be met (in addition to the demands created by the project) without secondary environmental or socioeconomic effects.

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Further, a true unconstrained parking study with actual scientific modeling was not completed for either the proposed project or future transit projects. The DEIR posits, without evidence, that parking is available in the project area and downtown that can be used by residential and commercial development, the Arena, and transit users. Indeed, many other projects in the DSAP area and downtown are proclaiming to be able to utilize “under-utilized” and “commercially available” parking downtown. However, a scientific, industry-standard analysis has not been completed to prove this to be true.

If the DEIR is a “project-level” environmental document which allows development without further review or analysis; then these purported off-site parking locations must be disclosed such that surrounding neighborhoods and businesses, including the SAP Center, are able to evaluate potential impacts in advance of the project. Without knowing locations, how can impacts be adequately described and mitigated? Impacts related to construction vehicle traffic

⁵ Studies showing that BART will generate a demand for at least 2,262 parking spaces (2004 Final EIR and 2007 Supplemental Final EIR for the BART Phase II Extension to Diridon Station).

is also deferred to the future. A “project-level” DEIR must include an evaluation of those impacts now.

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As stated in SSE’s letter dated November 22, 2019 commenting on the Notice of Preparation (NOP) for the project, the Local Transportation Analysis (LTA) should have included a comprehensive parking inventory, and provided ways to avoid, minimize and mitigate any adverse parking effects on nearby residential or business communities. It should have included an analysis of traffic impacts between 6 and 7 PM, as was done for the DSAP FEIR. It should have also included ways to protect pedestrian and bicyclist safety both during and after construction. Construction worker parking and parking lost due to construction staging and access must also be analyzed. Please provide this analysis.

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If the lack of adequate parking results in many workers or residents driving around for an extended period of time looking for parking, impacts to air quality and greenhouse gas emissions could occur, as well as safety impacts to bicyclists and pedestrians. In fact, the project is inconsistent with General Plan Land Use Policy LU-3.5 which states:

Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

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The lack of adequate parking both during construction and in the long-term will result in many situations where the safety of bicycle and pedestrian facilities will be compromised. When parking is not available, the occurrence of illegal on-street parking (in loading zones and restricted parking areas or across driveways and sidewalks) affects the ability of pedestrians and bicyclists to have a good line of sight, and the quality of pedestrian and bicycle paths of travel is compromised and could result in injury or death.

Google is requesting a dramatic reduction in parking when compared to Municipal Code requirements, and a vast amount of existing parking will be removed and not replaced as a part of the project (**EXHIBIT I Parking in 1/3-mile**). In addition, future Diridon Station transit projects do not include ANY parking. Therefore, the area will be short by thousands of parking spaces. This shortage should be disclosed, analyzed and mitigated.

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Users of the transit opportunities will not just live and work in Downtown West. They will be living and working in other locations and driving to the Diridon area. The lack of parking in the DSAP area will be a barrier to optimal use of the station, which will diminish the environmental benefits it might provide. It also jeopardizes the success of the project, and we remain dismayed as to why Google is not being required to provide parking at levels even close to the minimum standards in the Municipal Code.

The General Plan predicts that more than 20 years from now, 60% of all trips will still be by automobile. Yet, the DSAP Amendments and this project appear to assume that 75% of all trips within the DSAP will occur via transit. This is confusing, and is unsupported by any study. It is a goal – not reality. The idea that providing inadequate parking will reduce parking demand to the level of parking actually provided has not worked and there is no evidence that it would work in the project area.

There is no information in the DEIR that points to any study showing South Bay residents will no longer rely on automobiles to access public transit. In complete contradiction to the City's argument that the General Plan supports the removal of parking, previous traffic analyses completed since at least 2008 show that over 75% of commuters to and from San Jose were in single-occupant vehicles. The General Plan's "goal" for 2040 is still 40% drive alone mode share for commuters, and that does not include the approximately 10% who carpool and will also need parking.

The problems caused by parking shortages are well known. As an example, when transit projects fail to provide adequate parking at their stations spillover occurs. In other words, unlike the undocumented speculation that removing parking means drivers will no longer drive to an area, actual experience shows the drivers still drive and they create spillover parking in the surrounding neighborhoods. SSE is attaching a collection of articles documenting this point. **(EXHIBIT J, Articles Re BART Parking)**. In addition to documenting the negative impacts lack of parking has on BART ridership, the articles describe negative effects on the neighborhoods where BART stations are located and on local businesses. Particularly instructive is the article about Stoneridge Mall having to chain up its parking lots because BART riders were taking it over.

These articles also document the burdens on businesses and infrastructure when a project proponent fails to adequately disclose and mitigate its construction impacts. These are just a

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few examples of what happens when projects fail to provide adequate parking to meet the demand caused by the project – the burden is shifted to innocent parties.

The lack of parking spaces in the Diridon area will be a hardship to SAP Center’s employees and customers. For some events, SSE may have well over 400 employees who need to park within walking distance, many of whom arrive early in the day to start work and many others who arrive mid-day but leave late at night. In addition, some events occur during weekday daytime hours. All of these factors should be studied in the DEIR. A scientific, data-driven parking demand analysis using realistic data based on demand created by all the projects in this area must be completed and included in the DEIR.

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SECTION 4. “MINIMAL PARKING” AS AN OBJECTIVE OF THE PROJECT

Unfortunately, the DEIR for the Downtown West project completely ignores one of the primary objectives of the DSAP, recited in the first paragraph of this letter, regarding the continued need for sufficient parking and efficient access to and from the Arena. It is not clear what “Minimal Parking” means. Does this mean less than adequate parking? How much less? What mitigation has been developed as part of this project to mitigate the adverse environmental impacts caused by a lack of sufficient parking.

Have Travel Demand studies been conducted to provide the public and decision makers with the consequences of a minimal parking objective?

Footnote 4, (page 2-2) states:

The project site, as defined herein, includes certain parcels not currently under the control of the applicant. That is, the project site includes parcels owned by the City of San José (parking lots adjacent to the SAP Center), as well as the Santa Clara County Valley Transportation Authority (southeast corner of West Santa Clara and Cahill Streets). These landowners have granted the applicant the authority to include their parcels in the project description and the applicant may purchase or lease one or more of these parcels in the future. The (sic) would also necessitate granting of access easements, land that would be added to the project site if the easements are granted. Refer to Section 2.2, *Project Site and Location*, for additional information.

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The City of San Jose and SSE are parties to an Arena Management Agreement (AMA), which includes a Transportation and Parking Management Plan (TPMP) of over 100 pages. The AMA requires the City to maintain certain levels of available parking in proximity to the Arena, to consult with SSE regarding changes in the street network in the vicinity of the Arena, and to manage traffic operations to ensure convenient and efficient ingress and egress to and from the Arena. Typically, environmental documents relating to projects in the vicinity of the Arena have considered these obligations as part of their analyses. In other words, the agencies have treated the City's obligations under the AMA as tantamount to a land use plan and have considered whether the project in question would be consistent with such plan.

The City's obligations related to parking and traffic are expressly incorporated into the June 2014 final plan report for the Diridon Station Area Plan (DSAP). The primary project objectives listed on page 1-5 of the original DSAP and in Section 4.1 of the recently released DSAP amendments (October 30, 2020) include the objective to "ensure the continued vitality of the San Jose Arena, recognizing that the San Jose Arena is a major anchor for both Downtown San Jose and the Diridon Station area, and that sufficient parking and efficient access for San Jose Arena Customers, consistent with the provisions of the Arena Management Agreement, are critical for the San Jose Arena's on-going success."

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The DSAP includes numerous provisions in support of this objective and we see no proposed changes to these provisions in the recently released Draft of DSAP amendments. These provisions include the following:

1. Since its opening some two decades ago as the home of the San Jose Sharks, the San Jose Arena has consistently ranked among the 10 busiest indoor facilities for non-sporting entertainment events. Preserving the extraordinary success of Downton's "anchor tenant" appears paramount and is reflected in the Land Use Plan. Although densities will increase, and parking ratios will drop over time, it is imperative that Diridon's development occurs in a coordinated fashion with its transportation infrastructure to ensure adequate parking supply for the San Jose Arena and avoid traffic problems in each phase of development. (Page 2-3)

2. The San Jose Arena Management Agreement commits the City to pursue best efforts to achieve and maintain at least 6,350 parking spaces at Off-Site Parking Facilities available for Arena patrons within one-half mile of the West Santa Clara Street entrance to the Arena, of which approximately half of such spaces will be within one-third mile of the West Santa Clara Street entrance. In addition, the City will manage and facilitate convenient vehicular access to and from parking facilities located in the Diridon Station area. Future TPMPs need to be in compliance with this agreement in order to meet the City's obligations and ensure the continued success of the Arena as an anchor of the Diridon area and as a regional draw. (Page 2-133)

How does a minimal parking objective interrelate with the City's obligation to comply with the Arena Management Agreement (AMA)? The AMA is a baseline condition of the approved DSAP land use plan that must be preserved. The AMA should properly be a baseline condition for the DEIR – but is it? It appears to have been omitted. The DEIR fails to identify or evaluate the adverse impacts the Downtown West project will have on transportation and parking within the Diridon Station area. In fact, the DEIR includes an objective that is in direct conflict with the DSAP and the legally binding AMA. This objective is strangely categorized as an objective to "Connect People to Nature and Transit" on page 5-4 of the alternatives section of the DEIR:

- Consistent with the MOU, develop a project with minimal parking and robust Transportation Demand Management measures in order to encourage active transportation and public transit use, and to support implementation of the City's Climate Smart plan.

We are not sure how a lack of parking encourages active transportation and public transit use. Please show studies by traffic engineers evaluating this issue for the project area.

Neither the future BART nor HSR projects include any parking, and as we show in **EXHIBIT E (Watry Design)**, there will not be sufficient parking available in the project area to even meet the project's parking demand. The effects of a lack of parking can be devastating, resulting in indirect safety impacts to pedestrians and cyclists. Please show the cumulative impacts of BART and HSR riders driving to the Diridon Station area plus the increase in vehicles caused by this

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project and the DSAP amendments. Once the cumulative impacts are disclosed, then measurable mitigation measures should be presented and their effectiveness analyzed. At that point, the meaning of minimal parking should be defined, and the cumulative impacts and the effectiveness of the mitigation measures should be analyzed to see if the objective is being met. As presented in the DEIR the objective of minimal parking cannot be understood.

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Please present studies by qualified traffic engineers demonstrating that the project can legitimately assume a 75% mode-share for transit users, pedestrians, and bicyclists.

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It must be noted that Table 62 of the LTA prepared for the project seems to state that a 50% reduction in parking is allowable based upon Municipal Code Section 20.70.330B. We must point out that in this case, the project is in violation of this section of the Municipal Code, which states:

For mixed-use projects, the director may reduce the required parking spaces by up to fifty percent, including any other exceptions or reductions as allowed under Title 20, upon making the following findings:

1. That the reduction in parking will not adversely affect surrounding projects;
2. That the reduction in parking will not be dependent upon public parking supply; or reduce the surrounding public parking supply; and
3. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.

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The analysis does not support the determination that the project is consistent with this Municipal Code requirement. The evaluation in the LTA does not demonstrate that surrounding land uses will not be affected by a drastic reduction in parking requirements. Also, the project will definitely reduce the supply of public parking, as existing public lots will be removed and not replaced. Please explain where in the DEIR is sufficient information to allow the director to make the necessary finding. What studies based on facts in the record are being prepared to meet this requirement?

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SECTION 5. LACK OF AN ALTERNATIVE THAT RESPECTS THE AMA

The Arena building itself is not within the boundaries of the project or the DSAP; however, Parking Lots A, B, and C are included, and the project proposes to eliminate these vital parking areas with no explanation of how the spaces will be replaced. While Google is not a party to the AMA, the project cannot be constructed as envisioned without these lots. The need for adequate parking, and for continued efficient access to and from the Arena in accordance with the AMA, is a baseline condition of the approved DSAP land use plan that must be preserved. However, the DEIR fails to correctly recognize the significant effects the proposed project will have on transportation and parking within the Diridon Station area.

As outlined in CEQA Guidelines Section 15126.6(b) & (c):

Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1) the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination....

Alternatives are evaluated based on their ability to meet project objectives. By including an objective that only provides "minimal parking" to be provided by the project, in violation of the existing DSAP and AMA, the DEIR does not allow a meaningful evaluation of project alternatives. For example, a description of a northerly extension of Cahill Street begins on page 2-40 and states:

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To extend Cahill Street north of West Santa Clara Street to North Montgomery Street, the project applicant proposes certain modifications to exterior access and egress ways for the SAP Center, along the arena's west side and at the northwestern corner of the building. The existing stairs from the SAP Center descend to the existing elevation of the facility's main parking lot (Lots A, B, and C). However, the Cahill Street extension would be at generally the same elevation as West Santa Clara Street, which is approximately 8 to 10 feet below the elevation of Lots A, B, and C. Accordingly, with the Cahill Street extension, the SAP Center egress would need to descend to the new, lower Cahill Street level.

Because of the internal layout of the SAP Center, internal modifications to add inside stairs or escalators would not likely be possible because they could result in a major disruption of the facility's Club Level. Thus, these modifications most likely could only occur on the exterior of the SAP Center. Accordingly, the project applicant proposes to demolish the existing western stairs to parking lot level, then construct two new staircases oriented at 90 degrees relative to the existing stairs (and parallel to the SAP Center's western façade). The new stairs would descend from the SAP Center's Concourse Level to the Cahill Street level both north and south of the existing stairs. In addition, at the northwest corner of the SAP Center, the applicant proposes to demolish the existing stairs and ramp, then construct a new longer staircase from the Concourse Level down to the Cahill Street level. The project would also construct an elevator to provide ADA compliance. A canopy would cover the new northwestern entry landing.

The project applicant would need to reach agreement with both the City, the owner of the SAP Center, and Sharks & Sports Entertainment, Inc. (owner of the San Jose Sharks hockey team), the SAP Center's operator, to proceed with this component of the proposed project. (Emphasis added)

The Arena's parking is already being severely threatened by new transit projects and surrounding developments in the Diridon area. Neither the BART Phase II Extension to San Jose project or the High Speed Rail (HSR) project include any parking for transit users. This is significant because, as explained above, even without HSR, the Diridon Station area will be

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short by thousands of parking spaces. In addition, as stated in **EXHIBIT D (Wenck)**, Cahill Street would not connect to Interstate 280 and access to parking is significantly more oriented to Autumn Street and not a future Cahill Street extension. The changes described above would significantly affect SAP Center's success.

Adequate parking is critical to SAP Center's business goodwill, customer satisfaction, event attendance, and safety of our patrons. Making an objective of minimal parking does not allow a reasonable evaluation of alternatives, as required by CEQA. In fact, we can find no details in Chapter 5 *Alternatives* that evaluates the alternatives against this objective. Also, indirect impacts of a lack of parking are not evaluated and not included in the alternatives section.

Traffic impacts will be caused by transit riders coming to the station in search of parking and circling repeatedly throughout the neighborhoods when they can't find available spaces. There is no scientific discussion of how this circling will affect surrounding neighborhoods in terms of pedestrian and bicyclist safety, and businesses due to negative land use and economic impacts, traffic safety, and interference with other downtown/Diridon area future development plans, etc. These are serious omissions and must be analyzed and corrected.

A proposed project with so few details, that has the potential to damage the transportation and parking experience, can have not only physical impacts, but it can also result in ruinous economic impacts on the continued vitality of the Arena. Multiple events in an area of constrained parking and roadway volumes would affect the economic success of SAP Center – and Downtown. Significant long-term socioeconomic impacts will burden the Arena, the Diridon Station area (including the surrounding neighborhoods), Downtown, and the City as a whole. Yet, these potential impacts are not identified. In fact, they are minimized in Section 2.7.6, and the solutions for providing the lost parking for SAP Center are speculative.

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SECTION 6. TRANSPORTATION DOCUMENT REVIEW

The comments in this section pertain to the following:

- DEIR text;
- Appendix C4: Transportation Demand Management (TDM) Plan Assessment;
- Appendix J1: Draft Transportation Assessment (TA) Report;
- Appendix J2: Draft Local Transportation Assessment (LTA) Report; and

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- Appendix M: Downtown West Design Standards and Guidelines.

Our comments are based, in part, on the professional judgment of Krupka Consulting (EXHIBIT C), Wenck Associates (EXHIBIT D), and Watry Design (EXHIBIT E). Please also respond to all comments in each of the Exhibits.

A. TDM Plan Assessment

Appendix C4 of the DEIR is the TDM Plan Assessment. As stated in EXHIBIT C, the memorandum describes an arithmetic exercise applying maximum percentage trip reductions for selected required and optional TDM measures to approximate the maximum trip reduction the project could achieve. It is not an actual assessment of project TDM Program performance. Although the document states that the analysis employed methods and data in the California Air Pollution Control Officers Association (CAPCOA), August 2010 report “*Quantifying Greenhouse Gas Mitigation Measures*,” the document does not present any data or studies showing that the TDM measures are appropriate to the site conditions or what benefit is projected.

The document, therefore, does not substantiate whether the project’s TDM Program would meet or exceed the thresholds established by DEIR Mitigation Measure AQ-2h *Enhanced Transportation Management and Monitoring Program*. Table 2 (pages 8-9 of Appendix C4) includes selected TDM Strategies and respective maximum trip reductions and indicates a Total TDM Program Reduction of 27%. The procedure to derive the total category reductions is unclear and unsubstantiated. Because there has been no analysis of an actually required mitigation measure for the proposed project, there is no correlation between percentage reduction and vehicle trip reduction, which is the critical measure of effectiveness (i.e., the essence of TDM is to **reduce** single occupant vehicle trips). Therefore, any analysis in the DEIR that relies on a trip reduction of 27% to determine that an impact is less than significant is incorrect.

The analysis must show its work to allow the reader to understand this assessment of potential project trip reduction effects of TDM. There is no reason why an actual TDM plan, supported by a scientific analysis, has not been prepared for the DEIR. Google’s global campus in Mountain View has not been able to secure steady alternative modes of transportation, as shown in EXHIBIT K (Article Re N. Bayshore). How are we to know that they will be any more

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successful in San José? The DEIR must include industry standard analysis based on facts in the record demonstrating the claimed trip reduction. Please identify these studies and the facts they are based on.

The “Mitigation Measures” in the TA (Appendix J1, pages 75-76) include a lengthy and abstract discussion of how TDM measures purport to be adequate to reduce air quality and VMT impacts to a less than significant level. Yet, we can find no comprehensive technical analysis to substantiate the discussion. Please provide the technical analysis.

The TDM discussion comes to the conclusion of a less than significant impact with implementation of a TDM Program based on “...an analysis of available transit and the likely effectiveness of TDM programs...” Was such an analysis done? If so, where is it documented? Is success only “likely?” To apply hypothetical trip reductions associated with a vague TDM Program to come to a less than significant impact conclusion is not sufficient for a CEQA document. CEQA does not allow a “kitchen sink” approach of simply listing all possible mitigation measures. Actual mitigation must be presented and analyzed for effectiveness. Please present the actual mitigation measures that will be used for this project and an evaluation of their effectiveness.

The last sentence on page 75 states the TDM measures “...would achieve a non-SOV mode share of 65 percent...equivalent to an average daily trips reduction of 27 percent...”. How were these results calculated? There is no proof in the DEIR that the TDM measures will achieve this level of non-SOV mode share especially because the measures only appear to be elementary performance standards postulated using simple arithmetic rather than an actual evaluation. This cannot be described as feasible mitigation as required by CEQA.

Answers to these questions cannot be found in the LTA (Appendix J2), which states on page 101 that travel demand effects of TDM were assessed by simply applying percentage trip reductions for three TDM measures, which were apparently extracted from a 2010 publication about quantifying greenhouse gas emissions (California Air Pollution Control Officers Association, Quantifying Greenhouse Gas Mitigation Measures, August 2010).

There is no indication that the analysis customized the application of these trip reductions to the project. Therefore, the “analysis” is unsubstantiated, incomplete, and misleading. The analysis must show its work to allow review of this critical assumption about the substantial trip



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reduction effects of TDM measures. Each proposed and substantiated TDM measure must be analyzed for its individual success in meeting performance criteria. CEQA requires it and the AMA requires that SSE be provided with the opportunity to review this information.

Page 101 of the LTA leaves us with additional questions regarding the shortfalls of the TDM analysis. Calculations regarding trip reductions must be shown for the following:

- Would transit passes be provided to all residents and employees? What are the results related to mode shift?
- What assumptions about parking policies would lead to a 10 percent mode share reduction?
- What Express Bus (employer-based) service is assumed? How many buses would be involved and how would they affect localized congestion and queuing?
- How was the summary total of 24 percent reduction in drive-alone trips derived? A footnote is referenced (footnote 14) but not included on the page.

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B. VMT Analysis

As we stated previously in Section 1 of this letter, we are very concerned about the lack of project information included in the DEIR. This inadequacy results in an incomplete analysis of traffic impacts. Page 1 of the LTA includes an alarming disclaimer:

As part of an LTA the City typically includes specific site access and on-site circulation evaluations, including driveway operations, sight distance, and other relevant metrics. However, the Project currently does not include a specific site plan that designates exact building location and access for each parcel. As development is initiated, the Project applicant will be required to develop focused LTAs for the Project area to address the City's requirements for site access and on-site circulation, in addition to providing detailed evaluation of multimodal access within the Project area.

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The City of San José requires every project to include an analysis of driveway operations in an LTA. Driveway operations are very important to ensure the safety of motorists, pedestrians,

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and bicyclists, especially in light of the volume of traffic expected by the proposed project, the narrowing of streets, and the use of “dynamic lanes.” To not discuss the potential impact of driveway operations and their effect on these important transportation modes now, when the environmental review process is occurring, is in violation of City policy and CEQA. We are dismayed as to why this project is not being treated the same as other projects in Downtown.

As a result, this LTA is incomplete because it does not sufficiently address site access and local circulation. For example, the *Local Access and Queueing Analysis* does not include intersections critical to the area, including N. Montgomery Street at W. Julian Street, W. Santa Clara Street, W. San Fernando, Park Avenue at N. Autumn Street, and the intersection of W. San Fernando at Almaden Blvd. Please provide this information. The City could have and should have developed a complete scope of analysis in cooperation with stakeholders. This was an imperative step in the analysis, yet it was not completed. In addition, in accordance with the AMA, SSE should be involved in the preparation and review of every subsequent LTA as stated in Section 1, Future Approvals.

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Table 4 on page 41 of the Transportation Assessment (TA) (Appendix J1) states that the increase in vehicle trips over Existing Conditions due to the project is extraordinary – approximately +600 % for all cases (not considering the purported vehicle trip reductions due to TDM and substantial mode shift from single occupant vehicle put forward by Envision San Jose 2042 General Plan). This deserves explanation and clarification for context. What does this mean for stakeholders and neighbors in the project area? Simply saying VMT impacts of a project that produces a +600% increase in vehicles on a roadway network with a proposed reduction in capacity are less than significant with little evidence is not consistent with CEQA and renders the traffic analyses fundamentally flawed.

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The above is especially true because of the confusion related to the timing of approvals of the anticipated amendments the Downtown Strategy and DSAP, as previously mentioned. How were the baseline and background conditions determined and how can we be confident that they are correctly applied to the analysis that was completed for the proposed project? The public and decision makers cannot be expected to determine this without appropriately presented information.

Further, page 70 of the TA states that the Year 2040 Cumulative No Project scenario assumes “unspecified “...land use allocations currently contemplated as part of the City-initiated

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amendments to the DSAP...” and” the Year 2040 Plus Project scenario assumes all proposed DSAP amendments...” What are the land use reallocations and the proposed DSAP amendments? This failure to disclose the land use reallocations is a critical oversight because the reader cannot interpret the analysis without information and data describing the context and relative magnitudes of the DSAP and Project land uses and, moreover, the potential impacts caused by these two significant scenarios. To be clear, there is no meaningful basis for:

- Estimates of VMT Per Service Population (Table 11, p. 72) and the statement of “less than significant impact.”
- Estimates of Journey to Work Mode Share (Table 12, p. 73) and the statement of “less than significant impact.”
- Estimates of AM Peak Hour Transit Corridor Travel Speeds (Table 13, p. 74) and the statement of “significant impact.”

Also, why was the transit corridor travel speeds evaluation done for just the AM Peak Hour? The PM Peak Hour condition is even more critical to access and circulation in the area, because the SAP Center generates substantial PM peak period person and vehicle trips before evening games and events.

The detailed discussion under 2.4.1 *City of San José Travel Demand Forecasting Model* in the LTA (page 40) seems misplaced and should be incorporated in the TA – and the DEIR – to document this critical study element used for the CEQA evaluation. In other words, was this same “City model” used in the TA? Similarly, the General Plan Growth Reallocation discussion on pages 41 and 42 of the LTA provides details that should have been incorporated into the TA. Were the same assumptions applied in the TA?

The discussion of Traffic Volumes on page 42 of the LTA, which begins in the last paragraph, glosses over the development of Background traffic forecasts. The discussion is rote and incomplete, and the information in Appendix B, *Approved Developments*, is neither accessible nor useful for anyone other than the analysts and City staff familiar with technical jargon. The reader needs at minimum to be provided with a clear description of the intent of this scenario and procedures used to develop Background traffic forecasts, including a list of all included developments with land uses and traffic forecasts.

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Further, pages 109, 114, and 119 of the LTA's project traffic assignments shown in Figures 27, 28 and 29 indicate zero (0) traffic on Cahill Street north of Santa Clara. This appears to be a fatal flaw in the analysis given the project description calls for an extension of Cahill Street to connect to North Montgomery Street to serve substantial project land uses and SAP Center.

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C. Unrealistic Mode Share Goals

Page 50 of the LTA includes a discussion regarding *Goal-Based Project Buildout Conditions*. The document states that this scenario "...is presented to illustrate the long-term vision of Downtown San José..." and "...represents the City's aspirational goals that could only be achieved if the full vision of Envision San José 2040 is realized." (emphasis added)

This hypothetical "what if" scenario is not substantiated or realistic. The stated goal of Envision San José 2040 is that "...no more than 40 percent of commute trips are completed by driving alone..." and this percentage, among other aspirational targets, is incorporated in the Goal-Based analysis. Further, the Integrated Final EIR for Downtown Strategy 2040 (the 2018 amendments to Envision San José 2040) estimated journey-to-work mode share (drive alone) to be 71.5 percent, which is much higher than the 40 percent goal cited.⁶ Therefore, how is application of the 40 percent goal in this discussion even reasonable? As shown in **EXHIBIT K**, these goals have not been met in the North Bayshore area of Mountain View, where Google's global headquarters is located and where biking and transit options abound.

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This hypothetical "what if" scenario is not relevant to the LTA, which is intended "...to identify adverse effects of the Project on the surrounding transportation system and recommend improvements." The City's Transportation Analysis Handbook makes no reference to any scenario beyond Background plus Project Conditions. The LTA for the major Cityview Office Development (3.6 million square feet of office) did not include a similarly aspirational scenario. The inclusion of this scenario is misleading because it introduces false expectations that no project has proven can be met.

This subsection ends with an obtuse statement that appears to reference the mitigation measure cited in the TA, a TDM Program, which was presumably based on "...an analysis of available transit and the likely effectiveness of TDM programs..." The same questions asked in

⁶ City of San Jose, Downtown Strategy 2040 Integrated Final EIR, December 2018, Table 3.15-9, p. 299.

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comments on the TA are warranted: Was such an analysis done? If so, where is it documented? The reader must know how the effectiveness of the TDM program was evaluated and substantiated to reach a conclusion of less than significant traffic impacts.

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D. Other Comments

The LTA (page 185), includes NO DETAILS of the Synchro/SimTraffic analysis that underpins Section 8, the *Localized Access and Queuing Analysis*. This is a serious omission that precludes review of street and intersection layouts and Synchro/SimTraffic analysis configurations.

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The LTA identifies several adverse effects of the project but provides no recommended improvements. This includes:

- Substantial adverse effects at 10 intersections under Background Conditions (pages 188-189), but no physical improvements are proposed. No rationale is provided. Why?
- Adverse effects at EVERY intersection listed under Background plus Project conditions (page 191, Table 52) caused by the project. The discussion following indicates most locations cannot be physically improved, although three intersections do show some promise for improvement. However, the section concludes with the statement “...the vehicle capacity enhancing improvements are not recommended.” How is this reasonable with respect to maintaining vehicle access and circulation at the noted locations?
- The off-ramp queuing analysis shows substantial adverse effects under Background plus Project conditions but no improvements are identified (page 193). This is hard to understand given it can be interpreted as the City accepts resulting adverse effects on freeways. If it is the case that the project will have adverse effects on freeways, that should be clearly disclosed.
- The on-ramp queuing analysis shows substantial adverse effects under Background plus Project conditions (page 194) but no improvements are identified. Why are no improvements to mitigate the impacts proposed?

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Impact TR-1 of the DEIR (page 3.13-28) states “the project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. (*Less than Significant*).” However, it appears that this is only the case

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because the “project applicant would be required to prepare and submit a project-specific Recommended Temporary Traffic Control Plan (RTTCP).”

We can find no mention of the RTTCP as a component of the project description. To be able to conclude less than significant, the RTTCP must be part of the project. Otherwise, the impact is significant and the mitigation measure [the RTTCP] would then be included in the Mitigation Monitoring and Reporting Program (MMRP) for the project.

The City would then have a way to track the required mitigation measure (the RTTCP) and ensure its implementation. Basing a conclusion of less than significant impact on a mitigation measure not included in the project is a violation of CEQA. This impact is significant, and mitigation must be required and not recommended. In addition, as stated in Section 1 under Future Approvals, SSE should be involved in the preparation of the RTTCP.

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E. Downtown West Design Standards and Guidelines (DWDSG, Appendix M)

Exhibit C (Krupka) also includes comments on the DWDSG related to roadway network changes, lane capacity, turning conflicts, and the use of “dynamic lanes.” Please respond to these comments. In addition, **EXHIBIT D (Wenck Associates)** and **EXHIBIT E (Watry Design)** include discussions of roadway and parking changes SSE deems to be detrimental to Arena operations, which also need to be responded to.

Page 242 of the DWDSG (Appendix M) described how changes to Cahill Street south (extension to Park Avenue) and Montgomery Street south (removal of segment) affect north-south throughput and operational efficiency by altering the critical Autumn-Montgomery Streets couplet.

While similar lane capacity may be provided, delays due to turning conflicts and absence of turn lanes would reduce effective throughput capacity on these streets, which would affect access to SAP Center. In addition, the new connection of Cahill Street and Park Avenue, along with reduced lane capacity on Park Avenue, would introduce new turning conflicts and delays on Park Avenue on the approach to Bird Avenue/Autumn Street. Finally, as noted in comments on the TA above, Cahill Street would have questionable throughput potential given that the DISC access and circulation needs are unknown.

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As pointed out by Wenck Associates (**EXHIBIT D**), page 269 of Appendix M makes reference that Autumn Street could accommodate three lanes of traffic for southbound SAP Center egress. To provide this capacity, Autumn Street would have to be converted from a two-way street to a one-way street during the egress period for SAP Center events. This temporary conversion of the street from two-way to one-way operation would cause the following serious SAP operations management issues:

- High expense for traffic management personnel and control equipment; and
- Disruption for non-event traffic accustomed to two-way operation.

For these reasons, it is important to effectively accommodate SAP Center egress traffic without temporary conversion of one or more streets to one-way operation.

Page 3.13-45 of the DEIR and the TA describes the use of “dynamic lanes,” which as far as we know, have never been constructed in Downtown. These lanes are expected to be used for bicycle and auto parking, loading and unloading, stormwater management and landscaping, additional traffic, “furniture,” or SAP event traffic. It appears that, per the Vesting Tentative Map and Section 6.11 of Appendix M, the dynamic lanes would have widths of 7 and 8 feet, inclusive of gutters. This is substandard for traffic lanes and therefore, is not suitable for safe and efficient traffic flow even in temporary conditions. Dynamic Lanes should have minimum width of 10' as specified in San Jose Complete Streets Design Standards & Guidelines (City of San Jose, May 2018; page 14, Lane Width Guidelines). Where are VMT impacts analyzed for these dynamic lanes?

We are also concerned about how these dynamic lanes will be managed, especially during SAP Center events. How will SAP Center be able to depend on their use if they are used for parking, loading/unloading, landscaping, or additional traffic?

As stated in **EXHIBIT E (Watry Design)**, Appendix H notes that taxi/TNC will require curb space for pick-up and drop-off. Will these curb spaces be located in the dynamic lanes utilizing them constantly? In addition, at the widths proposed (7 and 8 feet wide), the dynamic lanes cannot be used for “additional travel lanes” and do not meet the City’s Complete Streets Guidelines. The discussion of these “dynamic lanes,” which is not included in the project description, provides more questions than answers from both a VMT and operational standpoint.

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Wenck Associates (**EXHIBIT D**) also assessed the proposed street segments for capacity, circulation, and access to parking. The recommended plan in the DEIR on Bird Avenue between San Carlos Street and Park Avenue would eliminate an existing third southbound lane, would eliminate the existing southbound right turn lane at San Carlos Street, and would eliminate the existing northbound right turn lane at Park Avenue. In addition to causing capacity problems along this segment, these changes would cause a serious design transition problem through the San Carlos Street intersection.

The plans show that the segment of Autumn Street between San Fernando Street and W. Santa Clara Street would provide just one lane in each direction, without a center left turn lane. This plan would result in insufficient capacity to accommodate the projected traffic and would cause a design transition problem through the San Fernando and Santa Clara Street intersections.

Plans presented in the DEIR to extend Cahill Street to Park Avenue will not be able to overcome the capacity deficiencies on Autumn Street for multiple reasons, including:

- Access for parking facilities is much more oriented to Autumn Street. Motorists will prefer to stay on Autumn Street for parking ingress and egress;
- Cahill Street will stop at Park Avenue and will not have continuity to I-280. This lack of continuity would deter motorists from maneuvering between the south on Bird Avenue and the north on Cahill Street; and
- The intersection of Cahill Street and Park Avenue would be highly problematic. The steep grade on Cahill Street approaching Park Avenue, and the close spacing between the railroad overpass and the S. Autumn Street/Bird Avenue intersection would create operational problems.

Please explain how these deficiencies will be addressed.

The plans for W. Julian Street between Stockton Avenue and Hwy. 87 would eliminate the existing eastbound right turn lane at Montgomery Street, which would increase delays for eastbound traffic, including motorists traveling to SAP Center.

The plans for Delmas Avenue between Santa Clara and San Fernando show the road as closed. If this street segment is closed, it is important that all parking spaces can be accessed from both Santa Clara Street and San Fernando Street. As a condition of approval for the former Delmas

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TOD project, Delmas Avenue between San Fernando Street and Park Avenue was required to be restriped to provide two southbound traffic lanes. In order to avoid serious congestion after SAP Center events, it is critically important for this requirement to be retained in any approval for development on the Delmas parcels.

We must point out that any of the above street network changes must be extensively studied from a design and engineering standpoint, which was not done as part of the environmental review for the project. SSE requests additional input during the planning and design stages of any street conversions, closures, or re-striping projects. Once they are implemented they would be irrevocable, and their effects could be detrimental for both SAP Center events, the surrounding neighborhood, and project traffic conditions.

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SECTION 7. LACK OF SPECIFIC MITIGATION MEASURES WITH PERFORMANCE STANDARDS

Section 15126.4 of the CEQA Guidelines (B) states:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project environmental review when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. (Emphasis added)

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Mitigation measures must include performance criteria to substantiate that the measures (such as a TDM plan) will result in a quantifiable reduction in impacts. (*Sierra Club v. Cty. of Fresno*, 6 Cal. 5th 502, 522 (2018)). Performance standards should be objective, measurable, realistic, and stated clearly. The TDM plan for the project is merely a list with no specific measurable success criteria for each measure. This does not meet the requirements of CEQA.

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The City of San Jose requires most projects to prepare TDM plans/programs similar to that proposed by the Downtown West project (Section 2.7.4 *Transportation Demand Management* and Section 3.1, *Air Quality*). However, we are not aware of any information prepared over the years that evaluates the success of such plans/programs in San Jose. We are also not aware as to instances where the City has actually implemented a “penalty structure” for non-compliance. How would these penalties be assessed? Who would actually enforce them?

There is no evidence that the proposed TDMs (MM AQ-2h) in Section 2.7.4 will be successful to reduce air quality or parking impacts. Please provide this information. Furthermore, to prepare a plan is not adequate mitigation under CEQA if there is no ability to determine if the measure will in fact, reduce the impact. Additionally, the lack of a stable project description makes it impossible to know if one TDM plan will be prepared or multiple plans as development comes forward, which multiple plans would be a piecemeal approach, inconsistent with CEQA. Please clarify the TDMs.

It is not impractical or infeasible for the project to include details and calculations now as to the extent to which air quality impacts would be reduced with the proposed TDM plan. There is no determination that the items included in the “list” of possible TDMs can be analyzed and ensured to reduce impacts to a less than significant level. Further, there is no proof that the TDM program will be maintained during the life of the project. Please provide this information.

Again, we must point out that no studies have been provided to show that the proposed TDM measures will be successful, and we know of no other projects in San José that have been allowed to provide such low rates of parking. The analysis prepared in response to this comment must include a proper and complete review of the critical assumption that the TDMs will result in a non-single occupancy vehicle rate of up to 65 percent, especially in light of the failure of efforts by Google in Mountain View (**EXHIBIT K, ARTICLE**), which similarly tried to enhance transit and bicycle options for travel.

As stated in our previous comments, another example of measures with no performance standards is related to the Recommended Temporary Traffic Control Plan (RTTCP), which we believe should be a mitigation measure for a significant impact that was not correctly identified in the DEIR. Further, we have serious reservations as to whether the RTTCP (page 3.13-29 of the DEIR) can, in fact, reduce impacts to a less than significant level, primarily due to the lack of associated, measurable performance standards.

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For example, the Temporary Traffic Control Plan Elements are intended to provide continuity of movement for traffic, pedestrians, bicyclists, transit operations, and access to property/utilities at any time a roadway's normal function is suspended. These elements are only described as possible ("should") and are not required. The preparation of traffic control plans must be completed in advance and included in the environmental review document and then evaluated based on success criteria. SSE must be allowed to review any such plans as required by the AMA.

Further, the discussion states that the "Plan" (whatever it is) "shall include consideration of SAP Center ingress and egress for event days and allow for efficient movement and safe conditions for patrons of the arena." SSE would like to know what this plan includes now so that it can be evaluated in terms of safety impacts to patrons, as well as other pedestrians. These measures should also be included in the project's Design Guidelines and Standards and again, with so little project information provided in the DEIR, it is currently impossible to assess impacts.

The RTTCP includes a multitude of "plans" to be determined as some later date. Traffic construction, transit construction, pedestrian construction, bicycle construction, freight/delivery truck loading, parking construction, and emergency construction plans. Are these plans all separate documents with no integration as many projects will be constructed simultaneously? This does not lead to mitigation of construction impacts to a less than significant level and only causes more opportunities for gridlock. Please explain when and how these plans will be drafted and coordinated.

The discussion of Traffic Construction Management is especially alarming. The section states:

Traffic Construction Management: Construction of the proposed project would have an adverse effect if it would cause traffic hazards, delays, or disruptions. According to the RTTCP, vehicular circulation should be maintained to the greatest extent possible, depending on the work area. Care should be taken to ensure that drivers are made aware of any traffic pattern changes well in advance of the deviation, using signs, flaggers, barricades, flags, flashers, or traffic cones. A combination of treatments may be necessary, depending on the circumstances and visibility.

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What are these treatments exactly, and why are they not provided for review so that they can be assessed for specific performance standards? Page 3-13-63 seems to state that one RTTCP will be prepared for the entire project. If many projects are under construction simultaneously, how will these construction management treatments be implemented and when? If there is no way to travel through the area and to the SAP Center when all streets are closed, how can the existing land uses survive? Providing these answers now is the only way mitigation can be determined to be feasible, per the CEQA Guidelines Section 15126.4, and guaranteed to reduce impacts to a less than significant level.

We are also concerned by the discussion related to the “Parking Construction Management” (page 3.13-30 of the DEIR) which states:

Parking Construction Management: Construction of the proposed project would cause direct effects on on-street parking availability and off-street parking lots—specifically, parking on Autumn Street and in the Diridon Station off-street lots directly east of the station. The City does not have guidance on accommodating parking in construction zones. The project applicant must include a plan for accommodating parking during construction, both for the construction workers and for people wishing to access the area’s amenities including the SAP Center and transit.

For SSE to have any level of comfort that parking will be provided, we must know the locations for parking during construction. Unless the project proponent is required to take concrete action to prevent these impacts then the existing land uses, including surrounding neighborhoods and the Arena, will be significantly impacted.

Pertaining to Neighborhood Traffic and Parking Intrusion (page 3.13-65 of the DEIR), it is not credible given the amount of development proposed and vehicle trips generated by the project that the cut-through traffic and parking spillover will not occur within the surrounding neighborhood. This impact is a direct impact to pedestrian and bicyclist safety in the project area. Baseline monitoring should have been conducted as part of the project – not deferred until after project approval. It needs to be done now, so that the public and decision makers know what existing conditions are now. Then they would be able to determine the significance of this impact and how much worse the condition will get. This is a basic tenant of a CEQA document – to be an informational document.

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Additional details are not provided regarding how monitoring will be performed and where. The public should have been involved in the development of a baseline condition. Similarly, a parking plan would have been greatly enhanced by knowing the parking situation in the project area now. Then a supportable analysis could have been provided of what conditions will be in the future compared to the existing condition, as required by CEQA. Yet, no industry-standard parking analysis has been completed for the area or the project and thus, the DEIR defers the development of these important mitigation measures to the future, in violation of CEQA.

If these impacts affect the health and safety of arena patrons and residents of the surrounding neighborhoods, that must be considered to be a significant indirect impact during construction and in the long-term. These impacts must be assessed and mitigation in the form of specific, implementable, and feasible measures must be provided to reduce these serious impacts to a less than significant level.

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SECTION 8. IMPACTS DURING CONSTRUCTION

The project description does not include any construction information nor are construction staging locations, lengths of street closures or modifications, detours, street circulation changes or any other pertinent construction-related information included. The impacts caused by the construction of this massive project are not disclosed or mitigated.

Construction traffic will undoubtedly occur outside the peak hours in the mornings and evenings. In fact, these are prime times for when construction begins and ends. If streets are closed for days on end, adding construction-worker traffic (for which there may not be any parking) would only exacerbate an intolerable situation, especially after 6 pm on event nights at SAP Center. If BART and HSR are also under construction in the next 10-year timeframe, gridlock will be guaranteed.

Because there is a lack of project description, all mitigation measures are deferred and unknown. Logically, if there is no project to study, impacts cannot be identified and mitigation must be deferred. Off-street parking areas are not identified for construction-related vehicles, therefore, impacts as they apply to surrounding land uses cannot be determined. There are no measures to ensure that pedestrian and bicycle access is maintained or how accessibility will be provided. Truck haul routes, equipment staging locations, and street detours are not identified.

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Mechanisms to prevent roadway construction activities from reducing roadway capacity during special events presumably to occur at SAP Center are not identified.

CEQA (Section 15126.4) requires that mitigation measures must be feasible and fully enforceable and include the adoption of specific performance measures to ensure that mitigation can reduce or avoid impacts. Further, the mitigation must identify “the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.” The mitigation measures included in the DEIR do not meet this standard. If the project description were more developed, which a project of this magnitude should and can be, mitigation could be designed in compliance with CEQA.

The DEIR states that temporary traffic disruptions will be mitigated by the development and implementation of mitigation measures, however, the DEIR does not identify any specific details about this future mitigation or metrics of their effectiveness. This project will have extensive and atypical construction impacts throughout downtown San José, including the construction of utilidors and a massive utility network. As the DEIR acknowledges, construction is estimated to take many years and given the long duration and the heavy amount of construction work along major arterials and adjacent to existing businesses and residences in downtown and the DSAP area of San Jose, this appears, at best, to be a program-level analysis of these impacts. If the intention of this analysis is to be project-specific, then this is improper “deferred mitigation” under CEQA.

The basic mitigation details and measures of effectiveness need to be identified in this DEIR to show that this mitigation is in fact feasible and will reduce the transportation impacts, particularly if this is identified as “mitigation” that is relied upon in the DEIR to reduce this significant unavoidable impact to a less than significant level under CEQA. As stated in CEQA Guidelines Section 15126.4(a)(B): “Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specific way.” There are no specifics or performance standards regarding proposed mitigation measures in the DEIR.

One important ingredient of a DEIR is the discussion of steps that can be taken to mitigate adverse environmental consequences. The requirement that an EIR contain a detailed

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discussion of possible mitigation measures flows both from the language of the Act and, more expressly, from CEQA's implementing regulations.

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Coordination alone is not adequate mitigation under CEQA. While Appendix G of the CEQA Guidelines does not specifically mention event centers, Question X. Land Use and Planning (a) asks: "Would the project physically divide an established community?" One and a half years of lane closures, lost parking, and disruptive construction activity immediately adjacent to long-established businesses (including the SAP Center) and residents, could significantly impact the viability of these businesses and would constitute physically dividing an established community. This impact is erroneously not identified, analyzed or mitigated in the DEIR.

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The DEIR states that there will be lane closures (and impliedly sidewalk closures) on many streets in the DSAP area, yet specific details are not provided on Figure 2-65 or anywhere else. Therefore: (1) The document does not accurately identify the potential adverse impacts; and (2) The Arena will suffer significant adverse impacts if any portion of any sidewalks are inaccessible to pedestrians or if the vehicular capacity of the surrounding streets is diminished. As to the first issue, the DEIR is deficient on its face due to the inconsistency. As to the second issue, SSE is strongly opposed to any intrusion onto Santa Clara, Montgomery, and Autumn Streets by the project construction.

The hazardous materials section (page 3.7-90) states:

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Project construction activities would occur mostly within the footprint of parcels on the project site, with the exception of the off-site transportation of equipment and materials; utility improvements on adjacent streets; and off-site transportation improvements (described in Section 2.7.6, *Off-Site Transportation Improvements*). Construction equipment and materials would enter and exit parcel work sites via existing public roads. The temporary increases in construction traffic and potential temporary closures of nearby roads could interfere with emergency services traffic in the project vicinity.

The City of San José would require the preparation and implementation of construction traffic plans for each parcel, group of parcels, or off-site improvements as condition of construction and building permits. The construction traffic plans would manage the movement of vehicles, including

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those transporting hazardous materials, on roads. Although construction activities may result in temporary single-lane closures, these activities would not require the complete closure of streets. Therefore, emergency access would be maintained.

During the construction of the new egress for the SAP Center, the fire department would not allow egress construction to occur at the same time as an event. Therefore, the construction activities would not interfere with emergency access for the SAP Center. In addition, the removal and replacement of the SAP Center stairs would be required to conform with building and fire code requirements, ensuring adequate egress during emergencies.

With implementation of the required construction traffic plans, the volume and timing of construction traffic would be managed to avoid adversely affecting the level of service on nearby roads. The impact of the proposed project relative to emergency response or evacuation plans would be less than significant.

We must point out that “single-lane” street closures will interfere with not only emergency services traffic in the area, but also affect pedestrian and bicycle facilities. As we know, most construction projects, especially Downtown, depend on street rights-of-way for construction and equipment staging, including the placement of cranes. How can a high-rise structure be built “on-site”, especially those in the final stages of construction on a particular site? This needs to be explained before the proposed mitigation measure can be evaluated.

The extension of Cahill Street must be built before any construction can occur on Lots A, B, and C, east and north of SAP Center. We can think of no way this construction can occur and not affect egress and ingress to the Arena during events. Nor does the DEIR explain how this could be done. The blocking of entrances and exits would occur as a result of construction even when active construction is not occurring. The DEIR gives us no details on how this impact will be avoided. The future preparation of construction traffic plans is deferred mitigation with no performance criteria in violation of CEQA. This is a significant environmental effect to emergency services without mitigation. Please explain how this can be accomplished and what provisions are in place for SSE review per the AMA.

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Truck haul routes whether for construction or long-term equipment and utilities use are not yet determined and while the DEIR states that they were “modeled” for air quality analyses, they can be changed by the applicant. These should be disclosed. We also note that per Figure 3.1-2 of the DEIR, many of the haul routes are located along existing residential streets, which is not consistent with the DEIR’s declaration that “Truck routes shall be established to avoid both on-site and off-site sensitive receptors.” These routes could be used regularly for at least 10 years and should be known now. If they are changed, how will residents be notified?

Preparing future “plans” for “Construction Emissions Minimization” and “Construction Traffic” with no scientific performance criteria is deferred mitigation. Significant impacts can occur to existing and future sensitive receptors in violation of CEQA. Again, we believe that the lack of project information renders the DEIR a “program-level” document wherein subsequent environmental review should occur as actual development is proposed to give the decision makers and public an accurate identification of impacts and project-specific mitigation.

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Page 3.1-97 states:

The project applicant shall encourage walking, bicycling, and transit use by construction employees by offering incentives such as on-site bike parking, transit subsidies, and additional shuttles. The project shall achieve a performance standard of diverting at least 50 percent of construction employee trips from single-occupant vehicles. This may include the use of carpools and vanpools for construction workers.

Further detail is required. Where will shuttles drop workers off and pick them up? How will the project determine that 50 percent of single-occupant vehicle trips by construction workers are being diverted? How will this be measured and enforced? How will pedestrian and cyclist safety be affected by this action?

We are also concerned about construction-related traffic impacts of the bridge structure that may be built all at one time, requiring detours, or one lane at a time, constricting traffic flow. We see no specific information on construction details, nor of how traffic will be diverted and for what length of time, especially during the AM and PM peak hours and during SAP Center events. Indirect safety impacts to pedestrians and bicyclists during construction are also not addressed.

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SECTION 9. ECONOMIC CONSEQUENCES

The lack of a stable project description and the deferral of approvals to some unknown time will result in significant adverse environmental impacts not adequately addressed, as described above. There will also be significant long-term socioeconomic impacts that will burden the Arena, the Diridon Station area (including the surrounding neighborhoods), and the City as a whole. Travel to Arena events is unlike commuter transportation analysis. Like other sports and entertainment venues, travel to the Arena is discretionary. Thus, worsening transportation or parking conditions, which may not deter a commuter from making a required trip to work or home, will often completely deter a patron from going to an Arena event. Consequently, good transportation access is required in order for the Arena's on-going success, both in the long-term and during construction. A proposed development project that damages the transportation and parking experience can have ruinous economic impacts on the continued vitality of the Arena.

The San Jose City Council approved the extension to the Arena Management Agreement in 2015 based on the community and economic asset the SAP Center had become under SSE's management, noting in a memo from 5 councilmembers recommending the approval that "[W]ith tens of millions in annual economic impact, the building annually generates over \$5 million in sales, hotel and other tax revenues for the General fund, supporting the City's provision of basis services."

As noted in this comment letter, a reduction in adequate parking supply and street capacity impacts the ability of SSE to successfully operate the arena because patrons cannot easily access the facility and so are less likely to attend events. This results in reduced revenue to the city, as well as the likely potential for a loss of jobs. The economic impact of reduced arena operations is being felt by the city now due to the shutdown arising from the covid-19 pandemic and some similar impacts associated with the project are expected. The economic studies which are included in the Draft EIR do not account for the impact to the Arena as a cost of the project and should be assessed, particularly since the DSAP goals include ensuring the continued successful operation of the SAP Center.

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CONCLUSION

In closing, I would like to reiterate the mutual intention of the City and SSE as expressed in the AMA Side Letter two years ago:

We believe that with proper planning, the Diridon Station Area can support robust corporate development, a multi-modal transportation system, and a successful world-class sports and entertainment arena. However, the plan must also address critical needs of the SAP Center regarding transportation and parking.

Consistent with this, SSE supports Google's desire to redevelop a portion of the Diridon Station area. However, the DEIR must include a stable, finite project description, suitable analysis based on fact (not assumption), and definitive, enforceable mitigation of the significant adverse environmental impacts. It is SSE's belief, grounded in long experience, that such mitigation will result in a project that can achieve the goals of Google and the City, while preserving the viability of SAP Center.

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Sincerely,

Silicon Valley Law Group

By: 

Jeffrey S. Lawson

JSL

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- Exhibits
- A: AMA Side Letter
 - B: AMA Excerpts (Sections 21 and 23)
 - C: Krupka Consulting Memo
 - D: Wenck Associates Memo with Supplement
 - E: Watry Design Memo
 - F: Circlepoint
 - G: AEP CEQA Portal Paper, Baseline
 - H. AEP CEQA Portal Paper, Project Description, updated 2/10/20
 - I: Graphic of Parking within 1/3-mile
 - J: Articles re Parking Problems at BART Stations
 - K: Article re Mode Shift Issues at North Bayshore



SIDE LETTER REGARDING FUTURE DISCUSSIONS

This Side Letter Regarding Future Discussions ("**Side Letter**"), dated for reference as of August 15, 2018, is delivered by the City of San Jose ("**City**") and San Jose Arena Management, LLC ("**Manager**") as an expression of our mutual commitment to work together to help facilitate a bold new vision for the Diridon Station Area, for the good of the entire community.

BACKGROUND

On May 19, 2015, the City Council adopted Resolution number 77352 authorizing the City Manager to negotiate and execute a Second Amended and Restated Arena Management Agreement ("**AMA**") for the management of the City-owned SAP Center, extending the term of the 2000 Arena Agreement and amending other terms, consistent with the Term Sheet presented to the Council.

During the past three years of negotiations of the AMA, City and Manager have discussed future construction and development projects in the Diridon Station Area that may impact the availability and operation of parking facilities that serve the SAP Center, as well as access to and from those facilities.

The parties have now completed the drafting of the AMA consistent with the Term Sheet, including extensive provisions regarding on-site and off-site parking, transportation in and around the Diridon Station Area, and the need to anticipate and address changed conditions that result from new transit projects and/or private development projects.

THE NEED FOR CONTINUING DISCUSSIONS

Although the AMA is done and the parties are executing it concurrently with this letter, we know that our discussions are not done. We understand that the issues surrounding the development of the Diridon Station Area are complex, and the situation is constantly evolving. It will likely be many years before the parking and transportation "ecosystem" in the Diridon Station Area is stabilized.

Until such stabilization occurs, we will need to meet and confer regularly and often to discuss the ongoing public and private development projects in the Diridon Station Area, to try to find ways to facilitate the transformation of the Diridon Station Area into a master-planned transit-oriented community while meeting the access and parking needs of the SAP Center.

We believe that with proper planning, the Diridon Station Area can support robust corporate development, a multi-modal transportation system, and a successful world-class sports and entertainment arena. However, the plan must also address critical needs of the SAP Center regarding transportation and parking.

OUR MUTUAL COMMITMENT

Following the execution of the AMA, City and Manager will continue to meet in good faith to discuss long-term, integrated, and shared parking solutions for the benefit of the community and the key stakeholders in the Diridon Station Area, including transportation agencies and residential and corporate developers. These meetings will include discussions addressing (i) the City's desire to encourage construction and development projects in the Diridon Station Area; (ii) construction management plans, including mitigation of construction impacts; (iii) changes that may result from the new development; (iv) Manager's access and parking requirements in coordination with the transportation and development projects surrounding the SAP Center; and (v) alternative ways to achieve solutions for Manager's parking operations as part of the development of these projects.

Such discussions will recognize one of the primary objectives of the Diridon Station Area Plan, which is to "ensure the continued vitality of the San Jose Arena, recognizing that the Arena is a major anchor for both Downtown San Jose and the Diridon Station Area, and that sufficient parking and efficient access for Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the Arena's on-going success."

Without limiting the foregoing, Manager is open to the future possibility of relocating, reconfiguring, restructuring or otherwise reorganizing the parking facilities that serve the SAP Center, provided that any such reorganization is accomplished through a comprehensive plan that, on a holistic basis, preserves the access for SAP Center patrons and the overall quality of the parking ecosystem, including the operational and revenue-generating aspects of the parking as described in the AMA.

OUR MUTUAL INTENT

Nothing in this Side Letter modifies the AMA in any way. Further, nothing in this Side Letter obligates the parties to agree to any modifications to the AMA. This Side Letter does not constitute a binding contract, and does not create any contractual obligations or duties.

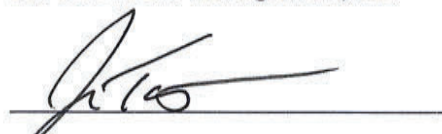
The purpose of this Side Letter is to reaffirm that the parties remain willing to meet and confer with each other as development plans for the Diridon Station Area evolve, to try to find mutually acceptable solutions for parking and transportation issues that arise over the next several years, with the express goal of helping to ensure that the SAP Center and its new neighbors will be able to co-exist successfully in a synergistic and dynamic transit-oriented community.

City of San Jose:



David Sykes, City Manager

San Jose Arena Management, LLC:



John Tortora, President

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

SECTION 21. COORDINATION AND COOPERATION.

21.1 Parking Matters. City shall continuously monitor and evaluate development within the 1/2 Mile Radius, to help ensure that its parking obligations under this Agreement will continue to be met throughout the entire Term. Among other things, City reaffirms its intent to comply with the following obligations mandated by the City Council in connection with approval of the Diridon Plan:

21.1.1 Significant Land Use Decisions. City shall coordinate with Manager regarding significant land use and development decisions within the 1/2 Mile Radius, to ensure that the required number of Available Parking Spaces is maintained. Such coordination obligations shall include the following measures:

- (a) City shall refer to Manager all development proposals on parcels within approximately 1/3 of a mile of the Diridon Station that have off-street public parking facilities, and are in excess of 25,000 square feet. Referrals shall include the cover letter, plan set, and other relevant materials the applicant provides as part of the project submittal. Referrals shall also include notification of preliminary review applications, initial studies, and environmental impact reports (including draft and final EIR's, amendments and addenda). Staff shall provide comments received in a timely manner from Manager to the applicant and consider them in formulating initial comments the City may provide on the proposed project.
- (b) City shall require development proposals on parcels within the central and northern zone of the Diridon Plan that have off-street public parking facilities, and are in excess of 100,000 square feet of commercial space or in excess of 50,000 square feet of stand-alone retail/restaurant projects, to conduct a parking analysis for the project. City shall similarly request the same of development proposals within approximately 1/3 of a mile of the Diridon Station. These projects would be required to analyze and identify the projected parking demand, demand management strategies, and the parking supply to be provided by the project. The analysis would identify the impacts of the project on the existing parking supply within the Diridon Station Area, and suggest ways to mitigate the impact if it is deemed significant. The analysis would also include an assessment of spaces impacted or needed during construction.
- (c) For the BART and High Speed Rail transit projects, the City shall request that the lead agency conduct a project parking analysis. The analysis should include a projection of parking demand, demand management strategies, recommended parking supply solutions, and potential impacts on the existing parking supply within the Diridon Station Area, including suggested ways to mitigate the impact if it is deemed

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

significant. The results of any parking analysis shall be provided to Manager for review and comment. City shall consider Manager's timely feedback in formulating comments that City forwards to the lead agency as part of the project development and approval process.

21.1.2 Shared Parking for Non-Residential Development. For non-residential development that would result in the substantial loss of Available Parking Spaces, City will strive to include shared parking as a condition of development if necessary to mitigate the loss of parking. The shared parking condition would require that the development's parking facilities be available for the general public, with or without fees, at times when the parking facilities within the development are not being fully used by the development.

21.2 Transportation Matters. City shall coordinate with Manager regarding transportation projects, transportation plans, and other transportation matters in the vicinity of the Diridon Station Area or that may otherwise affect ingress to and egress from the Arena, including as follows:

21.2.1 Transportation Projects. For transportation projects such as BART and High Speed Rail, City will request that the lead agency conduct a transportation analysis that evaluates potential adverse impacts on traffic and parking in the vicinity of the Diridon Station Area, with the objective of ensuring that appropriate mitigation measures are included to protect the Arena's operations from such adverse impacts. City shall also consider Manager's timely feedback in formulating comments that City forwards to the lead agency as part of the project development and approval process.

21.2.2 TPMP's. City and Manager shall coordinate regarding the Transportation and Parking Management Plan for the Arena as well as TPMP's for the Arena Green, BART, High Speed Rail, and other major development projects, all as set forth in Section 23 below.

21.2.3 Streets and Intersections. City and Manager shall also coordinate regarding any material changes to the design, configuration or operation of the major streets and intersections in the vicinity of the Arena to the extent that they may have a direct impact on the safe and efficient flow of vehicular, bicycle, and pedestrian traffic to and from the Arena, including Autumn Street and the intersection at Autumn Street and Park Avenue.

- (a) City shall give Manager advance notice of any such material changes, including copies of relevant plans and specifications, and shall meet with Manager in advance of any work in order to discuss Manager's input and suggestions.
- (b) The Parties shall work together in good faith with the goal of achieving the best overall function of the streets and intersections for the benefit of both the Arena and all other development in the Diridon Area.

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

21.3 Coordination Meetings. City and Manager agree that time is of the essence with respect to the obligations under this Agreement, and agree to use reasonable good faith efforts to meet and confer as often as necessary to prioritize and resolve parking, traffic and transportation issues in the vicinity of the Arena.

21.3.1 Meeting Participants. The City Manager's office, with the assistance of the Arena Authority, will engage the appropriate City departments and other agencies to participate in meetings with Manager as necessary, including the Department of Transportation, the Police Department, the Planning Department, the Public Works Department, SARA, and the VTA.

21.3.2 Issues to be Addressed. Issues to be addressed between the Parties shall include the following:

- (i) The operation and management of Off-Site Parking Facilities;
- (ii) The location and manner of providing the Minimum Employee Parking Requirements;
- (iii) Any Temporary Conditions that impact the Available Parking Spaces and any requested Temporary Parking Agreements;
- (iv) Preparation of the Parking Supply Report, the Parking Forecast Report, and the Schedule of Parking Solutions, and any issues related thereto;
- (v) Preparation of the Parking Utilization Report, and any adjustments to the Minimum Off-Site Parking Requirements based on the results of such Report;
- (vi) The design, construction and operation of BART, High Speed Rail and other transportation projects, including associated parking facilities and traffic impacts;
- (vii) Development projects with the 1/3 Mile Ring and the 1/2 Mile Ring;
- (viii) The identification and evaluation of sites for development of additional Off-Site Parking Facilities as needed, including both surface lots and structured parking facilities;
- (ix) Shared parking in the vicinity of the Arena;
- (x) The extension and realignment of Autumn Street;
- (xi) Revisions to the TPMP's for the Arena, the Arena Green, transportation projects, and other major projects; and
- (xii) Other on-site and off-site transportation and parking issues.

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

SECTION 23. TRANSPORTATION AND PARKING MANAGEMENT PLANS.

23.1 Arena TPMP. Manager and City have agreed to a traffic and parking management plan for the Arena, entitled “Transportation & Parking Management Plan, 6th Edition,” a copy of which is attached as **Attachment No. 13** hereto (the “**Arena TPMP**”). The Arena TPMP identifies goals and strategies for: (i) the operation and management of the On-Site Parking Facilities; (ii) the provision of convenient Off-Site Parking Facilities for Arena employees and customers; and (iii) the provision of safe and efficient traffic and pedestrian movement of Arena customers.

23.1.1 Background.

- (a) The parties agree that because of the lack of adequate On-Site Parking Facilities, the success of the Arena is dependent on an effective TPMP to move people to and from the Arena.
- (b) Manager and City agree to use reasonable good faith efforts to correct by appropriate means and methods any material deficiencies in the provision of and effective use of the On-Site Parking Facilities and Off-Site Parking Facilities. This includes an obligation by the City to use its reasonable good faith efforts to devote sufficient operating funds and resources to make the movement of cars and people effective and efficient.

23.1.2 Contents of Arena TPMP. The Arena TPMP is intended by the Parties to address traffic, parking and pedestrian issues of concern to City, Manager, Arena customers and the neighborhood arising from the usage of the Arena. The Arena TPMP specifically addresses, among other things, the following:

- (i) ingress and egress to the Arena Facilities and Off-Site Parking Facilities;
- (ii) coordinated traffic control procedures for signalization, pedestrian flow movement, vehicular flow movement, and coordination of conflicts between same;
- (iii) the provision, replacement and substitution of Off-Site Parking Facilities by City;
- (iv) the use and availability of on-site and off-site parking spaces for Arena Events;
- (v) off-site traffic control (including personnel and Arena Employee parking, bus parking, parking payments and charges);
- (vi) guide signs on regional and local roadways and San Jose freeways for motorists coming to the Arena, guide signs for parking and pedestrians, public information promotion and signage;
- (vii) coordination with mass transit authorities; and

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

- (viii) all other provisions deemed necessary by the Parties to set forth the means by which they shall implement their respective rights and obligations pertaining to traffic and parking.

23.1.3 Modification of Arena TPMP. The Arena TPMP shall be subject to modification as the Parties may agree from time to time.

- (a) The Arena TPMP is intended to be a working document and contains both the ability and the requirement to adjust to changing conditions, and to improve as the Parties may agree, provided that no such changes shall operate to limit or reduce the scope and purpose of the Arena TPMP.
- (b) The Parties agree that as of the Execution Date, the Arena TPMP needs to be updated to address recent changes in the Diridon Station Area. The Parties shall work together in good faith to mutually agree upon appropriate revisions to the Arena TPMP as soon as reasonably practicable following the Execution Date of this Agreement.
- (c) Manager and City shall consult and act reasonably to monitor performance of the Arena TPMP on an ongoing basis. At least every three years following the update described above, the Parties shall review the Arena TPMP together to determine whether any correction, minor modification, complete update or other revision is warranted based on then-current facts and circumstances. If needed, the Parties shall work together in good faith to correct, modify, update or otherwise revise the Arena TPMP and the security plans, with the common objective of providing the most effective use of the On-Site Parking Facilities and Off-Site Parking Facilities and security measures during Arena Events.

23.1.4 Legal Effect of Arena TPMP. Neither the Arena TPMP nor any modification thereto shall be construed to amend this Agreement, but the Arena TPMP may be used to help interpret the Parties' intentions and respective obligations under this Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Arena TPMP, the terms of this Agreement shall control.

23.2 Transit Project TPMP's.

23.2.1 Definitions. In this Agreement, the following terms have the meanings given below:

- (a) **"Transit Project"** means the High Speed Rail project or station, or the BART project or station.
- (b) **"Project TPMP"** means a transportation and parking management plan for either an Assembly Venue or a Transit Project.

AMA SECTIONS REGARDING COORDINATION REGARDING TRAFFIC AND PARKING

23.2.2 TPMP's and Construction Mitigation Plan Required. In the event that the City or SARA transfers real property for the construction of a Transit Project in the Diridon Area, City or SARA shall include in any document of transfer of property a requirement for a Project TPMP and a construction mitigation plan for the proposed project.

- (a) Each Project TPMP shall adhere to the framework set forth on document entitled "Framework for Project Transportation and Parking Management Plans" attached as **Attachment No. 14** to this Agreement and incorporated herein by reference. The Project TPMP's shall be coordinated with, be consistent with and not be in conflict with the Arena TPMP.
- (b) The Project TPMP's will be reviewed on a periodic and as needed basis by a TPMP committee which will include representatives from the City, the entity operating the Transit Project, and Manager. Amendments and updates to the TPMP's will be as needed in order to conform to changed circumstances, provided that any such amendment shall be consistent with and not in conflict with the Arena TPMP.
- (c) The costs of administration and management of the TPMP's shall be addressed and provided for in the TPMP's.

23.2.3 Event Operations Committee. City and Manager will provide leadership and follow-through on Event Operations Committee to implement an extensive communications program for both Arena and other event producers to encourage parties to use routes and parking facilities that would minimize conflicts with each other.



December 4, 2020

TO: Jim Goddard, Sharks Sports & Entertainment LLC (SSE)
 FROM: Paul Krupka
 RE: Draft Transportation Comments > Downtown West Mixed-Use Plan Draft
 Environmental Impact Report (DEIR) (October 2020)

Krupka Consulting was engaged by SSE to review the technical content of transportation sections and appendices of the referenced DEIR.¹ This memorandum summarizes the findings of this review and is intended to be incorporated as an enclosure to a formal comment letter by SSE.

This memorandum is organized by DEIR element as listed below.

- DEIR – APPENDIX C4 Transportation Demand Management (TDM) Plan Assessment
- DEIR – APPENDIX J1 Draft Transportation Assessment (TA) Report
- DEIR – APPENDIX J2 Draft Local Transportation Analysis (LTA) Report
- DEIR – APPENDIX M Downtown West Design Standards and Guidelines

Comments are listed by page number.

DEIR – APPENDIX C4 Transportation Demand Management (TDM) Plan Assessment

p. 2 This statement is misleading: “This memorandum assesses the maximum [vehicle miles traveled (VMT)] reduction a robust TDM program could achieve by evaluating all reasonably available and quantifiable TDM measures, regardless of what measures are proposed by the Project.” The memorandum describes an arithmetic exercise applying maximum percentage trip reductions for selected required and optional TDM measures to approximate the maximum trip reduction the Project *could* possibly achieve, not an actual assessment of Project TDM Program performance. Although the document stated the analyst employed methods and data in the California Air Pollution Control Officers Association (CAPCOA), August 2010 report “Quantifying Greenhouse Gas Mitigation Measures” (California Air Pollution Control Officers Association, Quantifying Greenhouse Gas Mitigation Measures, August 2010), the document does not present any data or studies showing that the TDM measures are appropriate to the site conditions or what benefit is projected. In other words, this document does not provide any analysis or study of what VMT reductions will be achieved by any TDM measures required as part of the Project.

Z.52

The document therefore does not substantiate whether the Project TDM Program would meet or exceed the thresholds established by DEIR Mitigation Measure AQ-2h Enhanced Transportation Management and Monitoring Program.

pp. 8-9 Table 2 lists selected TDM Strategies and respective maximum trip reductions and indicates a Total TDM Program Reduction of 27%. The procedure to derive the total category

¹ Krupka Consulting is a Sole Proprietorship with qualifications and experience represented by the enclosed resumé of Paul Krupka, Sole Proprietor.

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reductions is unclear and unsubstantiated. Furthermore, no analysis and findings are provided to allow the reader to relate percentage trip reduction to numerical trip reduction and therefore connect this assessment to critical analysis and findings in the TA (Chapter 3. Project Travel Demand) and LTA (Chapter 4. Project Travel Demand).

The analyst must show its work to allow the reader to understand this assessment of potential Project trip reduction effects of TDM. The reader needs to see at minimum the following details.

- Descriptions of all TDM strategies and how they are applied to specific trip making components of the Project
- Calculations of person and vehicle trips without and with each TDM strategy

Z.52
cont.

DEIR – APPENDIX J1 Draft Transportation Assessment (TA) Report

p. 2 The Project proposes dramatic roadway network changes, which are summarized in the TA and set forth in detail in the Downtown West Design Standards and Guidelines. Please see “DEIR – Appendix M Downtown West Design Standards and Guidelines” below for comments.

p. 3 The matter of a “focused LTA” appears here with only a sentence about purpose. There is no explanation of relevance and context. What is an LTA and a “focused LTA,” and why is it important to the Project?

Z.53

p. 3 The description of bicycle network changes needs definitions of referenced bikeway classes I through IV, so the reader can follow the discussion.

Z.54

p. 6 The discussion of AB 900 and the specific transportation requirement that “the project will achieve at least 15 percent greater transportation efficiency than comparable projects” establishes the fundamental trip reduction intent of the Project. Other than referencing a separate analysis of trip reduction potential, which indicates the Project exceeds the application threshold, no other details are provided. This section should summarize key assumptions, procedures and findings so the reader can understand the referenced analysis. Even so, as indicated by comments above under DEIR – APPENDIX C4 Transportation Demand Management (TDM) Plan Assessment, the actual performance of the Project TDM Program was not quantified, so any added explanation here is just speculation regarding future possibilities.

Z.55

p. 16 The Analysis Scenarios don’t match the LTA Scenarios. Why?

p.38 The statement “The use of the 2015 model represents a conservative estimate of trip generation estimates.” is questionable given assumptions about employment density for office (250 sf/employee). This is a fairly dated “standard” value for commercial office use that could be substantially lower than current actual employment densities at typical Google projects. To be clear, this looks like a low estimate of trip generation, not a conservative estimate. Please justify this assumption based on relevant empirical data.

Z.56

p. 40 “Total vehicle trips are derived based on model results for average vehicle occupancy and are shown in Table 4.” This statement would be greatly enhanced with information about the resulting “average vehicle occupancy” rates.

p. 41 Referring to Table 4, the marginal increase – over Existing Conditions - in vehicle trips with the Project is extraordinary – approximately +600 percent for all cases (not considering the

Jim Goddard, December 4, 2020

<p>purported vehicle trip reductions due to TDM and substantial mode shift from single occupant vehicle put forward in the <u>Envision San Jose 2042 General Plan</u>). This deserves explanation and clarification for context. What does this mean for stakeholders in the Project area? Skipping to the bottom line regarding CEQA, how can it be that “the Project would have ... less than significant ... VMT impact” ? (p. 86) when supporting analysis produces a +600% increase in vehicles trips on a street network that is designed to minimize traffic?</p>	<p>↑</p> <p>Z.56 cont.</p>
<p>p. 61 The first sentence in the last paragraph is incomplete.</p>	<p>↑</p> <p>Z.57</p>
<p>p. 62 The fact that the “[Diridon Station Intermodal Center (DISC)] layouts were adopted [by City Council] after the release of the Project NOP...” does not excuse the City from evaluating what is known – conceptually of course – with regard to the Project “framework plan” (also conceptual at this time). This section should state clearly what is meant by the statement “...the current framework plan does not directly accommodate the Concept Plan...” so the reader can understand the implication regarding DISC and Project implementation. Is this discussion not – in fact – stating <u>the Project has a conflict with this transit plan</u>? That is, DISC in concept would generate trips by all modes and introduce numerous functional requirements and conflicts on adjacent accessways and streets, which in turn would have substantial implications on the Project description and its potential success as envisioned. This would likely introduce new adverse effects for all stakeholders, which should be clearly disclosed to the lay reader.</p>	<p>↑</p> <p>Z.58</p>
<p>p. 62 “The Project applicant will actively work with the City and the DISC partner agencies to address the final selected layout, while still meeting the objectives of the Project.” This sentence should clearly state SSE is one of the parties the Applicant and City will work with.</p>	<p>↑</p>
<p>p. 64 The statement “...the project applicant must prepare and submit [future] LTAs...” is appreciated and critical. The significance of Arena operations means that SSE should be directly involved in these LTAs; this should be clearly stated.</p>	<p>↑</p>
<p>p. 64 This sentence is awkward: “For this reason, the proposed project would not introduce any geometric design features or incompatible uses, and this impact would be less than significant.” There is no data provided to support this statement, leaving many questions unanswered. For example:</p> <ul style="list-style-type: none"> • For <u>what</u> reason? • “The project would not introduce any geometric design features...” Meaning? • “...this impact would be less than significant.” <u>What</u> impact? 	<p>↑</p> <p>Z.59</p>
<p>p. 69 The third sentence under Emergency Access Summary that starts with “LTAs evaluating...” does not indicate such LTAs must be prepared, which was stated under Hazardous Design Features on p. 64. The requirement for LTAs – implied by “must” – applies to all topics of analysis. Furthermore, these LTAs are critical. As noted above, the significance of Arena operations means that SSE should be directly involved in these LTAs; this should be clearly stated.</p>	<p>↑</p> <p>Z.60</p>
<p>p. 70 The first paragraph indicates the Year 2040 Cumulative No Project scenario assumes unspecified “...land use allocations currently contemplated as part of the City-initiated amendments to the DSAP...” and “the Year 2040 Plus Project scenario assumes all proposed DSAP amendments...” What are the land use reallocations and the proposed DSAP amendments?</p>	<p>↑</p> <p>Z.61</p> <p>↓</p>

This failure to disclose the land use reallocations is a critical oversight because the reader cannot interpret the analysis without information and data describing the context and relative magnitudes of the DSAP and Project land uses and, moreover, the potential impacts caused by these two significant scenarios. To be clear, there is no meaningful basis for:

- Estimates of VMT Per Service Population (Table 11, p. 72) and the statement of “less than significant impact”.
- Estimates of Journey to Work Mode Share (Table 12, p. 73) and the statement of “less than significant impact”.
- Estimates of AM Peak Hour Transit Corridor Travel Speeds (Table 13, p. 74) and the statement of “significant impact”.

Also, why was the transit corridor travel speeds evaluation done for just the AM Peak Hour? The PM Peak Hour condition is even more critical to area access and circulation because SAP Center generates substantial PM peak period person and vehicle trips before games and events.

p. 75 Referring to text under “Mitigation Measure,” it appears the stated mitigation measure for the noted significant impact is not supported by any analysis. The following points underscore this observation.

- The first paragraph effectively disclaims the ability of the City model to evaluate “...Project-specific features, such as TDM elements...”. The paragraph also does not state what the intent of the mitigation is. How, then, does one evaluate the special aspects of the Project and trip and VMT implications? A meaningful evaluation can only be conducted if the document provides a detailed discussion and quantification of “post-model” trip generation changes.
- The second paragraph highlights a General Plan target and concludes – without any substantiation – “Based on City provided data, the Project would need to achieve a 75 percent non-[single occupant vehicle (SOV)] mode split to reach citywide mode split targets.” How was this derived?
- The third paragraph jumps to the conclusion regarding the necessary mitigation measure for the noted impact, a TDM Program, which was presumably based on “...an analysis of available transit and the likely effectiveness of TDM programs...”. Was such an analysis done? If so, where is it documented?
- The last sentence states the mitigation measure “...would achieve a non-SOV mode share of 65 percent...equivalent to an average daily trips reduction of 27 percent...”. How were these results calculated? They appear to be elementary performance standards postulated using simple arithmetic rather than an actual evaluation with minimum details such as the following.
 - Descriptions of all TDM strategies and how they are applied to specific trip making components of the Project
 - Calculations of person and vehicle trips without and with TDM strategy, for each TDM strategy

Z.61
cont.

p. 76 The Project applicant’s TDM Program must be approved to secure the Planned Development Permit. Given the magnitude and complexity of the Project, the TDM Program must be backed up by a comprehensive technical analysis as it will be subject to substantial scrutiny by the community and stakeholders. Proposing a TDM program that is not supported by a comprehensive technical analysis means that the TDM program is unlikely to achieve any of the goals necessary to achieve meaningful mitigation. As noted above, the significance of Arena

Z.62

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operations means that SSE should be directly involved in the TDM Program review process; this should be clearly stated.

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Z.62
cont.

p. 77 The required SOV trip reduction strategies do not include express bus or commuter shuttle services, which are common to other Google developments. Why?

DEIR – APPENDIX J2 Draft Local Transportation Analysis (LTA) Report

p. 1 The requirement for “focused LTAs” is appreciated and critical. The significance of Arena operations means that SSE should be directly involved in these LTAs; this should be clearly stated.

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Z.63

However, the disclaimer “...the Project does not include a specific site plan that designates exact building location and access for each parcel...” is generalized and unacceptable for a project of this magnitude and complexity. As a result, this LTA is incomplete because it does not sufficiently address site access and local circulation. For example, the Local Access and Queueing Analysis does not include intersections critical to the area, including N Montgomery at W Julian, W Santa Clara and W San Fernando, Park at N Autumn and W San Fernando at Almaden Blvd. The City could have and should have developed a complete scope of analysis in cooperation with stakeholders.

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Z.64

p. 5 As noted in comments on the TA, it appears the “Enhanced TDM Program” mitigation measure is not supported by any analysis. Therefore, applying the hypothetical trip reductions implied in the Enhanced TDM Program in the LTA is not substantiated and a fatal flaw.

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Z.65

p. 39 The Analysis Scenarios don’t match the TA Scenarios. Why?

p. 40 Table 4 Summary of Analysis Scenarios indicates “analysis not required” under Background Phase 1. This initial phase of Project development is relatively large as are the respective transit services included (BART Phase II and Caltrain Business Plan service levels), which indicate that this analysis element would be quite important as a benchmark. Please explain the rationale for not analyzing this scenario.

p. 40 The detailed discussion under 2.4.1 City of San José Travel Demand Forecasting Model – its genesis and use – is helpful. However, it seems misplaced and should be incorporated in the TA – and the DEIR – to document this critical study element used for the CEQA evaluation. In other words, was this same “City model” used in the TA?

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Z.66

p. 41-42 Continuing, the General Plan Growth Reallocation discussion provides details that should have been incorporated into the TA. *Were the same assumptions applied in the TA?*

p. 42 The discussion of Traffic Volumes, which begins in the last paragraph, glosses over the development of Background traffic forecasts. The discussion is rote and incomplete, and the information in Appendix B Approved Developments is neither accessible nor useful for anyone other than the analysts and City staff used to technical jargon. The reader needs at minimum a clear description of the intent of this scenario and procedures used to develop Background traffic forecasts, including a list of all included developments with land uses and traffic forecasts.

p. 50 Under Goal-Based Project Buildout Conditions, the document states that this scenario “...is presented to illustrate the long-term vision of Downtown San José...” and “...represents the City’s aspirational goals that could only be achieved if the full vision of Envision San José 2040 is

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realized.” {emphasis added} This hypothetical “what if” scenario is not substantiated or realistic. For example, the stated goal of Envision San José 2040 is that “...no more than 40 percent of commute trips are completed by driving alone...” and this percentage, among other aspirational targets, is incorporated in the Goal-Based analysis. In comparison, the Integrated Final EIR for Downtown Strategy 2040 (the 2018 amendments to Envision San José 2040) estimated journey-to-work (commute) mode share drive alone to be 71.5 percent, which is much higher than the 40 percent goal cited. (City of San Jose, Downtown Strategy 2040 Integrated Final EIR, December 2018, Table 3.15-9, p. 299). How is application of the 40 percent goal in this analysis reasonable?

This hypothetical “what if” scenario is not relevant to the LTA, which is intended “...to identify adverse effects of the Project on the surrounding transportation system and recommend improvements.” The City’s Transportation Analysis Handbook makes no reference to any scenario beyond Background plus Project Conditions. The LTA for the major Cityview Office Development (3.6 million square feet of office) did not include a similarly aspirational scenario. The inclusion of this scenario is misleading because it introduces false expectations.

This subsection ends with an obtuse statement that appears to reference the mitigation measure cited in the TA, a TDM Program, which was presumably based on “...an analysis of available transit and the likely effectiveness of TDM programs...”. The same questions asked in comments on the TA is warranted: Was such an analysis done? If so, where is it documented? The reader must know how the effectiveness of the TDM program was evaluated and substantiated to reach a conclusion of a less than significant traffic impact.

These critical observations call into question ALL subsequent analysis of Goal-Based scenarios and is a fatal flaw of the analysis.

p. 97 Under 4.1.1 Trip Generation Methods, the last sentence in the first paragraph says “...the more aspirational goal-based approach was only applied to the Buildout scenario and appears to conflict with the sentence under 4.1.1.2 Goal-Based Travel Characteristics that says, “The goal-based mode split analysis is used for cumulative plus Project analysis...” {emphasis added}. Please clarify which scenarios include the “goal-based approach.”

p. 101 Travel demand effects of TDM were assessed by simply applying percentage trip reductions for three TDM measures, which were apparently extracted from a 2010 publication about quantifying greenhouse gas emissions that the analyst provided technical analysis on (California Air Pollution Control Officers Association, Quantifying Greenhouse Gas Mitigation Measures, August 2010). There is no indication that the analyst customized the application of these trip reductions to the Project. Therefore, the stated effectiveness of the TDM program is unsubstantiated, incomplete and misleading. The analyst must show its work to allow review of this critical assumption about the claimed substantial trip reduction effects of TDM.

The following questions highlight the serious shortfall in this analysis.

- Would Transit Passes be provided to all residents and employees? What are the results related to mode shift? Show the calculations regarding trip reductions.
- What assumptions about Parking Policies would lead to a 10 percent mode share reduction? Show the calculations regarding trip reductions.
- What Express Bus (employer-based) service is assumed? How many buses would be involved and how would they affect localized congestion and queuing? Show the calculations regarding trip reductions.

Z.66
cont.

Z.67

- How was the summary total of 24 percent reduction in drive-alone trips derived? A footnote is referenced (footnote14) but not included on the page. Show the calculations regarding trip reductions.

p. 106 Which analysis scenario was used to estimate the Project Trip Distribution in Figure 26?

pp. 109, 114, 119 Project traffic assignments shown in Figures 27, 28 and 29 indicate zero (0) traffic on Cahill Street north of Santa Clara. This appears to be a fatal flaw in the analysis given the Project description calls for an extension of Cahill Street to connect to North Montgomery Street to serve substantial Project land uses and SAP Center.

Inspection of Project traffic assignments at several intersections found volumes were relatively low compared to absolute Project traffic generation values of 7,900 to 8,900 peak hour vehicle trips (per Table 17). For example:

- Approximately 300 Project trips (vehicles per hour) were assigned to The Alameda east of Stockton, whereas the Project trip distribution indicated at least 10% of Project traffic, which would equate to 800 to 900 vehicles per hour.
- Approximately 900 to 1,100 Project trips (vehicles per hour) were assigned to SR 87 north of downtown, whereas the Project trip distribution indicated 25% of Project traffic, which would equate to 2,000 plus vehicles per hour.
- Approximately 800 to 900 Project trips (vehicles per hour) were assigned to SR 87 south of downtown, whereas the Project trip distribution indicated 15% of Project traffic, which would equate to 1,200 plus vehicles per hour.

This indicates uncertainty in basic traffic forecasts and resulting intersection operating conditions. The analyst must show work to demonstrate the findings are credible.

p. 123 Regarding units of measure for transit demand, the statement at the top of the page says demand is expressed in Project transit trips that will use a given service. From experience, “transit trips” is not a precise unit of measure. How was transit demand, noted on Table 24 as “seats on in-service vehicles” derived? Isn’t the customary City model output “boardings” - not seats?

p. 134 – 147 As noted above (p. 50), all Goal-Based scenarios are flawed because the associated mode split targets are not reasonable.

p. 147 The finding of “substantial adverse effect” noted at the top of the page is unsubstantiated. Show the work related to measured delay compared to noted guidelines so the reader can understand this crucial finding.

p. 147 The requirement that the applicant fund a study to evaluate a dedicated public service lane along Santa Clara/The Alameda is positive. However, a timeline for this work should be included.

p. 185 The document includes NO DETAILS of the Synchro/SimTraffic analysis that underpins Section 8 Localized Access and Queuing Analysis. This is a serious omission that precludes review of street and intersection layouts and Synchro/SimTraffic analysis configurations.

p. 186 Appendix B is referenced as containing calculation sheets for the Synchro/SimTraffic analysis. THE NOTED APPENDIX DATA IS NOT INCLUDED IN THE DOCUMENT. (Krupka Consulting notified the City about this and a document called “Appendix G Synchro/SimTraffic

Z.67
cont.

Z.68

Z.69

Calcs” was provided with the indication that it would be included in the amended document. However, Appendix G only contains SimTraffic “queuing and blocking” reports and post-processor volume and delay charts, which are useful as backup, but does not contain important intersection layout information and network descriptions.)

p. 186 The intersections listed at the bottom of the page are incorrectly numbered.

p. 188 Conditions at Intersection 24 Santa Clara/Cahill, shown in Table 51, may not be correct given zero (0) traffic was assigned to Cahill north of Santa Clara (see comment on p. 109 + above). Also, how can the PM Peak Hour Background condition at this intersection be LOS B (Table 51) if the Existing condition is LOS E (Table 50)?

pp. 188-189 Substantial adverse effects are noted for 10 intersections under Background conditions, but no physical improvements are proposed. No rationale is provided. Why?

p. 189 The statement beginning “It should be noted...” indicates the LOS adverse effects documented above “...would be lower than identified” appears to be wrong. The “...additional 9 percentage point trip reduction...” applies to Goal-Based scenarios according to the first paragraph of p. 98 and indeed was not applied on purpose. Therefore, the statement about lower impacts is inappropriate.

p. 189 The statement about “...ongoing signal coordination...” improving intersection operations and progression is unsubstantiated. In fact, there is no information in this report quantifying effects of signal coordination.

p. 191 Table 52 indicates the Project will cause adverse effects at EVERY intersection listed (under Background plus Project conditions). The discussion following indicates most locations cannot be physically improved, although three intersections do show some promise for improvement. However, the section concludes with the statement “...the vehicle capacity enhancing improvements are not recommended.” How is this reasonable with respect to maintaining vehicle access and circulation at the noted locations?

p. 193 The off-ramp queuing analysis shows substantial adverse effects (under Background plus Project conditions) but no improvements. This is hard to understand given it can be interpreted as the City accepts resulting adverse effects on freeways.

p. 194 The on-ramp queuing analysis shows substantial adverse effects (under Background plus Project conditions) but no improvements. Why are no improvements proposed to address adverse effects?

p. 218 The evaluation of parking requirements in Table 62 (p. 219) includes the 50 percent reduction cited as allowable “...if proven that the reduction in parking supply will not adversely affect surrounding projects or facilities...”. There is no apparent quantification of such proof. Analysis by a qualified traffic engineer using industry standard methods is required to prove the reduction in parking will not adversely impact surrounding facilities. It is noted that SAP Center is a facility that would be directly affected by Project parking provisions.

p. 220 Parking demand effects of TDM were assessed by simply applying percentage trip reductions for three TDM measures, which were apparently extracted from a 2010 publication about quantifying greenhouse gas emissions that the analyst provided technical analysis on

Z.69
cont.

Z.70

Z.71

(California Air Pollution Control Officers Association, Quantifying Greenhouse Gas Mitigation Measures, August 2010). There is no indication that the analyst customized the application of these trip reductions to the Project. This is not substantiated and is incomplete and misleading. The analyst must show its work to allow review of this critical assumption and resulting conclusions about substantial trip reduction effects of TDM.

p. 221 The discussion about free parking inducing driving is interesting but the cited reference and conclusion is a theoretical experiment using the "Bradford Hill criteria" - adapted from the field of epidemiology (per reference cited in footnote 20 in the document). This observation is not substantiated by empirical study and is of questionable relevance for a professional parking analysis.

p. 222 The section on SAP Center parking is general and includes only one paragraph that mentions agreements between the City and SAP Center.

Z.71
cont.

DEIR – APPENDIX M Downtown West Design Standards and Guidelines

p. 242 **The Project intent regarding the street network**, to reallocate "...each street right-of-way...to minimize area dedicated for vehicles, while maintaining traffic throughput and operational efficiency..." is generally aligned with reasonable New Urbanism tenets. However, the Project **will introduce adverse effects related to SAP Center access and egress** as discussed below.

This document offers a few casual references to SAP Center access but provides nothing that discusses or analyzes the significant day to day event traffic management efforts required to make SAP Center successful. The importance of effective traffic management to the SAP Center is ingrained in detailed agreements between SAP Center and the City. The current system works well, but the Project changes will dramatically alter the system and this document should include specific strategies to implement adequate event management. The following points highlight critical adverse effects that must be defined to allow SAP Center, the City and the Project to ascertain functional and cost responsibilities.

- Conversion of two-way streets to one-way operation before or after events requires a major increase in traffic management efforts over strategies currently employed; in practice, this disrupts non-event traffic and event traffic given drivers are accustomed to two-way traffic operations.
- To avoid confusion, all temporary traffic control devices and traffic handling requirements must be very clear to drivers.
- Changes in street capacity proposed by the Project must be evaluated using industry standard traffic engineering operations analysis.

Z.72

Extending Cahill north to North Montgomery would complement north-south traffic access but its viability is uncertain given implications regarding SAP Center infrastructure and conforming improvements to existing grades are not discussed.

Changes to Cahill south (extension to Park) and Montgomery south (removal of segment) will affect north-south throughput and operational efficiency by altering the critical Autumn-Montgomery couplet. While similar lane capacity may be provided, delays due to turning conflicts and absence of turn lanes would reduce effective throughput capacity on these streets, which would affect access to SAP Center. Furthermore, Cahill is designated as a local connector that serves low vehicle volumes and prioritizes pedestrians and cyclists, which by design does not support

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throughput. Finally, the new connection of Cahill and Park, along with reduced lane capacity on Park, would introduce new turning conflicts and delays on Park on the approach to Bird/Autumn.

↑ Z.72
cont.

Also, as noted in comments on the TA (p. 62), development of Diridon Station, referenced as the DISC Concept Layout, is essentially dismissed: "...the current framework plan does not directly accommodate the Concept Plan because the DISC layouts were adopted {by the City Council} after the release of the Project NOP." The TA notes the "Project will complement development of Diridon Station..." but offers no evidence to support this general claim. *How could it, given the Project analyst did not study and integrate the DISC Concept Plan?* Clearly, DISC in concept would generate trips by all modes and introduce numerous functional requirements and conflicts on adjacent accessways and streets, which in turn would have substantial implications on the Project description and its potential success as envisioned. This would likely introduce new adverse effects for all stakeholders such as SAP Center. *Specifically, Cahill street would have questionable throughput potential given it would bear the brunt of DISC trip generation burden.* Not taking the DISC into account prevents a realistic picture of the changes the Project will make to the environment.

Z.73

p. 246 Dynamic Lanes, per the Vesting Tentative Map, would have widths of 7' and 8'. This is substandard for traffic lanes and therefore is not suitable for safe and efficient traffic flow even in temporary conditions. Dynamic Lanes should have minimum width of 10' as specified in San Jose Complete Streets Design Standards & Guidelines (City of San Jose, May 2018; page 14, Lane Width Guidelines).

Z.74

p. 263 No turn lanes are shown for Cahill Street. This is an adverse effect given it will introduce turning conflicts, delay and queuing at intersections and driveways, which is not consistent with the desire to serve SAP Center event traffic. Dynamic Lanes - only if minimum 10' wide - can help offset this adverse effect.

p. 266 No turn lanes are shown for North Montgomery Street. This is an adverse effect given it will introduce turning conflicts, delay and queuing at intersections and driveways. It is not consistent with the desire to serve SAP Center event traffic. Dynamic Lanes - only if minimum 10' wide - can help offset this adverse effect.

p. 268 No turn lanes are shown for South Autumn (Core). This is an adverse effect given it will introduce turning conflicts, delay and queuing at intersections and driveways. It is not consistent with the desire to serve SAP Center event traffic. Dynamic Lanes - only if minimum 10' wide - can help offset this adverse effect.

Z.75

p. 268 It is unclear whether turn lanes shown for S. Autumn (Meander) are at intersections only or are continuous two-way center left turn lanes. If continuous, the point about providing additional capacity for southbound SAP Center egress must be qualified to indicate such use of the turn lane and the northbound lane (temporarily reversed) would require active event traffic management

If turn lanes are provided at intersections only, this is an adverse effect given it will create turning conflicts, delay and queuing at intersections and driveways and is not consistent with the stated intent to serve SAP Center event traffic (noted on p. 269).

p. 270 Bird Avenue is shown with a two-way turn lane, which is incongruent with its function as a critical connector to I-280 (and SAP Center). Turning capacity must be emphasized in this segment and would likely require maintenance of the existing right of way rather than the reduction in right

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of way shown. For example, the proposed removal of the existing third southbound lane on this segment and the downstream right turn lane at San Carlos will reduce traffic capacity and is considered an adverse effect.

p. 273 On West Santa Clara, a two-lane left turn lane is not feasible given there are no two-lane receiving legs on connecting streets.

p. 275 The significant reduction in width and traffic capacity proposed for Park Avenue will result in adverse effects (safety and delay) with the proposed Cahill extension and intersection at Park Avenue. Additional through and turning capacity on Park Avenue will be necessary to help offset this adverse effect.

p. 277 West Julian – existing and proposed – is constrained by the Caltrain overhead structure, which limits vehicle access to Project land uses and SAP Center. Reconstruction is clearly necessary to address Project and area accessibility looking forward.

The section shown, which is east of Caltrain, proposes additional right of way for bikeways and removes the existing eastbound right turn lane. By observation, this is an adverse effect that will cause additional delays on this street.

p. 279 The provision permitting dynamic lane width up to 10 feet should also include use by traffic. This is consistent with the comment above about dynamic lane width.

Z.75
cont.

Enclosure: Résumé of Paul Krupka, Sole Proprietor of Krupka Consulting

krupka.

PAUL KRUPKA, P.E.

SUMMARY OF QUALIFICATIONS

- Experienced project manager and technical specialist in transportation, traffic and transit planning, engineering and design related to transit-oriented development, transit facilities (systems and stations), parking facilities, large and small development projects (infill and greenfield), institutional projects, transportation demand management, neighborhood, community, downtown, city, sub-area, county, and sub-regional plans, and transit and highway corridors.
- Proficient analyst of transportation impacts and mitigations supporting environmental impact reports for developments and improvements under the California Environmental Quality Act (CEQA).
- Forty years of diverse transportation project development experience in all project phases including preliminary assessment, conceptual planning, feasibility, design and construction.
- Excels in applying traffic and transit engineering principles to solve site design challenges as well as street and highway functional design and operations issues.
- Broad and deep work experience in San Francisco Bay Area and Monterey Bay Area transportation systems. Extensive project experience in Silicon Valley and the San Francisco Peninsula.
- Direct involvement with Caltrans branches responsible for project development as well as highway operations, traffic controls, facility design, construction phasing and transportation management planning.
- Well-versed in the core principles of business success and has applied them successfully in consulting firms small and large. Focuses on first understanding what the customer, internal or external, needs and wants.
- Experienced and proficient problem solver who emphasizes teamwork.
- Persuasive, with ability to communicate effectively with culturally diverse audiences. Has extensive public speaking and executive management briefing experience.

PROFESSIONAL EXPERIENCE

KRUPKA CONSULTING

Principal

2010 – Present

San Mateo, CA

KIMLEY-HORN AND ASSOCIATES, INC.

Associate

2002 – 2010

Oakland/Pleasanton, CA

MEYER, MOHADDES ASSOCIATES/ITERIS

Associate Principal

1996 – 2002

San Mateo/Oakland, CA

NOLTE ASSOCIATES

Engineering Manager

1991 – 1996

San Jose/Walnut Creek, CA

WILBUR SMITH ASSOCIATES

Associate/Transportation Engineer

1980 – 1991

San Francisco/San Jose, CA

EDUCATION

B.E. TRANSPORTATION ENGINEERING

Thayer School of Engineering

Dartmouth College

B.A. ENGINEERING SCIENCES

Dartmouth College

REGISTRATIONS AND AFFILIATIONS

Civil Engineer, CA (C47497)

Traffic Engineer, CA (TR1574)

Member, WTS International

Member, Institute of Transportation Engineers

KRUPKA CONSULTING

Trusted Advisor | Transportation

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Technical Memo

DIRIDON STATION AREA
STREET NETWORK

To: Jim Goddard, SAP Center at San Jose

From: Jim Benshoof, Registered Traffic Engineer in California (TR 2289)

Date: May 21, 2020

Subject: SAP Center Recommendations for Diridon Station Area Street Network

INTRODUCTION

This Technical Memo provides recommendations concerning certain transportation planning issues that are critical to the continuing success of SAP Center. These issues have arisen in connection with the City's current efforts to amend the Diridon Station Area Plan to accommodate Google's Downtown West project, the new integrated transit station, and other developments in the Diridon Station area. There are numerous transportation issues associated with the proposed developments, but this Memo focuses only on impacts related to potential changes to the street network, including changes shown on various plans posted by the City on its websites, and in particular the slide presentation dated April 3, 2020, entitled "Transportation" and presented by Ramses Madou (the **Transportation Slide Presentation**).

It is widely recognized that the construction of BART, High Speed Rail, Downtown West and other developments will cause severe traffic and parking problems for SAP Center, other downtown businesses and nearby neighborhoods for many years, if not decades. Even following completion of construction, SAP Center and others will be facing ongoing traffic and parking impacts caused by the intensification, such as an increase in traffic volumes on local roadways and an increase in parking demand (without a corresponding increase in parking supply).

Although the City has placed a strong emphasis on pedestrians, bicycles and mass transit to solve transportation issues in the downtown core, this effort seems disproportionate when considering that there has been no meaningful change in the drive-alone commute mode share since at least 2007. (Excerpts from the 2019 General Plan Annual Performance Review are attached as **Exhibit A.**) Studies have shown that automobile access will remain essential for the majority of SAP Center customers for the foreseeable future (including those arriving via ride share services), especially since most of SAP Center's customers live in areas not well-served by transit. Therefore, SAP Center must remain vigilant about reviewing development proposals in order to advise City planners of potential negative

Z.76

SAP Center Recommendations for Diridon Station Area Street Network

May 21, 2020



impacts relating to accessibility, traffic capacity, parking, extraordinary traffic management measures, and so forth.

COORDINATION UNDER ARENA MANAGEMENT AGREEMENT

The Arena Management Agreement (AMA) requires close coordination between the City and SAP Center regarding transportation matters that may affect ingress to and egress from the Arena, with the objective of ensuring that appropriate mitigation measures are included to protect the Arena's operations from adverse impacts. Among other things, the City must coordinate "regarding any material changes to the design, configuration or operation of the major streets and intersections in the vicinity of the Arena to the extent that they may have a direct impact on the safe and efficient flow of vehicular, bicycle, and pedestrian traffic to and from the Arena." Prior to undertaking any work, the City must meet with Manager "to discuss Manager's input and suggestions." (AMA Section 21.)

This Memo is intended to be shared with the City as part of such coordination efforts, and includes specific recommendations to help ensure that any changes to the street network will not adversely impact SAP Center's operations.

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cont.

STREET NETWORK ELEMENTS

When evaluating the street network in terms of efficient ingress and egress for SAP Center event customers, we believe that the following three elements are the most significant:

1. The location and arrangement of street segments between the Arena and freeway ramps in terms of their ability to provide direct, accessible routes for SAP Center customers;
2. The capacity of such street segments to handle the volume of traffic generated by Arena events when combined with peak hour traffic, based primarily on the number of traffic lanes included in each segment; and
3. The width of the traffic lanes in terms of the ability of traffic to flow freely and safely at a reasonable speed.

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The Transportation Slide Presentation included information relevant to item 1 above, but not items 2 or 3. Both item 2, number of traffic lanes, and item 3, lane widths, are highly important regarding adequate functioning of the roadway system, and thus those items also are addressed in this Memo.

LANE WIDTHS

Historically, the standard traffic lane width has been 12 feet. Increasingly, in dense urban areas such as the Diridon Station Area, governmental agencies have used 11

Z.78

SAP Center Recommendations for Diridon Station Area Street Network

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foot lanes for through traffic and a 10 foot width for turn lanes. For all roadways in the Diridon Station Area, we recommend that all through traffic lanes remain at least 11 or 12 feet wide, and that all turn lanes remain at least 10 to 12 feet wide. Anything less could result in serious safety problems, road congestion, and other traffic issues. If a roadway includes flex lanes, those lanes can be used for parking, drop-off, loading or travel lanes if they are at least 10 feet wide. If narrower than 10 feet, they should not be used for travel lanes.

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cont.

REVIEW OF ROADWAY SECTIONS

The remaining sections of this Memo describe and review each of the following roadway segments in terms of ingress and egress for SAP Center event customers:

- a) Bird Avenue and Autumn Street between I-280 and Santa Clara Street
- b) Santa Clara Street between Stockton Avenue and Almaden Boulevard
- c) Julian Street between Stockton Avenue and Highway 87
- d) Delmas Avenue between Santa Clara Street and Highway 87
- e) Exit ramp from northbound Highway 87 to Santa Clara Street

The roadways listed in a) through d) are included in this Memorandum because, based on our experience over the years, these locations have shown to be especially important in effectively accommodating traffic ingress and egress for SAP Center events, a conclusion that is reinforced by traffic volume data. The sections discussing these four roadway segments also include the recommended number of traffic lanes necessary to adequately accommodate SAP Center traffic.

Z.79

The freeway off-ramp listed in e) above is included in this Memo because it is being considered for closure by the City (which would be disastrous for SAP Center).

There are many other roadways, intersections and off-ramps that impact SAP Center, but the above are the ones that merit comment at this time based on the Transportation Slide Presentation.

Several sections in this Memo refer to traffic volumes for SAP Center motorists and total traffic volumes. The source for these volumes is Figure 8a, Background Traffic Volumes, San Jose Ballpark Supplemental EIR, produced by Hexagon Transportation Consultants, Inc. (This Figure is attached as **Exhibit B.**)

**SAP Center Recommendations for
Diridon Station Area Street Network**

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A. BIRD AVENUE AND S. AUTUMN STREET BETWEEN I-280 AND SANTA CLARA STREET

For the purpose of this section, two presumptions, per the City's plans, are 1) that S. Autumn Street will be converted to a two-way roadway between its existing intersection with S. Montgomery Street and Santa Clara Street and 2) that S. Montgomery Street will be converted to a two-way local street, which will extend only between San Fernando and Santa Clara Streets.

During the 6 to 7 pm hour before an SAP Center event, this route from I-280 accommodates about 500 vehicles traveling northbound to the event. During this hour, the total northbound traffic at San Carlos Street typically exceeds 1,100 vehicles. During the exiting peak hour from an SAP Center event, the number of southbound SAP Center vehicles exceeds 500 because a larger portion of the total attendees exit during this peak hour.

In the Transportation Slide Presentation, the Bird Avenue/Autumn Street route is shown to be a City Connector route. According to the City's 2040 General Plan, "These streets typically have four or six traffic lanes and would accommodate moderate to high volumes of through traffic within and beyond the City."

The recommended number of lanes along this route is as follows (which is consistent with existing conditions from I-280 to the existing S. Montgomery/S. Autumn intersection, and also consistent with the City's designation as a City Connector route):

- Bird Avenue between I-280 and San Carlos Street – three through lanes in each direction, with left and right turn lanes and a raised center median
- Bird Avenue between San Carlos Street and Park Avenue – three through southbound lanes, two through northbound lanes, with left and right turn lanes and a raised center median.
- S. Autumn Street between Park Avenue and Santa Clara Street, two through lanes in each direction, with a left turn lane and a raised center median, except that a third southbound lane is needed on the approach to Park Avenue.

Z.80

B. SANTA CLARA STREET BETWEEN STOCKTON AVENUE AND ALMADEN BOULEVARD

During the 6 to 7 pm hour before an SAP Center event, westbound Santa Clara Street west of Highway 87 accommodates about 850 vehicles traveling to the event. The total westbound volume at this time and location on Santa Clara Street is about 1,500 vehicles. In addition to this heavy use of westbound Santa Clara Street west of Highway 87, eastbound Santa Clara Street also accommodates a

Z.81

**SAP Center Recommendations for
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significant volume of SAP Center vehicles during the arrival peak period, many of which are destined to parking in the Cahill Lots.

In the Transportation Slide Presentation, Santa Clara Street is shown to be a Grand Boulevard. According to the City's 2040 General Plan, "Grand Boulevards serve as major transportation corridors that connect City neighborhoods. In most cases these are primary routes for VTA light-rail, bus rapid transit (BRT), and standard/community buses, as well as other public transit vehicles....These streets accommodate moderate to high volumes of through traffic within and beyond the city."

SAP Center would not be negatively impacted by the City's designation of Santa Clara Street as a Grand Boulevard. To effectively accommodate both regular traffic and Arena traffic in the 6 to 7 pm hour before events, it is recommended that this street maintain the existing two general traffic lanes in each direction, with left turn lanes and a raised center median. If a dedicated transit lane is considered, it should be in addition to the existing general traffic lanes.

Z.81
cont.
C. JULIAN STREET BETWEEN STOCKTON AVENUE AND HIGHWAY 87

During the 6 to 7 pm hour before an SAP Center event, westbound Julian Street west of Highway 87 accommodates about 400 vehicles traveling to the event. During this hour, the total westbound volume at this location on Julian Street is about 800 vehicles. Eastbound Julian Street between Stockton Avenue and the parking entrance at N. Montgomery Street also accommodates a significant volume of SAP Center vehicles during the arrival peak period. A high volume of SAP Center traffic in the reverse directions also occurs during the peak period at the end of an event.

The City's 2040 General Plan shows Julian Street to be a City Connector between N. Autumn Street and Highway 87 and a Local Connector between N. Autumn Street and Stockton Avenue. The Transportation Slide Presentation does not address the function of Julian Street east of N. Montgomery Street and designates this street as a City Connector between N. Montgomery Street and the railroad tracks. According to the City's 2040 General Plan, a Local Connector is similar to a City Connector, except that it would accommodate lower volumes and generally provide just two traffic lanes.

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Though there are some differences between the functional designation for Julian Street in the 2040 General Plan, as compared to the designation shown in the Transportation Slide Presentation, the basic emphasis of both documents designating Julian Street as a City Connector is acceptable for SAP Center. The same designation (as a City Connector) is needed between N. Montgomery Street and Highway 87, given the SAP Center parking access at N. Montgomery Street and the plans to possibly extend Cahill Street north to N. Montgomery Street and then Julian Street. If the City prefers designation of Julian Street as a Local Connector west of N. Montgomery Street, that would also be acceptable for SAP Center.

SAP Center Recommendations for Diridon Station Area Street Network

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To adequately accommodate SAP Center event traffic, it is recommended that Julian Street between N. Montgomery Street and Highway 87 provide two through lanes in each direction, with a left turn lane and raised center median. Between Stockton Avenue and N. Montgomery Street, Julian Street should provide one lane in each direction, with a westbound right turn lane provided at Stockton Avenue and eastbound left and right turn lanes provided at N. Montgomery Street. All the above lane recommendations are consistent with the City's functional designations and with existing conditions.

Z.82
cont.

D. DELMAS AVENUE BETWEEN SANTA CLARA STREET AND HIGHWAY 87

Delmas Avenue has served two highly important traffic functions for SAP Center:

- Access to large parking lots on both sides of Delmas Avenue between Santa Clara and San Fernando Streets that have been heavily utilized by SAP Center customers.
- Egress route from SAP Center parking in the Delmas and Diridon areas to a southbound Highway 87 entrance ramp from Delmas Avenue just south of Auzerais Avenue. This high volume exit route is estimated to accommodate at least 750 vehicles in the exiting peak hour, which is the volume of SAP Center vehicles during the arrival peak hour that turn left onto Santa Clara Street from the northbound Highway 87 exit ramp to Santa Clara Street.

The City's 2040 General Plan shows Delmas Avenue as a City Connector between Santa Clara and San Fernando Streets and appears to show this street as a Local Connector between San Fernando Street and Auzerais Avenue. The Transportation Slide Presentation shows Delmas Avenue as a Local Connector between Santa Clara and San Fernando Streets and does not address the functional designation south of San Fernando Street.

Z.83

SAP Center would not be negatively impacted if the City designates Delmas Avenue as a Local Connector over the full distance between Santa Clara Street and Auzerais Avenue, so long as sufficient traffic lanes are provided to accommodate SAP Center traffic. Specifically, it is recommended that Delmas Avenue incorporate the same number and type of traffic lanes as are presented in the prior Delmas TOD development plans approved by the City, including:

- Two northbound lanes on Delmas Avenue approaching Santa Clara Street
- Two southbound lanes on Delmas Avenue approaching San Fernando Street
- Restriping Delmas Avenue between San Fernando Street and Park Avenue to provide two southbound lanes

**SAP Center Recommendations for
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E. EXIT RAMP FROM NORTHBOUND HIGHWAY 87 TO SANTA CLARA STREET

This exit ramp is one of several freeway interchanges that are critical in accommodating SAP Center motorists as they travel from the regional highway system to local streets that serve SAP Center. This particular exit ramp is addressed in this Memo, because the City is considering closing this ramp.

The Hexagon traffic information attached as Exhibit B to this Memo includes counts of SAP Center traffic during the 6 to 7 pm hour before an event at this exit ramp from northbound Highway 87 to Santa Clara Street, together with counts at the Highway 87 and Julian Street interchange and at the I-280/Bird Avenue interchange. These counts reveal that significantly more SAP Center event traffic uses the Highway 87 exit to Santa Clara Street than either of the other two interchanges:

- Total of 990 SAP Center motorists on the Santa Clara Street exit ramp – 760 turning left to the west on Santa Clara Street and 230 turning right to the east.
- Total of 515 SAP Center motorists on the two exit ramps to Bird Avenue from I-280
- Total of 390 SAP Center motorists on the two exit ramps from Highway 87 to Julian Street

Z.84

A primary reason for the high counts on the Santa Clara Street exit ramp is that Santa Clara Street is centrally located relative to SAP Center parking both near the Arena and in the downtown area. Given the convenience of this access and its high usage for SAP Center customers, closure of this ramp would have two serious negative consequences:

- Require SAP Center customers to choose and navigate much less convenient routes to access their preferred parking locations.
- Likely cause serious congestion on the remaining entry routes, e.g. Bird Avenue from I-280 and Julian Street from Highway 87.

To avoid these serious negative impacts, it is imperative that the exit ramp from northbound Highway 87 to Santa Clara Street be retained, without change.

Excerpts from San Jose 2019 General Plan Annual Performance Review

MAJOR STRATEGY #11 – DESIGN FOR A HEALTHFUL COMMUNITY

The General Plan supports the physical health of community members by promoting walking and bicycling as travel options, encouraging access to healthful foods, and supporting the provision of health care and safety services. Specifically, the Land Use and Transportation Chapter includes a set of balanced, long-range, multi-modal transportation goals and policies that provide for a transportation network that is safe, efficient, and sustainable. One such policy includes reducing the automobile commute mode share to no more than 40% by 2040, with goals to increase various other modes accordingly (see Figure 18).

Figure 18. Commute Mode Split Targets for 2040

COMMUTE TRIPS TO AND FROM SAN JOSE		
MODE	2017	2040 GOAL
Drive Alone	75.4%	No More than 40%
Carpool	11.9%	At least 10%
Transit	5.0%	At least 20%
Bicycle	0.8%	At least 15%
Walk	1.4%	At least 15%
Other means (including work at home)	5.5%	See Note 1
Source: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates		
Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.		

In order to measure the proportion of commute travel using modes other than the single-occupant vehicle, data was collected from the ACS for the most recent available data (2013 through 2017) for San José. As shown in Figure 18, there has not been a meaningful change in commute mode shares. Out of the five targets set for commute modes, only the Carpool Target has been met. It should also be noted that 11.7% of San José residents work outside of Santa Clara County.

Figure 19. San José Commute Modes, Workers 16+ Years, 2011-2017

Mode	Year						2013-17
	2007-11	2008-12	2009-13	2010-14	2011-15	2012-16	
Drove alone	78.0%	77.8%	77.5%	77.7%	77.1%	76.3%	75.9%
Carpooled	10.6%	10.8%	11.3%	11.1%	11.3%	11.6%	11.7%
Public transit (excluding taxicab)	3.4%	3.5%	3.5%	3.7%	3.9%	4.1%	4.5%
Walked	2.0%	1.8%	1.7%	1.6%	1.6%	1.6%	1.7%
Bicycle	0.9%	0.9%	0.9%	0.9%	1.0%	0.9%	0.9%
Other means	1.4%	1.3%	1.3%	1.2%	1.2%	0.8%	1.2%
Worked at home	3.7%	4.0%	3.9%	3.9%	3.9%	4%	4.1%
Work outside Santa Clara County	11.2%	11.2%	11.1%	11.1%	11.3%	11.3%	11.7%

Source: United States Census Bureau, American Community Survey, 5-year Estimates, Table S0801

Reflective of development patterns and access to public transit, residents living in Downtown San José use a higher percentage of alternative transportation modes compared to citywide statistics, as shown by the table below.

Figure 20. Commute Modes for Downtown Block Groups, Workers 16+ Years, 2013 - 2016

Means of Transportation	2009-2013	2010-2014	2011-2015	2012-2016	2013-2017
Drove alone	61.7%	60.6%	63.3%	63.1%	63.7%
Carpooled	5.4%	5.7%	3.9%	5.1%	5.8%
Public transportation (excluding taxicab)	15.7%	13.4%	14.8%	15.8%	18.0%
Walked	7.5%	9.2%	7.3%	8%	6.7%
Bicycle	2.1%	2.7%	2.9%	1.9%	1.4%
Taxicab	0.5%	0.5%	0.7%	0.4%	0.3%
Worked at home	4.6%	4.8%	5.0%	4.3%	5.3%
Other means	2.2%	3.2%	2.0%	0.8%	0.3%

Source: American Community Survey, 5-Year Estimates, B08301



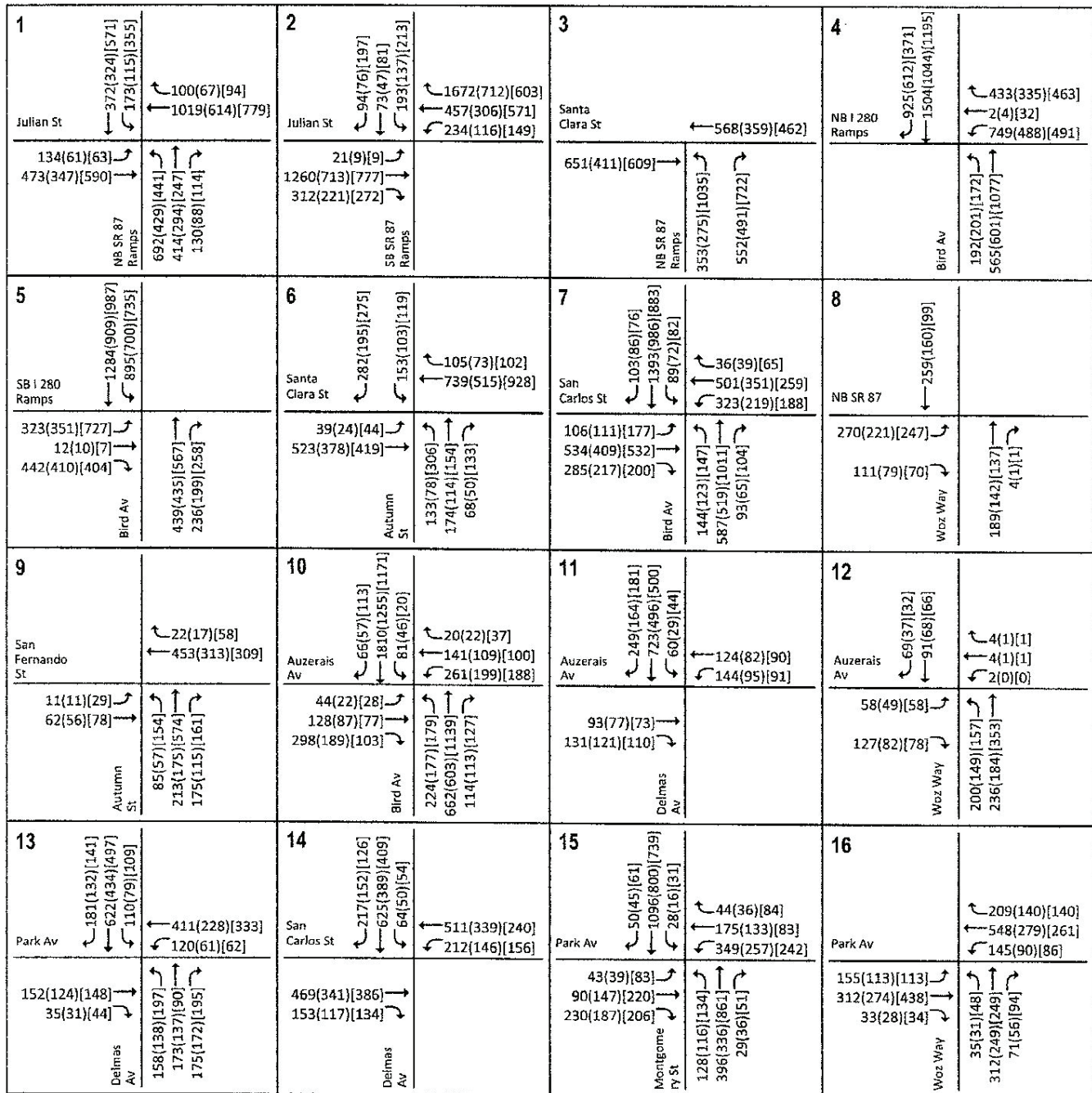
Other measures of determining whether San José is achieving a balanced transportation network include WalkScore, BikeScore, and TransitScore. These annual online assessments measure a geographical area's walkability,

bikeability, and access to public transit. According to this year's analysis, San José has a WalkScore of 51 out of 100 (somewhat walkable), a BikeScore of 59 out of 100 (bikeable – some bike infrastructure), and a TransitScore of 41 out of 100 (some transit). The City's WalkScore, TransitScore, and Bike Score stayed the same from the previous year.

The Santa Clara Valley Transportation Authority's (VTA) Next Network project is a redesign of the transit network and is one component of VTA's Transit Ridership Improvement Program. The Transit Ridership Improvement Program is an effort to make public transit faster, more frequent and more useful for Santa Clara County travelers. The Next Network project concerns VTA's transit operations and seeks to 1) better connect VTA transit with the Milpitas and Berryessa BART stations; 2) increase overall system ridership; improve VTA's farebox recovery rate. VTA's implementation of the Next Network project will support the commute mode split targets of the General Plan. The Next Network aims to align with the commencement of BART operations in the South Bay.

Bay Area Bike Share. In 2013, Bay Area Bike Share was introduced as a pilot program for the region. In December 2015, City Council unanimously approved plans to expand San José's bike share program to 1,000 bicycles with 100 parking stations over the next two years. In 2017, Motivate, the bike share operator, reinvented their bike share system with FordGo Bike and replaced existing equipment with new stations and bicycles. In 2017, the City hosted 45 bike share stations. During 2018, the City planned to add 38 more stations to its system for a total of 83 stations. As of August 2019, the City has 72 stations. Complete build-out of the 83 stations is expected in the next 3-6 months. During summer 2018, in

Exhibit B



LEGEND

XX(XX)[XX] = 5-6PM(6-7PM No Hockey)[6-7PM With Hockey] Peak-Hour Traffic Volumes

Figure 8a

BACKGROUND TRAFFIC VOLUMES

Hexagon
 Transportation Consultants, Inc.

San Jose Ballpark Supplemental

December 4, 2020

**SUPPLEMENT TO WENCK MEMO DATED MAY 21, 2020, ENTITLED:
“SAP CENTER RECOMMENDATIONS FOR DIRIDON STATION AREA
STREET NETWORK”**

BACKGROUND

The Wenck memo dated May 21, 2020, was based on information available at that time regarding the planned Downtown West Mixed-Use Development. The purpose of this document is to supplement that memo based on information presented in the “Downtown West Mixed-Use Plan, Draft Environmental Impact Report,” dated October 2020 (DEIR). This document and the Wenck memo were prepared by Jim Benshoof, registered traffic engineer in California (TR 2289).

SUPPLEMENTAL COMMENTS REGARDING PARTICULAR STREET SEGMENTS

- a) Bird Avenue between San Carlos and Park – A problem exists, because the recommended plan in the DEIR would eliminate an existing third southbound lane, would eliminate the existing southbound right turn lane at San Carlos, and would eliminate the existing northbound right turn lane at Park. In addition to causing capacity problems along this segment, these changes would cause a serious design transition problem through the San Carlos intersection.
- b) Autumn Street between Park and San Fernando – The recommended plan for this segment would provide just one lane in each direction and a center left turn lane. This plan would cause insufficient capacity to accommodate the projected traffic and would cause a design transition problem through the Park intersection.
- c) Autumn Street between San Fernando and Santa Clara – The recommended plan for this segment would provide just one lane in each direction, without a center left turn lane. This plan would result in insufficient capacity to accommodate the projected traffic and would cause a design transition problem through the San Fernando and Santa Clara intersections. Plans presented in the DEIR to extend Cahill Street to Park Avenue will not be able to overcome the capacity deficiencies on Autumn Street for multiple reasons, including:
 - Access for parking facilities is much more oriented to Autumn Street. Motorists will prefer to stay on Autumn Street for parking ingress and egress.
 - Cahill Street will stop at Park Avenue and will not have continuity to I-280. This lack of continuity would deter motorists from maneuvering between the south on Bird Avenue and the north on Cahill Street.
 - The intersection of Cahill Street and Park Avenue would be highly problematic. The steep grade on Cahill Street approaching Park Avenue, and the close spacing between the railroad overpass and the Autumn/Bird intersection would create operational problems.
- d) Julian Street between Stockton and Hwy. 87. The plan recommended in the DEIR would eliminate the existing eastbound right turn lane at Montgomery Street, which would increase delays for eastbound traffic, including motorists traveling to SAP Center.

Z.85

- e) Delmas Avenue between Santa Clara and San Fernando – If this street segment is closed, it is important that all parking spaces can be accessed from both Santa Clara and San Fernando.
- f) Delmas Avenue south of San Fernando – A condition of approval for the former Delmas TOD project is that the project includes restriping of Delmas between San Fernando and Park to provide two southbound traffic lanes. In order to avoid serious congestion after SAP Center events, it is highly important for this condition to be retained in an approval for development on the Delmas parcels.

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cont.

SUPPLEMENTAL COMMENTS REGARDING TRAFFIC MANAGEMENT

Page 269 in Appendix M for the DEIR makes reference that Autumn Street could accommodate three lanes of traffic for southbound SAP Center egress. To provide that three-lane capacity, Autumn Street would have to be converted from a two-way street to a one-way street during the egress period for SAP Center events. This temporary conversion of the street from two-way to one-way operation would cause two serious problems: a) high expense for traffic management personnel and control equipment and b) disruption for non-event traffic accustomed to two-way operation. For these reasons, it is important to effectively accommodate SAP Center egress traffic without temporary conversion of one or more streets to one-way operation.

Z.86

Memorandum

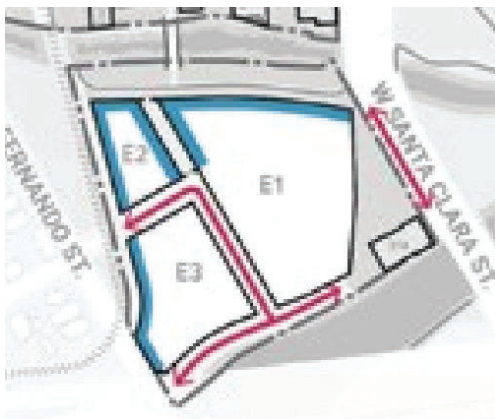
Architects • Engineers • Parking Planners

**WATRY DESIGN, INC.**

Date:	12.07.2020	WDI No.:	05098.313
Project:	SAP Center		
From:	Michelle Wendler		
To:	Jim Goddard		
Regarding:	SSE/Google Downtown West Project Review		

Per your request, we have reviewed the 10.20.2020 Google Land Use documents and Draft EIR for the Downtown West Project for the purposes of understanding the impacts related to parking on SAP Center and the surrounding area.

1. There are not details provided on how many parking stalls would be located at each individual site in the DEIR or Land Use documents. The documents only list a broad total number for each phase of construction. Per Table 2-3 on page 2-67 of the DEIR they reference total counts by phase. In Table 2-3 there is a footnote which says, "Includes a portion of the residential spaces could be available for shared use by office employees. Some commercial parking could also be provided at off-site location(s), should such off-site parking be developed separately from the project in the future." Without specific detail on the amount of parking in each location, it is not possible to evaluate the impact of parking to the surrounding area. Normally documents show the location of parking and amount of parking within each building as well as the configuration of whether the parking is above, or below ground or within a building, standalone parking structure or parking lot in order to understand the impacts of the parking within the area. Since parking will be removed that services SAP Center, which is required to be close to the arena, not specifically identifying the location and amounts of parking makes it impossible to evaluate the possible impacts.
2. Documents show curb cuts as being allowed from W. Santa Clara Street to the Delmas (E1) sites on page 296 of the Downtown West Design Standards Guidelines, but in the enlarged site view on pages 136 and 138, it is not clear where this might occur. Entry/exits to underground parking on W. Santa Clara Street are important for event customer use of this site for parking. The illustrative drawings in general do not show actual curb cuts, as documents usually would. Therefore, it is not possible to determine whether they can adequately serve access for parking or to understand impacts associated with curb cuts.



3. With the extension of Cahill Street running along the west side of SAP Center, entrance and exit paths from the concourse level landings that currently bring people into Lot ABC parking area will need to be

modified to get patrons down to the new street level grade. Per page 2-40 it states the ABC lots are 7-8 feet above the street, which is true, but the concourse level where the patrons exit from is an additional 8 feet higher for a total of 16' of elevation that the design needs to address. The documents do not adequately describe the northwest entrance and its importance to SAP Center. This is one of the main entrances to the arena and its design is of utmost importance to the ongoing operations of the facility and its identity. The document does not provide any sort of drawing or analysis to demonstrate how this will be accomplished and how it will be addressed within the proposed right of ways of the Cahill St. extension, so it is not possible to determine the full impact to the Arena. Normally there would be drawings demonstrating the design including floor plans, sections and elevations. In order to understand the impacts the documents should provide more detailed design drawings for review.

Z.89
cont.

4. In Appendix H there are a few questions regarding the shared parking analysis. For the office parking the base rate of 2.5/1000, which is the unreduced rate, is used to begin the calculation but for the residential parking, the reduced rate of 0.4/du is used to begin the calculation instead of 1.0/du, which is the unreduced rate. Generally, the analysis uses the base unreduced rate to begin the calculation. Table 3 in Appendix H explains the results of the shared analysis. The calculations use multiple scenarios of mode shift, which is shifting from single occupant vehicle (SOV) to another mode. Based on the calculations using the ULI model, the mode shift that would be equivalent to the City's zoning ordinance reduction methodology of 2.5/ksf reduced to 1.1/ksf would be approximately 63%. In order to achieve this, the City requires substantial TDM measures be employed. It is not clear what additional TDM measures will be utilized beyond the base City code requirements to assume a further reduction to 65%. For the mode shifts of 70% and 75% the analysis assumes that "market forces" will reduce the demand. No evidence has been provided demonstrating that the "market forces" described currently exist in San Jose today, or how the project will have control over the "market forces" to create the ability for the reduction.
5. In Appendix H, it notes that some of the mode shift would utilize taxi/TNC which requires curb space for pick up and drop off. It is not clear where these curb spaces will be located so it is not possible to determine the impacts that they might have.
6. There is a conflict in the representation of the stall counts required by the base City code.
 - a. Per page 2-21 of the DEIR text it references a total a requirement of 10,290 total off-street spaces (7,782 commercial spaces and 2,508 residential spaces).
 - b. Per page 3.13-64,65 of the DEIR text it references a total a requirement of 10,290 total off-street spaces (7,782 commercial spaces and 2,508 residential spaces).
 - c. Per Downtown West: Mixed-Use Rezoning and Development Plan Draft Local Transportation Analysis Appendix H Parking Analysis for Commercial Uses it references a total requirement of 9,351 total spaces (6,981 commercial spaces and 2,360 residential spaces).
 - d. Per Downtown West: Mixed-Use Rezoning and Development Plan Draft Local Transportation Analysis Chapter 10 it references a total requirement of 9,351 total spaces (6,981 commercial spaces and 2,360 residential spaces).

Z.90

Conclusion: Based on the evidence in the record it is not possible to determine the impacts relative to parking as it relates to SAP Center and the surrounding area.

WATRY DESIGN, INC.

Michelle Wendler, AIA Principal



Education

Bachelor of Architecture
California Polytechnic State University,
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Registrations

Architect (#25066), CA (5/24/94)
Architect (#305676), CO (7/13/99)
Architect (#10466), HI (2/25/02)
Architect (#35374), AZ (8/18/00)
Architect (#985173), ID (9/22/09)
Architect (#3406), NV (2/96)
Architect (#9173), WA (9/06)
Architect (#16003), TX (1/27/98)
Architect (#2935), MT (7/23/07)
Architect (#5427587-030), UT (3/23/04)
Architect (#004663), NM (8/1/08)
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Affiliations

American Institute of Architects
International Parking & Mobility Institute
California Public Parking Association
Southwest Parking Association
Pacific Intermountain Parking & Transp.Assoc.
American Society for Healthcare Engineering
Society for College & University Planning
Community College Facility Coalition
Design Build Institute of America
Women in Parking Board of Directors
Parksmart (formerly the Green Parking Council)
US Green Building Council
American Association of Airport Executives

30+
years in
parking design

Michelle, a Principal with Watry Design, Inc., has worked extensively with parking structure design, construction documents, and construction administration for over 30 years. "Our goal is to make our clients look good," says Michelle. "We take our clients' problems and issues as our own and we team with them to find the best possible solutions." She is responsible for the design of over 300 parking projects and leads parking structure design for the firm.

In addition, she tirelessly strives to ensure that the firm's designs work within the context of their environment and are something of which everyone can be proud. Michelle's extensive parking experience includes an impressive portfolio of work as highlighted below. Michelle serves on the Advisory Council for the International Parking & Mobility Institute and is an active participant in industry associations, a powerful speaker and compelling advocate for parking.

Relevant Projects

San Jose Mineta International Airport Economy Lot PS 1, CA
Pittsburg International Airport Parking Structure, PA
San Diego International Airport Terminal 2 Parking Plaza, CA
VTA Milpitas & Berryessa Station Parking Structures, CA
SolTrans Parking & Transit Hub, Vallejo, CA
Gold Line Foothill Extension Construction Authority
Arcadia, Azusa, Irwindale, Monrovia, Metro Station Parking Structures
Vallejo Station Parking Structure & PARCS, Vallejo, CA
Baldwin Park Transit Center Parking Structure, CA
OCTA Tustin Metrolink Station Parking Structure, CA
Long Beach Airport Parking Structure, Long Beach, CA
City of Livermore Valley Center Parking Structure, CA
City of Oceanside Parking Structure, CA
BART Richmond Transit Village Parking Structure, CA
BART Pleasant Hill Parking Structure, CA
BART Fruitvale Parking Structure, Oakland, CA
BART Millbrae Parking Structure, CA
City of Covina Metrolink Transit Parking Structure, CA
San Mateo County Government Parking Structure, CA
City of Palo Alto Public Safety Building Study & Parking Structure, CA
Covina Downtown Parking Structure, Covina, CA
Napa 5th Street Parking Structure, Napa, CA
Temecula Civic Center Parking Structure, Temecula, CA
City of Palo Alto Lots R & S/L Parking Structures, CA
City of Fresno Convention Center Parking Structure, CA
City of Riverside Parking Structure #6, CA
City of San Rafael Parking Structure, CA
City of South San Francisco Miller Avenue Parking Structure, CA
City of Mountain View Parking Structure, CA
Palm & Nipomo Parking Structure, San Luis Obispo, CA
Vallco Town Center Structured Parking, Cupertino, CA
Ward Village Block F Structured Parking, Honolulu, HI
Ala Moana Center Honolulu Peer Review, HI
Hotel Del Coronado North Parking Structure, CA
City View Plaza Structured Parking, San Jose, CA
South Almaden Offices Structured Parking, San Jose, CA
Apple Park Corporate Campus Northand South PS, Cupertino, CA
Apple Park Corporate Campus Tantau 10 PS, Cupertino, CA
Apple Park Corporate Campus Visitor Center PS, Cupertino, CA
The Exchange on 16th Street Parking Structure, San Francisco, CA



M E M O R A N D U M

TO: Rosalyn Hughey, City of San José
Robert Manford, City of San José

FROM: Audrey M Zagazeta, Circlepoint

SUBJECT: CEQA Findings for the Diridon Station Area Plan Amendment

DATE: October 23, 2020

Circlepoint has completed the environmental analyses for the Diridon Station Area Plan (DSAP) Amendment pursuant to our contracted scope of work. Our approach included the preparation of an expanded initial study, in the form of a California Environmental Quality Act (CEQA) Addendum that evaluates the DSAP Amendment changes in relation to analysis in the Downtown Strategy 2040 Environmental Impact Report (EIR), certified by the San José City Council in December 2018.

The Downtown Strategy 2040 EIR Addendum (Addendum) has been prepared in conformance with the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and City regulations and policies.

This memorandum provides the overall CEQA findings for the Addendum, and our recommendation of the appropriate CEQA document based on the CEQA Guidelines presented below.

CEQA Guidelines for an Addendum

CEQA Statutes Section 21166 and CEQA Guidelines Sections 15162 and 15164 provide that an Addendum to a previously certified EIR can be prepared for a project if the criteria and conditions summarized below are satisfied:

- **No Substantial Project Changes:** There are no substantial changes proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- **No Substantial Changes in Circumstances:** Substantial changes have not occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
- **No Substantial New Information:** There is no new information of substantial importance which was not known or could not have been known at the time of the previous EIR that shows any of the following:
 - (a) The project will have one or more significant effects not discussed in the previous EIR;
 - (b) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (c) Mitigation measures or alternatives previously found not to be feasible would, in fact, be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternatives; or
 - (d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative



If the changes would involve new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts, further environmental review (in the form of a Subsequent or Supplemental Environmental Impact Report) would be warranted per CEQA Guidelines Section 15162 and 15163. If the changes do not meet these criteria, then an Addendum, per CEQA Guidelines Section 15164, is prepared to document any resulting changes to environmental impacts or mitigation measures.

DSAP Amendment

The Addendum to the Downtown Strategy 2040 EIR analyzes the proposed increases in density and development capacity that would be added to the DSAP as part of the DSAP Amendment (see **Figure 1**). The Downtown Strategy 2040 EIR is the most recent planning-level EIR to evaluate development within 90 percent of the DSAP area.

The environmental analysis in the Addendum is based on the DSAP Amendment project description derived from the capacity study conducted by Skidmore, Owings & Merrill LLP (SOM) on behalf of the City, dated January 24, 2020. The SOM capacity study evaluated potential increases in development capacity in the DSAP resulting from the lifting of One Engine Inoperative (OEI) height restrictions. For CEQA purposes, the City decided to analyze the maximum office and residential capacities, with the caveat that actual development capacities may be less after the DSAP Amendment if finalized through the public outreach. **Table 1** below shows the proposed maximum buildout compared to the original DSAP assumptions contained in the Downtown Strategy 2040 EIR.

The growth shown in **Table 1** is a summary of planned growth capacity in the 2014 DSAP and planned General Plan development capacity equivalent to approximately 12,619 housing units and 14.1 million square feet of commercial office space. This growth is proposed to be reallocated to Downtown from other planning areas identified in the General Plan to support transit-oriented development, which in turn reduces vehicles mile traveled (vmt) and supports Smart Growth.

Table 1 - Change in Maximum DSAP Development Capacity

	Office (sf)	Retail (sf)	Residential (units)	Hotel (units)
<i>Original DSAP (2014), a subset of capacity in Downtown Strategy (2018)</i>	4,963,400	424,100	2,588	900
<i>Proposed Amendment to DSAP Capacity (DSAP Amendment)</i>	7,838,000	-	7,044	-
<i>Proposed Amendment to DSAP Capacity (Downtown West Project)</i>	6,306,000	469,000	5,575	1,100
Net Increase in DSAP Development Capacity	14,144,000	469,000	12,619	1,100

Source: City of San José 2020

sf = square feet; DSAP = Diridon Station Area Plan

Additionally, the DSAP Amendment would allow up to 24,166 square feet of commercial office space and up to 2,671 residential units located in areas within the DSAP but outside of the Downtown boundary. This portion of the DSAP Amendment-related growth would not represent an increase in development capacity above what was planned for in



the Downtown Strategy 2040 and is consistent with the official growth allocations and forecasts from the City's 2040 Envision San José 2040 General Plan and Association of Bay Area Governments (ABAG). **Table 2** below summarizes the net growth in Downtown Strategy 2040 development capacity from the Downtown West project and the DSAP Amendment.

Table 2 – Change in Maximum Downtown Strategy 2040 Buildout				
	Office (sf)	Retail (sf)	Residential (units)	Hotel (units)
<i>Original Downtown Strategy 2040 (2018)</i>	<i>14,200,000</i>	<i>1,400,000</i>	<i>14,360</i>	<i>3,600</i>
<i>Proposed Amendment to DSAP Capacity within Downtown Boundary (DSAP Amendment)</i>	<i>7,813,834</i>	<i>-</i>	<i>4,373</i>	<i>-</i>
<i>Proposed Amendment to DSAP Capacity (Downtown West)</i>	<i>6,306,000</i>	<i>-</i>	<i>5,575</i>	<i>-</i>
New Total Downtown San José Development Capacity	28,319,834	1,400,000	24,308	3,600

Source: City of San José 2020

sf = square feet

Other Planned Development

A list of other planned development projects within the DSAP area is considered in the Addendum, including future reasonably foreseeable transportation projects within the DSAP area. New transportation projects planned under the DSAP Amendment include primarily pedestrian, bicycle, and transit upgrades, as well as several roadway improvements. In addition to these projects, two lots located near the San José Arena would be converted to surface parking as an interim use and potential future parking garages. The Downtown West project is a proposed development undergoing separate, project-level environmental review that would occupy approximately 81 acres of the DSAP area. Downtown West is currently under consideration for approval by the City and is undergoing a separate, project-level environmental review process.

CEQA Findings

The Addendum describes changes that have occurred in the existing environmental conditions within and near the DSAP area and Downtown, as well as environmental impacts associated with DSAP Amendment. The major changes proposed as a part of the DSAP Amendment process would intensify the planned densification of the Downtown Strategy 2040 EIR to allow for mixed uses and public infrastructure, strengthening the City as a regional employment center, entertainment destination, and significant hub for public life. The draft Addendum also includes an analysis of cumulative impacts of the DSAP Amendment in conjunction with other planned development, including the Downtown West project.



The environmental impacts of the Downtown Strategy 2040 were addressed by a Final Program EIR entitled, "Downtown Strategy 2040 General Plan Final Environmental Impact", and findings were adopted by City Council Resolution No. 78944 on December 18, 2018.

The Addendum includes an analysis of aesthetics, air quality, noise, historic resources, greenhouse gas emissions, transportation, and other topical areas consistent with the Appendix G CEQA Guidelines. Several technical studies were prepared to support the analyses in the Addendum including:

- Air Quality
- Greenhouse Gas
- Noise and Vibration
- Transportation

The environmental analysis presented in the Addendum indicates that there are no substantial changes proposed by the DSAP Amendment that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Therefore, no major revisions of the existing EIR or preparation of an a new subsequent or supplemental EIR would be required. The technical reports and environmental analyses provides the substantial evidence required to support these findings and is presented in the Addendum and administrative record for the DSAP Amendment. Based on the conclusions of the environmental analysis and supporting technical reports, it is Circlepoint's expert opinion that an Addendum is the appropriate CEQA document for this project.

Next Steps



The administrative draft Addendum was submitted to the City for review and comment on October 21, 2020. City Staff will review the document and come to an independent conclusion and CEQA finding based on the information provided in the report. We look forward to receiving the City's comments on the administrative draft Addendum. Please do not hesitate to reach out with any questions or comments in the interim.



Not To Scale



Legend

-  Existing Diridon Station Area Plan
-  Downtown Strategy 2040



CEQA Portal Topic Paper

Baseline and Environmental Setting

What Are Baseline and Environmental Setting?

Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project. The description of the environmental conditions in the project study area under baseline conditions is referred to as the environmental setting.

Why Is Baseline Important?

Establishing an appropriate baseline is essential, because an inappropriately defined baseline can cause the impacts of the project either to be under-reported or over-reported. A considerable number of CEQA documents have been litigated over the choice of a baseline for a given project, and many CEQA documents have been invalidated for the use of an inappropriate baseline (see *Important Cases* below).

Establishing the Baseline in an EIR

The State CEQA Guidelines Section 15125 provides the following guidance for establishing the baseline:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

As the Guidelines section makes clear, ordinarily the appropriate baseline will be the actual environmental conditions existing at the time of CEQA analysis (typically when the Notice of Preparation [NOP] is published). In many cases, establishing this “existing conditions” baseline is a straightforward task. However, there are circumstances that may make this task more complex and challenging. A few are discussed here. Others, which are even more complex, or about which court cases do not provide clear guidance, are discussed below under *Areas of Controversy*.



Resources That Fluctuate over Time

Some environmental resources evaluated in a CEQA document are constant over the time frames typically evaluated (e.g., geological conditions; types of soil underlying the project site; cultural resources present on the site). Other resources fluctuate over long periods of time (e.g., types of public services and utilities provided, population, housing units, number of existing buildings, tree populations). However, there are a number of environmental resources that are subject to substantial fluctuations over the course of days, months, or seasons. It may be difficult or misleading to describe the specific condition of these resources as of a specific date. As an example, flows in rivers and streams are never constant, varying by hour, day, season, and from year to year. Describing the exact flows in a stream as of the baseline date (even if you specified the time) would not necessarily provide a complete or useful description of this resource. Therefore, for such resources, the environmental setting may be described in terms of the historical range of flows, perhaps by month, over the period that records have been kept.

Similarly, traffic volumes also vary by hour of day, day of the week, and from year to year. While the counts are not often taken on the baseline date, they should be taken as close to the date as possible, particularly if traffic volumes are changing substantially over time. Further, if substantial daily variation is expected, traffic counts should be taken on more than one day, to try to capture these variations.

Some biological resources, such as wildlife species, may be present on the project site only during specific seasons, so even if the baseline date is established as a specific date, surveys for biological species should be scheduled during the period when the species are anticipated to be present on the site. Similarly, some rare plant species can be definitively identified only during their flowering period, so, if possible, botanical surveys should be undertaken during those times.

Thus, some flexibility is required in establishing the appropriate date for collecting information on baseline conditions for individual resources. As long as the reasoning for deviating from the normal approach is described and supported by substantial evidence, such deviations are typically acceptable.

When Conditions as of the Date of the NOP Are Not Appropriate to Accurately Describe Impacts

The ultimate goal of the analysis in the EIR is to disclose the impacts of the proposed project to the public and decision makers. There may be times when a deviation from the use of the NOP date to establish the baseline is most appropriate in order to present a fair and accurate description of a project's expected environmental impacts.

An example of a circumstance that may warrant such a deviation would be the case of a project where the NOP was published, but the initiation of work on the CEQA document was delayed until many years later, when environmental conditions had markedly changed. Under such a circumstance, one should make an effort to obtain and report any information about the resources on the site as of the NOP publication date from old reports, historical aerial



photographs, old photographs, and other sources. However, given the practical difficulties associated with describing the biological resources on the project site as of the NOP date, it may be more appropriate to describe conditions existing when the CEQA analysis actually begins. The reasons for the selection of the baseline date should be described in the environmental document and supported by substantial evidence in the record.

Although the baseline should normally be the same for all resource topics, there are circumstances when this would not make sense or would provide distorted results. For instance, if new sensitive receptors have been constructed adjacent to a project since the NOP was published, and that project would generate noise, large amounts of air pollutants, or noxious odors, these receptors must be included in the description of environmental setting, and impacts on these receptors must be analyzed. Also, under these same circumstances, the biological analysis should use a current list of special-status species, rather than only the species that were listed at the time of the NOP, and the most current lists of species occurrences from state and federal databases should be used.

Appellate cases have determined the propriety of deviating from a baseline of existing conditions on the NOP publication date in a variety of circumstances, including the following:

- Rejecting use of pollutant emission levels allowed under prior permits, but not reflective of actual existing emissions, as a baseline (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310.)
- Upholding use of a traffic baseline that assumed full occupancy of a department store that was vacant on the NOP publication date based on historical occupancy information. (*North County Advocates v. City of Carlsbad* (2015) 241 Cal.App.4th 94.)
- Upholding use of 5-year average of annual mining volumes instead of the mining volumes from the year the NOP was published as the baseline for determining environmental impacts. (*San Francisco Baykeeper, Inc. v. State Lands Commission* (2015) 242 Cal.App.4th 202.)

As a practice pointer, any deviation from the use of conditions existing on the “NOP date” as a baseline should be done only where it presents a better, more accurate presentation of the project’s expected impacts, and should never mask or distort project impacts. Further, it is very important that the reasons for any such deviation be fully explained in the EIR and that the decision to utilize a different baseline be supported by substantial evidence.

Use of Future Baselines

For projects that may be implemented over a period of years, or even decades, simply comparing the effects of such a project to a baseline representing existing conditions may not provide a full and accurate picture of the project’s impacts. As an example, if a large development project is intended to be constructed over a 20-year time frame, comparing the traffic generated by the project at full buildout to existing traffic conditions could be misleading, particularly if background traffic levels are projected to grow over time or fully-funded infrastructure improvements are scheduled to be constructed in the interim.



In *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013), 57 Cal.4th 439, the California Supreme Court provided some guidance on the use of a future baseline. In *Neighbors for Smart Rail*, a transportation agency approved a project to construct a light rail line between Culver City and Santa Monica. The line was anticipated to be completed in 2015. When preparing the EIR for that project, the agency used, as a baseline, projected traffic and air quality conditions in the project area in the year 2030, reflecting the Southern California Association of Governments' (SCAG's) 2030 regional demographic projections and its list of transit service and road improvements expected to be in place by 2030. An environmental group sued, arguing that the exclusive use of this "future" baseline was inappropriate because the agency failed to disclose the impacts the project would have on existing environmental conditions in the project area. In siding with the agency, the Supreme Court held that the use of only a future baseline for traffic analyses (and presumably other topic analyses) may be permissible under certain circumstances where an agency can show that an analysis based on existing conditions would tend to be "misleading or without informational value." In recognition of the Court's conclusion that the exclusive use of a future baseline is a "departure from the norm stated in Guidelines section 15125(a)," and should apply only to situations where "justified by unusual aspects of the project or the surrounding conditions," parties should proceed with caution before completely omitting a discussion of existing conditions. The authors offer the following guidance¹ on the steps to be followed when employing a future baseline:

Show Your Work. This is always good advice, but this case highlights the need for an EIR to contain a clear explanation of any deviation from normal assumptions or methods. In this case, explain why a future baseline is reasonable and/or necessary.

Be Specific. The Supreme Court has set out the circumstances under which a future baseline can be justified. The EIR² should include a discussion of how the baseline was established, including the specific unusual aspects of the project or surrounding conditions that justify using a future baseline. In addition, explain how using a future baseline is necessary in order to prevent misinforming or misleading the public and decision makers, and why the particular future baseline date was selected and appropriate. The description/explanation must be supported by substantial evidence in the record.

Be Reasonable. Don't rely exclusively on a future baseline that's many years beyond the date at which the project would begin operations. The more distant the baseline year, the more difficult it will be to justify. Explain why the projections that the future baseline relies on are indeed reliable and consider using multiple baselines as well to ensure that all impacts are accurately described.

Evaluate a Mid-Point as Well (Multiple Baselines). When a future baseline is well beyond the beginning of operations for a project, the EIR must examine the impacts, if any, that would occur

¹ Based on analysis in *The Proper Baselines for Analyzing Traffic and Related Impacts under CEQA* (Rivasplata et al. 2013).

² This court case involved an EIR, but this guidance may apply equally to Initial Studies.



between the commencement of construction and the beginning of operations, and ultimately, buildout. If the project is divided into phases, these provide convenient dates for mid-point analyses. As is true for the analysis at the baseline date, the EIR should disclose whether the impacts at this mid-point are significant and should include appropriate mitigation measures. This can be very useful in determining the timing of needed improvements for projects that may take many years or even decades to reach full implementation.

Use of Future Baseline Is Unusual. Using an existing conditions baseline is still warranted in most cases. The Supreme Court, in creating this “unusual aspects of the project/misleading information” rule, is establishing an approach that is applicable only under narrow circumstances. Don’t get carried away and attempt to apply this approach to every impact analysis.

Establishing a Baseline when Unpermitted or Illegal Activities Occurred before the Baseline Date

Although rare, occasionally a question arises regarding how to characterize the baseline where the existing conditions (either on-site physical conditions or operations) are the result of illegal activity, including activity inconsistent with existing permits. This issue was addressed in *Fat v. County of Sacramento* (2002), 97 Cal.App.4th 1270, where the court (citing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428) noted that the preparation of a CEQA document is not a forum for determining the nature and consequences of the prior conduct of a project applicant and upheld the County’s selection of the NOP issuance date as the baseline date for the IS/MND, despite the fact that the Conditional Use Permit for the airport in question had expired many years earlier. Lead agencies must evaluate impacts against actual conditions existing at the time of CEQA review and are not required to “turn back the clock” and evaluate impacts compared to a baseline condition that predates the illegal activity.

What Information Should Be Included in the Environmental Setting?

A description of the environmental setting should be provided for every resource discussed in an Initial Study or EIR. The description of the environmental setting is intended to provide context for the reader to understand the impacts discussed, and for the significance conclusions that are provided. Thus, the preparer should be thoughtful about how much information is included in the environmental setting. Too little information may deprive the reader (and perhaps a judge) of the information needed to understand what circumstances led the writer to conclude that an impact was either significant or less than significant, and why the proposed mitigation would sufficiently address the identified significant impacts. On the other hand, providing too much information may make it unnecessarily difficult for the reader to find the information they need to understand the context (as described earlier). To strike this balance, it is advisable for the writer to view the text from the perspective of a relatively uninformed reader, and to select that setting information which is required to provide the reader with context to understand the



project's impacts on the resource topic and the circumstances that led to the author's impact conclusions.

As a simple example, it is not necessary or advisable to provide a great deal of setting information for species you will ultimately determine could not exist in the study area. Similarly, if the proposed project would not have any effect on public services, it is necessary to provide only a brief summary of the public services available in the study area and the entities providing those services.

As another example, it is often necessary to provide an extensive discussion of the history and prehistory of the study area in cultural resources technical reports, as this information is required for reports submitted to the State Historic Preservation Office. However, only that information directly relevant to the impacts of the proposed project on cultural resources need be included in the environmental setting of the Initial Study or EIR.

Similarly, biological resource technical reports typically provide a list of all of the species identified during field surveys conducted at the project site, including both common species and special-status species. Discussions of common species in an Initial Study or EIR is not necessary, as these species are generally not protected, and impacts on them are not considered significant and do not require mitigation. Thus, the discussion of existing conditions in the IS or EIR should focus on special-status species.

The environmental setting should not be confused with the No-Project Alternative, which also provides a baseline of sorts against which the proposed project and other alternatives may be compared. In circumstances where the physical environment in the study area is not projected to change over time, the environment may be the same under the environmental setting and the No-Project Alternative. However, this is often not the case, so the No-Project Alternative should not be used to measure the impacts of the proposed project, establish the significance of impacts, or to establish mitigation measures (State CEQA Guidelines Section 15126.6(e)(1)).

How Are Baseline and Environmental Setting Addressed in an IS/ND or MND?

Although not explicitly stated, the guidance provided in Section 15125 of the State CEQA Guidelines applies to both Initial Studies and EIRs. Because the issuance of an NOP is not required when an Initial Study is prepared, the date that the environmental analysis is begun is typically used as the baseline date. This interpretation is supported by the court's decision in *Fat v. County of Sacramento*, which supported the use of the date when environmental analysis began as the baseline for the preparation of an IS/MND.

The guidance used for describing the environmental setting in an EIR as described above under *Establishing the Baseline in an EIR* applies equally to an Initial Study.



Baseline and Environmental Setting under NEPA

NEPA (40 CFR 1502.14(d)) requires federal agencies to include an analysis of “the alternative of no action” in the analysis of alternatives in Environmental Assessments and Environmental Impact Statements. Commonly referred to as the “No-Action Alternative,” this alternative represents conditions that would result if the agency continued existing policy or did not implement the proposed federal action, and, unlike under CEQA, serves as a baseline against which the effects of implementing the proposed action and other alternatives are measured.

The President’s Council on Environmental Quality (CEQ) Memorandum: Questions and Answers about the NEPA Regulations (“40 Questions”), provides further clarifications regarding the No-Action Alternative. It states:

There are two distinct interpretations of “no action” that must be considered, depending on the nature of the proposal being evaluated. The first situation might involve an action such as updating a land management plan where ongoing programs initiated under existing legislation and regulations will continue, even as new plans are developed. In these cases “no action” is “no change” from current management direction or level of management intensity... Therefore, the “no action” alternative may be thought of in terms of continuing with the present course of action until that action is changed. Consequently, projected impacts of alternative management schemes would be compared in the EIS to those impacts projected for the existing plan. In this case, alternatives would include management plans of both greater and lesser intensity, especially greater and lesser levels of resource development.

The second interpretation of “no action” is illustrated in instances involving federal decisions on proposals for projects. “No action” in such cases would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward.

The federal agency has wide discretion to determine the time frame of the No-Action Alternative, which need not represent “existing conditions.” In fact, it is not uncommon for the No-Action Alternative to reflect future conditions, if the proposed action would not be implemented immediately, or would take many years to implement.

Baseline and Environmental Setting in a Joint CEQA/NEPA Document

There may be circumstances where the NEPA No-Action Alternative and CEQA baseline are not the same. The CEQA and NEPA Lead Agencies should meet to discuss the structure and content of the joint document early in the environmental review process, and this discussion should include a determination whether the NEPA No-Action Alternative and the CEQA baseline will be the same or different. For simplicity, it is best if they are the same, but this cannot always



be accommodated, and under such circumstances, it may be necessary to have two impact analyses, one using the CEQA baseline, and the other using the NEPA No-Action Alternative. It should be recognized that, under these circumstances, the CEQA impacts and mitigation measures might be quite different from the NEPA effects analysis and mitigation.

Areas of Controversy Regarding Baseline and Environmental Setting

In upholding the use of a future baseline, *Neighbors for Smart Rail* left unanswered a variety of questions, including the circumstances in which existing conditions would be “uninformative” or “misleading” such that use of an exclusive future baseline is appropriate; how far in the future an EIR may set the baseline when relying on conditions predicted to exist at project opening; and the appropriate point for use of a mid-term baseline. These involve fact-specific questions that are likely to be fleshed out in future published decisions. Until more direction is provided, and because case law cannot address every conceivable situation a Lead Agency might encounter, environmental professionals should be mindful of the importance of clearly explaining the rationale and evidence supporting the decision to use a baseline other than physical conditions existing at the time of the NOP. The adequacy of a document’s baseline is a factual issue to be determined based on whether there is substantial evidence in the record supporting the agency’s determination, and thus a reasonable decision supported by substantial evidence and adequate analysis in the EIR itself should be upheld.

Important Cases

The following published cases involve issues related to baseline and environmental setting:

- *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th439:

A lead agency may rely on a future baseline only if using existing conditions would be uninformative or misleading. The adequacy of that baseline, as well as any decision to use additional future baselines (e.g., a midpoint) will be upheld if supported by substantial evidence. This EIR did not adequately justify its reliance on a baseline representing conditions 15 years after commencement of the project; the EIR neglected any consideration of impacts that might occur during construction or the first 15 years of operation.

- *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296:

The court upheld a city’s decision not to update the baseline for an EIR’s urban decay analysis despite a substantial delay (7 years) between issuance of the NOP and release of the Draft EIR, where the decision was supported by substantial evidence in the form of a consultant’s report.



- *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310:

For modifications to an existing facility, the baseline should represent existing physical conditions, not the maximum operations authorized under the facility's permit. The court invalidated the agency's use of permitted emission levels that had never been reached as the baseline for analysis of a proposed expansion. The court recognized that for resources that fluctuate over time, effects might be compared to a point other than the precise time of commencement of CEQA review, if reasonable and supported by substantial evidence.

- *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316:

For a proposal to develop a former farm, the EIR's use of the landowner's adjudicated groundwater right of 1,484 acre feet per year (afy) as baseline was upheld despite fact that actual water use at time of NOP was much lower (50 afy) because the adjudicated amount approximated historical water use when the farm was operating and the adjudicated amount was therefore not a "hypothetical" baseline.

- *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645:

An EIR must plainly identify the specific assumptions included in its baseline.

- *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270:

The baseline includes existing activities at the project site, even if unlawful (here, airport operations unauthorized by the facility's conditional use permit)

- *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99:

The Court invalidated the EIR's baseline for water use, where the EIR presented an array of potential baselines. Decision makers ultimately relied on information provided after commencement of CEQA review, which showed that substantially higher water use had occurred. That information was provided at the end of the environmental review period, not in the EIR itself and therefore not subject to public review. Moreover, no evidence was provided in the record to indicate that the higher use accurately represented historical conditions on the property or those existing at the start of CEQA review.

- *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931:

The Court found the EIR's reliance on information concerning only one element of historical water project operations (lake levels and associated related regulatory requirements) as the baseline for evaluation of impacts associated with changes to the water project, was inadequate because it did not contain sufficient information or analysis about historical water releases to adequately assess effects on fish and recreation from proposed changes to project operations.

- *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428:

Prior illegal activity by an applicant that affects physical conditions to the project site (in this case, illegal dredging) is not relevant to determining the CEQA existing conditions baseline.



The lead agency is not required to turn back the clock and analyze impacts compared to the conditions that existed prior to any unlawful activity.

- *Black Property Owners Ass'n v. City of Berkeley* (1994) 222 Cal.App.4th 974:

In amending a plan, CEQA review extends only to environmental impacts associated with the amendments. The re-adoption of previously adopted policies without change does not require environmental review.

- *Fairview Neighbors v. County of Ventura* (1990) 70 Cal.App.4th 236:

For changes to an existing operation, the baseline may reasonably include the facility's established levels of permitted use. In an EIR for a mining project, the Court allowed traffic numbers occurring when the mine operated at peak capacity pursuant to a prior use permit as the "baseline," since mine operations varied widely depending on market factors and the peak capacity was actually achieved in prior years.

- *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350:

The baseline for analysis of impacts of development under a new General Plan is the existing physical development in the General Plan area, not the level of development that could occur under the existing General Plan, even where the proposed changes would reduce the authorized level of development compared to the existing plan.

Baseline and Environmental Setting in the State CEQA Guidelines

- **Section 15125(a)**—Requires EIRs to contain a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published, or if no NOP is published, at the time environmental analysis is commenced, from both a local and regional perspective.
- **Section 15125(b)**—Indicates that establishing baseline for military base reuse EIRs should consider the principle contained in Section 15229.
- **Section 15125(c)**—Indicates that emphasis should be placed on rare or unique environmental resources when describing the environmental setting.
- **Section 15125(e)**—Provides guidance for establishing baseline when the proposed project is compared to an adopted plan.
- **Section 15126.6(e)(1)**—Clarifies that the No-Project Alternative should not be used as the baseline for the purposes of analyzing the impacts of the proposed project.
- **Section 15229**—Provides guidance for establishing baseline for military base reuse EIRs.



Related CEQA Portal Topics

- Alternatives (in process)

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CEQA Portal Topic Paper

Project Description

What is a Project?

Definition of Project Under CEQA

Within the context of CEQA, the term *project* has a specific meaning. The distinction between the normal and the specific CEQA meaning is very important, as it can determine whether an action is subject to CEQA compliance or not. As described in the *Preliminary Review* Topic Paper, CEQA compliance is only required if a lead agency is considering approval of a proposed “project.”

Section 15378 of the CEQA Guidelines provides the following definition of a project:

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvement to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contacts, grants subsidies, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

The term “project” refers to the whole of an action and to the underlying physical activity being approved, not to each government approval (CEQA Guidelines Section 15378(c)). Thus, even if the Lead Agency needs to grant more than one approval for a project, only one CEQA document should be prepared. Similarly, if more than one government agency must grant an approval, only one CEQA document should be prepared. This approach ensures that responsible agencies granting later approvals can rely on the lead agency’s CEQA document (see also *Lead Agency, Responsible Agencies, and Trustee Agencies* Topic Paper).



Piecemealing or Segmenting

The CEQA Guidelines define a project under CEQA as “the whole of the action” that may result either directly or indirectly in physical changes to the environment. This broad definition is intended to provide the maximum protection of the environment.

Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. This is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact. Segmenting a project may also hinder developing comprehensive mitigation strategies.

In general, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered an integral project component that should be analyzed within the environmental analysis. The project description should include all project components, including those that will have to be approved by responsible agencies. When future phases of a project are possible, but too speculative to be evaluated, the EIR should still mention that future phases may occur, provide as much information as is available about these future phases, and indicate that they would be subject to future CEQA review.

CEQA case law has established the following general principles on project segmentation for different project types:

- For a phased development project, even if details about future phases are not known, future phases must be included in the project description if they are a reasonably foreseeable consequence of the initial phase and will significantly change the initial project or its impacts. *Laurel Heights Improvement Association v Regents of University of California* (1988) 47 Cal. 3d 376.
- For a linear project with multiple segments such as a highway, individual segments may be evaluated in separate CEQA documents if they have logical termini and independent utility. *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal. App. 4th 712.
- For a planning approval such as general plan amendment, the project description must include reasonably anticipated physical development that could occur in view of the approval. *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398.
- For a project requiring construction of offsite infrastructure (e.g., water and sewer lines), the offsite infrastructure must be included in the project description. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713.
- For modification of a permit for an existing facility, the scope of the project description can be limited to the scope of the permit modification and does not cover the entire facility. *Citizens for East Shore Parks v. State Lands Commission* (2011) 202 Cal.App.4th 549.



Why Is the Project Description Important?

Within an environmental document, the project description typically consists of text, tables, and graphics that provide the reader with an understanding of the actions being proposed by the project sponsor. The project description should contain enough information so that the impact analysis contains a meaningful assessment of the project's impacts. This will allow the document preparer to analyze the impacts of the proposed project, and thus allow the reader to understand the types and intensities of the project's environmental effects. For example, if a new roadway is proposed, without knowing the proposed alignment and width, a detailed analysis of the effects on biological and cultural resources cannot be completed. Or, if an expansion of a wastewater treatment plant is proposed, without knowing what treatment processes are proposed and the proposed capacity of the plant, an assessment of whether the operation of the plant would meet water quality standards for the waterway where discharges would be made cannot be assessed.

The project description is the foundation upon which an environmental analysis is constructed. An impact analysis should “tell a story”¹ about how the actions comprising the proposed project will or will not lead to impacts, and why those impacts are either significant or less than significant. The project description should include the project objectives,² and demonstrate how the proposed project meets the project objectives.

The impact analysis then flows from the detailed description of project features contained in the project description, combined with other sources of information and scientific analysis. If sufficient information is not provided in the project description about the actions and activities that would occur under the proposed project, the first part of the impact analysis story may be misleading or incomplete, and the reader (and perhaps a judge) will not be able understand the chain of logic and facts that links the project description to the impact conclusions. Further, without a complete and stable project description (see *Why is a Stable Project Description Important?* below), the team preparing the impact analyses within the environmental document may not have the information necessary to determine what impacts the proposed project may have, or the intensity of those impacts.

It should go without saying, but the same stable project description must be used for all impact analyses. EIRs with conflicting assumptions about the project description in different impact analyses have been held inadequate.

What Information Should be Included in the Project Description?

Section 15124 of the CEQA Guidelines defines the types of information that should be included in an EIR project description:

¹ The term “tell a story” is not literal, but is a short-hand for the string of logical and consistent arguments supported by substantial evidence that mark a successful impact analysis.

² An EIR is required to include a statement of the objectives sought by the proposed project. CEQA does not require an Initial Study, Negative Declaration, or Mitigated Negative Declaration to include a statement of project objectives.



The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.
- (b) A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project and may describe project benefits.
- (c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.
- (d) A statement briefly describing the intended uses of the EIR.³
 - (1) This statement shall include, to the extent that the information is known to the Lead Agency,
 - (A) A list of the agencies that are expected to use the EIR in their decision making, and
 - (B) A list of permits and other approvals required to implement the project.
 - (C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.
 - (2) If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.

Like many aspects of CEQA compliance, the project description should reflect the specifics of the proposed project, the project site, and its surroundings. Project descriptions should not provide extensive detail beyond that needed for evaluating environmental impacts (CEQA Guidelines Section 15124). The amount of detail in a project description will usually reflect the size and scope of the project and, of course, the types and severity of impacts that are expected. Thus, a small project with few impacts does not require an extremely detailed project description. But a large project expected to result in numerous severe impacts should contain greater detail.

In general, the project description should provide the following types of information, to the extent that this information is available at the time the CEQA document is prepared:

- The project sponsor or applicant.
- Where the proposed project is located (including regional and site-specific graphics).
- When construction of the proposed project is expected to be initiated, how long will it take to complete construction, and when project operations, occupancy, or use would begin.
- Project objectives.

³ This information is often presented in the EIR Introduction. The EIR will be adequate as long as it appears somewhere in the document.



- The types of uses the proposed project will include.
- A quantitative measure of the intensity of each use (e.g., square footage of commercial space, number of residential units, width and linear feet of new roadway, number and size of windmills, amount of water to be diverted, etc.).
- Graphics showing what the proposed project will look like (plan view and elevations, if appropriate).
- Who the proposed project is intended to serve (if appropriate).
- Improvements to public infrastructure and services required for the proposed project.
- How the proposed project would be constructed.
- Limits and quantities of grading, including the quantities of materials to be imported or exported.
- How the proposed project would be operated.
- Reasonably foreseeable future project phases or related projects.
- What kinds of measures are being adopted to avoid or minimize environmental impacts (sometimes called environmental commitments).⁴
- What additional environmental clearances, consultations or permits will be required for the project.
- Which agencies will use the environmental document for their CEQA compliance (including permitting agencies).
- Type and scale/intensity of uses to be demolished/removed, if any.

For larger projects, additional detail such as the following may also be needed:

- If construction and/or operation is to occur in phases, provide an expected schedule of the phases and detail as to what portions of the project will happen in each phase. Describe any temporary or permanent relocations required, if applicable.
- More detailed information about construction may be needed for certain technical analyses, such as:
 - What kinds of equipment will be involved in constructing the proposed project?
 - What is the maximum number of construction workers expected to be on site at the height of construction, and how long will that last?
 - How many people will be expected to work at the project site at full implementation?
 - If cut and fill are not able to be balanced on site, what is the amount of material needing to be hauled on- or off site, and the location of the source or destination of these materials?
 - What Best Management Practices will be used to minimize pollutant flows during stormwater events?
 - Where will construction waste be hauled to?
 - Where will equipment and materials storage (staging) areas be located?
- How stormwater flows will be handled on site (for hydrology and water quality analysis).
- How stream crossings will be created or altered (for biology and hydrology).
- Details about internal traffic flow (for traffic).
- Number of parking spaces provided (for traffic).
- Activities associated with the decommissioning or demolition of the proposed project, if it is anticipated to have a limited lifespan (e.g., a reclamation plan for a proposed mining operation).

⁴ See *Areas of Controversy* for more detail on this subject.



- Green building practices being implemented.

To the extent that some of this information is not available, the CEQA document should contain any assumptions made regarding details of the project construction and operation needed to complete the analyses.

This is not meant to be an exhaustive list of the types of information that should be provided. The specifics of the location and the proposed project, and the types and severity of impacts expected should guide you to the types of information and detail that are appropriate. Remember, you are striving for a balance between too little and too much information, providing the reader the right information needed to aid in evaluating the project, but not so much that they have to search through unnecessary detail to find relevant information.

Project descriptions must also be prepared for general plans and other high-level programs. The degree of specificity in an EIR project description will correspond to the degree of specificity available for the underlying activity being evaluated (see CEQA Guidelines Section 15146.) Thus, project-specific detail is not required for descriptions of general plans and other high-level programs as details about specific subsequent projects typically are not known and will be addressed in future project-specific CEQA documents. When a Lead Agency is using the tiering process for a large-scale planning approval such as for a general plan, the development of detailed site-specific information about specific projects may not be feasible and can be deferred to future project-specific CEQA documents (CEQA Guidelines Section 15152(c)).

Why is a Stable Project Description Important?

As described above under *Why is the Project Description Important?*, the lack of a stable project description can have very important implications for both the schedule and cost of an environmental document. The impacts of a project, and often the types of analyses that need to be conducted, are often tied to details regarding how the project is to be constructed and operated. Thus, changes to these details can require that analyses be redone, or that new analyses be completed. While some changes to a project description are almost inevitable, especially for large or complex projects or when project design occurs concurrently with the CEQA review process, efforts to minimize these changes may be rewarded by lower costs and faster results.

Typically, the larger the change in the project description, the more likely that some reanalysis will be required. As an example, changing the location of a project may change the species and habitats potentially affected, the cultural resources affected, the streets and highways affected by project traffic, whether sensitive noise and air quality receptors are potentially affected by the project, whether the project is consistent with general plan and zoning designations, whether the project would be visible from a scenic highway, whether important farmland or lands under a Williamson Act contract would be affected, as well as many other analyses. However, even small changes to a project such as its orientation may affect analyses such as aesthetic effects and noise effects. While changes to the project description may be unavoidable in some cases, the implications of these changes and the tradeoff of benefits and costs should be understood.

Some tactics that may be useful in reducing changes to the project description over time include:



- Encouraging early participation of the CEQA document preparer in the project development process, so that they can point out likely environmental impacts or regulatory obstacles associated with a location or design, so that the project can be designed to avoid them, instead of having to be modified later in the process;
- Starting preparation of the CEQA document at a point in project development when the project description is likely to remain stable.

Is a Project Description Different for an Initial Study/Mitigated Negative Declaration and an EIR?

CEQA Guidelines Section 15124 establishes rules for EIR project descriptions. It is good practice, though not required, to also apply these rules to project descriptions in Negative Declarations and Mitigated Negative Declarations. Typically, project descriptions in EIRs are more extensive and detailed than those in Initial Studies, because the projects tend to be larger or more intense, and to have a larger number of or more intense environmental impacts. At a minimum, the project description in an Initial Study should be sufficiently detailed to allow fact-based explanations of answers to the Initial Study checklist questions.

Project Description/Proposed Action in a Joint CEQA/NEPA Document

CEQA requires that “the whole of the action” be analyzed. Similarly, NEPA has an antisegmentation policy, requiring that the proposed action under NEPA include federal *connected actions* (Code of Federal Regulations, Title 40, Section 1508.25(a)). Under many circumstances, the federal involvement applies to the entirety of a project. However, there are circumstances under which the project for the purposes of NEPA may be more confined than the project for the purposes of CEQA in a joint CEQA/NEPA document. This occurs as a result of a concept called *small federal handle*. Under certain circumstances, federal involvement in a project is limited. The scope of the proposed action and NEPA impact analysis may be limited to the portions of a project under “federal control and jurisdiction”.

Examples of such a limitation may include:

- Federal funding is limited to only a portion of the project, or a specific phase of the project.
- Federal lands underlie only a portion of the project (which may occur most frequently in a long, linear infrastructure project).
- Federal permits or approvals only apply to a portion of the project.

Under these circumstances, the proposed action will not be equivalent to the proposed project, and separate sections should be prepared to define the CEQA project description and NEPA description of the proposed action.



Areas of Controversy Regarding Project Description

Good environmental planning supports the idea of including measures in the project description to avoid or minimize environmental impacts. In an appellate court case (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645), the court rejected an EIR prepared by the California Department of Transportation (Caltrans) on the grounds that the EIR included “environmental commitments” as part of the project description without fully analyzing the impacts of the project prior to inclusion of these measures. The court ruled that Caltrans short-circuited the analysis of impacts in the EIR by including these measures and then jumping to the conclusion that impacts were less-than-significant, without providing a threshold of significance or evaluating the significance of the impacts.

In general, physical features included in a project to reduce or eliminate environmental impacts are probably acceptable, as long as they are clearly modifications of features that would otherwise be part of the project. However, features not depicted or described in the project plan or design, but which are added to the project to offset environmental impacts should probably be considered mitigation measures, and the impacts of the project absent those features should be analyzed (Ascent Environmental 2014).

Another area of controversy is whether the CEQA document is required to demonstrate that the project will actually achieve its objectives, i.e., that the project will work as described. Commenters on CEQA documents sometimes raise doubts about whether the project can feasibly achieve its objectives, and ask for the CEQA document to provide evidence that it will do so. For example, comments on a commercial rezoning EIR may argue that a planned shopping center will not be built or occupied, and ask for the EIR to provide further proof. Although these comments may raise valid public policy concerns for some projects, CEQA case law has established that CEQA documents are generally not required to demonstrate that a proposed project will achieve its objectives. Lead agencies are generally entitled to assume that proposed projects will work as described. Lead agencies can make reasonable assumptions about how the project will work in the future without guaranteeing these assumptions will remain true. If after project approval it turns out that the project is not achieving its objectives and must be changed, a different project would result and supplemental CEQA review may be required. (*Village Laguna of Laguna Beach Inc. v. Board of Supervisors* (1982) 134 Cal App. 3d 1022; *Environmental Council of Sacramento v. City of Sacramento* (2008) 142 Cal. App. 4th 1018.)

Important Cases

The following published cases involve issues related to the project description:

- *Bozung v. Local Agency Formation Commission* (1975) 13 Cal. 3d 263: Project description for an annexation must also include underlying physical development allowed by the annexation.
- *County of Inyo v. City of Los Angeles* (1977) 32 Cal. App. 3d 795: EIR was rejected because the project description was inaccurate and was described differently in different parts of the document.
- *Village Laguna of Laguna Beach Inc. v. Board of Supervisors* (1982) 134 Cal App. 3d 1022: Challenge to correctness of an EIR’s project description assumptions was rejected. If assumptions that are integral parts of the project description fail to become reality, then



this information is relevant to determining whether a Subsequent or Supplemental EIR should be prepared.

- *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal. App. 3d 223: EIR project description for exploratory drilling need not include pipeline routes for commercial production because they were speculative.
- *Laurel Heights Improvement Association v Regents of University of California* (1988) 47 Cal. 3d 376: EIR for lease of the first story of a building for biomedical research rejected because it should have considered later, reasonably foreseeable use of second story for the same purpose.
- *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal. App. 4th 712: EIR project description on roadway segment could exclude related roadway when the segments had independent utility and selection of the first segment did not foreclose alternatives for the other roadway.
- *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal. App. 4th 20: Project description for surface mining project was adequate where it included conceptual descriptions of stream diversion structures; descriptions of final designs were not required.
- *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398: Project description for general plan amendment consisting of policy language was inadequate because it did not include reasonably foreseeable future development allowed by the amendment.
- *Environmental Council of Sacramento v. City of Sacramento* (2008) 142 Cal. App. 4th 1018: Lead agency may make reasonable baseline assumptions about how a project will operate in the future without guaranteeing that those assumptions will remain true.
- *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252: Project description for County approval of mine reclamation plan also had to include entire mining project, even though on federal land.
- *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645: EIR rejected because the inclusion of environmental commitments as part of the project description, without fully analyzing the impacts of the project prior to inclusion of these measures, was improper.
- *Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036: EIR for a 20-year long-range development plan was upheld where the project description included both fixed elements (such as street layouts) and conceptual elements (such as the shape of buildings or specific landscape designs). The EIR provided for flexibility needed to respond to changing conditions and unforeseen events (including those related to contamination) that could possibly impact the project's final design.
- *North Coast Rivers Alliance v. Department of Food and Agriculture* (2016) 243 Cal.App. 4th 647: EIR rejected because statement of project objectives was too narrow and did not include underlying purpose for project. This led to a range of alternatives that was overly narrow.
- *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 286-287: EIR was invalidated because the Draft EIR did not identify a preferred or actual project, but rather described and evaluated five alternatives in equal detail. The court found the Draft EIR to be lacking an "accurate, stable, and finite" project description, stating, "The presentation of five very different alternative projects in the DEIR without the designation of a stable project was an obstacle to informed public participation..."
- *High Sierra Rural Alliance v. County of Plumas* (2018) 29 Cal.App.5th 102: The description of the buildout of a general plan and the corresponding impact analysis in an EIR can be based on reasonably foreseeable levels of population growth and development, as



opposed to the maximum buildout scenario that could be theoretically possible under proposed general plan land use designations.

- *South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321: Court upheld EIR and dismissed plaintiff's claim that the Draft EIR presented "multiple possible Projects rather than a finite description of a single project," where the EIR project description included two options. The court stated, "the project description clearly identified a mixed-use development project at a specific, defined location with two options for allocations of office and residential use." The court further stated, the EIR "carefully articulated two possible variations and fully disclosed the maximum possible scope of the project. The project description here enhanced, rather than obscured, the information available to the public."
- *Stopthemillenniumhollywood.com, et al. v. City of Los Angeles, et al.* (2019) ____ Cal.App.5th ____: EIR violated CEQA's requirement for a stable and finite project description, where the EIR's project description provided only illustrative conceptual development scenarios with "flexible development parameters" and "impact envelopes" that developers could follow. The EIR did not describe the siting, size, mass, or appearance of any building proposed to be built at the project site. Analyzing a "set of environmental impact limits," instead of analyzing the environmental impacts for a defined project, was not consistent with CEQA.

Project Description in the CEQA Guidelines

The project description is addressed in the following sections of the CEQA Guidelines:

- **Section 15378** – Defines the term "project" as used within CEQA, and the types of actions that either do or don't constitute a project for the purposes of CEQA.
- **Section 15124** – Discusses the types of information about a proposed project that should be included in the Project Description

Related CEQA Portal Topics

- Environmental Setting and Baseline

Sources

Ascent Environmental. 2014. *It Looks Like Mitigation. It Sounds Like Mitigation. But Can It Be Part of the Project? Lotus v. Department of Transportation - A Practitioner's View*. May 2014. Available:

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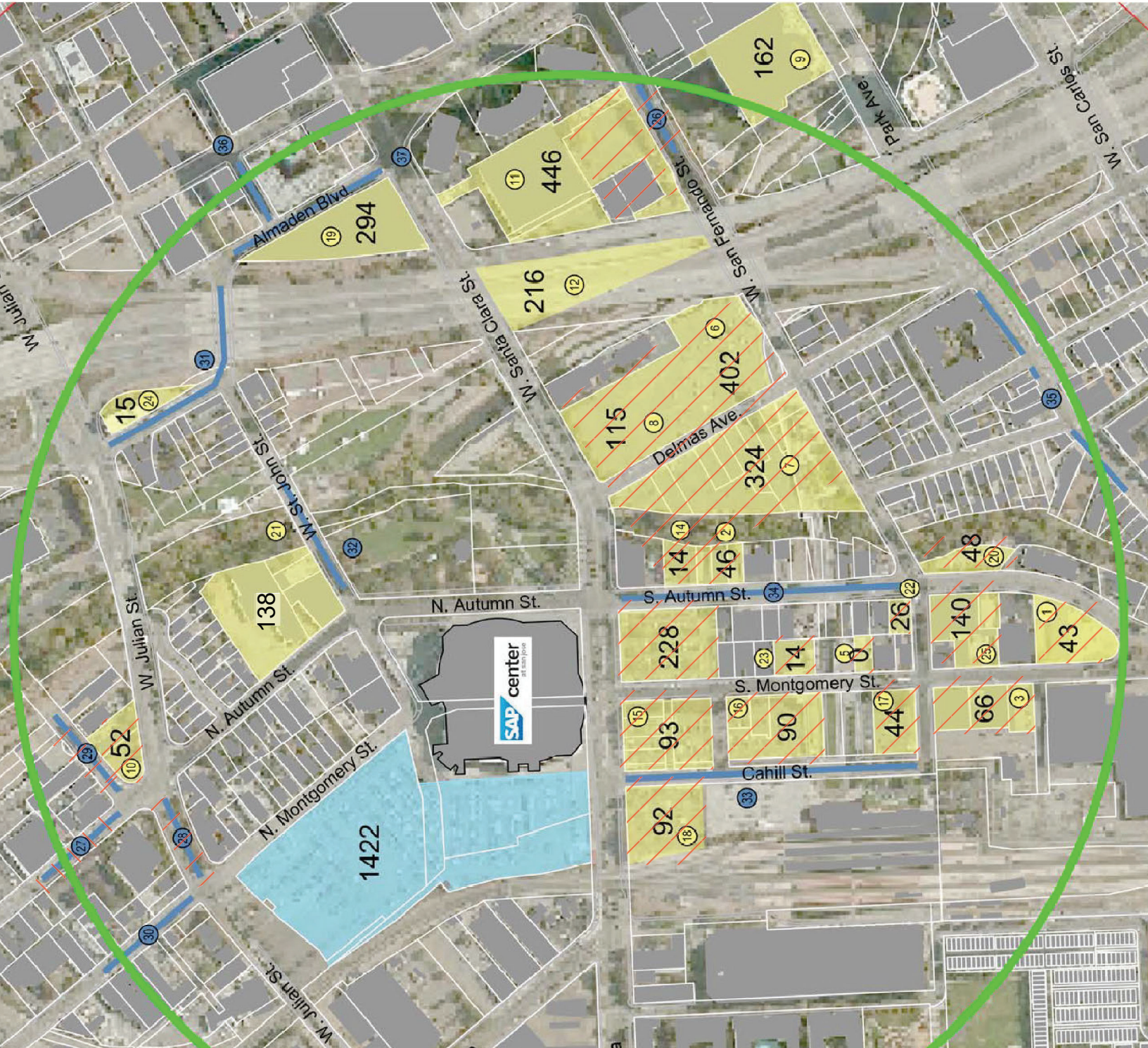


Date Updated: February 10, 2020

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ID	Existing	Ownership
4		
5	Existing Facility	
6	150 S. Montgomery (Navlerts)	Google
7	34 S. Autumn (Wine and Roses)	Google
8	510 W. San Fernando (Stephens Meat)	Google
9	65 North Almaden	
10	80 S. Montgomery (former Power Play Hockey)	
11	Adobe 1 (Water Co. East)	Google
12	Adobe 2 (Water Co. West)	Google
13	Adobe 3 (Water Co. Management)	Google
14	Adobe Garage-20%	Google
15	Akatiff-484 Old W. Julian	
16	Almaden Financial Plaza - with Adobe construction, surface lot will be closed	
17	Arena Parking (Santa Clara under 87)	
18	Babe's Muffler (The Alameda)	
19	Borschs	Google
20	Cahill 1	
21	Cahill 2	
22	Cahill 3 (closest to Stephen's Meat)	
23	Cahill 4	
24	Comerica Garage	
25	CSC Security (Water District)	
26	Milligan	
27	NW San Fernando/Autumn (Palmero)	
28	Templo la Hermosa	
29	Julian/N. Almaden (VA Title)	
30	Montgomery/San Fernando (Patty's)	Google
31	San Fernando E. of 87	Street
32	Autumn N. of Julian	Street
33	Julian W. of Autumn	Street
34	Old Julian E. of Autumn	Street
35	Montgomery N. of Julian	Street
36	N. Almaden/curve under 87	Street
37	St. John E. or River St.	Street
38	Montgomery S. of Santa Clara	Street
39	Autumn S. of Santa Clara	Street
40	Park W. of 87	Street
41	Carlyle W. of Notre Dame	Street
42	N. Almaden N. of Santa Clara	Street
43	Lot D	Google
44	Subtotal Existing	
45		
46		



SPACES LOST

Map 2 - Existing Parking Available Spaces

9/19/2019

Table of Parking Spaces Lost due to Development

ID	Existing	Ownership	Total Number of Striped Spaces	Number of Qualified Spaces	Ave. Number of Available Spaces at 6:30 p.m. on 9/27/17 and 10/5/17	Spaces Remaining
	150 S. Montgomery (Navlets)	Google	62	62	43	
	34 S. Autumn (Wine and Roses)	Google	46	46	46	
	510 W. San Fernando (Stephens Meat)	Google	135	135	66	
	65 North Almaden		43	-	-	-
	80 S Montgomery (former Power Play Hockey)		14	-	-	
	Adobe 1 (Water Co. East)	Google	453	453	402	
	Adobe 2 (Water Co. West)	Google	324	324	324	
	Adobe 3 (Water Co. Management)	Google	115	115	115	
	Adobe Garage-20%		220	220	162	162
	Akatiff-484 Old W. Julian		55	55	52	
	Almaden Financial Plaza - with Adobe construction, surface lot will be closed		1,153	539	539	384
	Arena Parking (Santa Clara under 87)		257	257	216	216
	Babe's Muffler (The Alameda)		12	12	12	12
	Borschs	Google	14	14	14	
	Cahill 1		180	180	93	
	Cahill 2		162	162	90	
	Cahill 3 (closest to Stephen's Meat)		90	90	44	
	Cahill 4		149	149	92	
	Comerica Garage		609	383	294	294
	CSC Security (Water District)		70	70	48	
	Milligan		138	138	138	138
	NW San Fernando/Autumn (Palmero)		26	26	26	
	Templo la Hermosa		14	14	14	
	Julian/N. Almaden (YA Title)		51	51	15	15
	Montgomery/San Fernando (Patty's)	Google	140	140	140	
	San Fernando E. of 87	Street	6	6	1	
	Autumn N. of Julian	Street	8	8	1	
	Julian W. of Autumn	Street	10	10	-	
	Old Julian E. of Autumn	Street	10	10	5	
	Montgomery N. of Julian	Street	3	3	1	1
	N. Almaden/curve under 87	Street	44	44	6	6
	St. John E. or River St.	Street	4	4	-	-
	Montgomery S. of Santa Clara	Street	79	79	48	48
	Autumn S. of Santa Clara	Street	67	67	29	29
	Park W. of 87	Street	34	34	28	28
	Carlisle W. of Notre Dame	Street	16	16	1	1
	N. Almaden N. of Santa Clara	Street	18	18	2	2
	Lot D	Google	228	228	228	228
	Subtotal Existing		5,059	4,162	3,335	1,564

BART parking — looking for that sweet (\$\$\$) spot

BART

Agency considers raising prices, aiming to free up spots in crowded lots

‘THERE IS A TIPPING POINT’

By Nico Savidge

nsavidge@bayareanewsgroup.com

How much would you pay to park at your local BART station if you knew you could count on getting a spot?

Or, if you had the choice, how much would that spot have to cost before you'd give it up and walk, carpool or take a bus to the station instead?

Those are some of the questions that could determine how much patrons pay to park at BART in the future, as the transit agency that once surrounded its stations with vast lots of free spaces considers price hikes for a shrinking inventory of spots.

The \$3 fee BART charges for allday parking at many stations could double at some of the system's most popular lots and garages— or rise by even more— under ideas the agency's



A driver looks for an open space in the parking lot at the Lafayette BART station in 2018.

JOSE CARLOS FAJARDO — STAFF ARCHIVES

BART parking — looking for that sweet (\$\$\$) spot

BART

board will discuss at the annual retreat this week that serves as a preview of its priorities for the year.

Opponents, as well as many passengers who park and ride, resist the idea of paying more, warning it could lead more people to ditch BART and worsen the area's grinding rush-hour traffic.

“What other options are there?” said Albert Hahn, an accountant who drives to BART because bus service between the station and his home in Alamo is too slow.

Parking spaces are likely to become more scarce as BART swaps some stations' sprawling surface lots for new apartment buildings under a push to build 20,000 units of housing on the agency's property. BART officials stress that they consider each station's parking needs when deciding how many spaces to replace when a new development goes up, but many car-dependent commuters are wary.

“I would probably drive a little more,” said Lisa Winn, a meeting planner who lives in Danville and commutes to work by driving to the Walnut Creek BART station, then riding to work in Oakland. With free parking available at her job, Winn said, she might join the traffic on Highway 24 if BART’s lots were too pricey.

“There is a tipping point,” she said.

But supporters argue that BART parking suffers from a rare problem in today’s Bay Area: It’s too cheap.

By capping weekday parking fees for all but one lot at \$3, there is little incentive for riders not to drive if they have another option — parking at BART is barely more expensive, for instance, than a bus fare. The exception is the West Oakland station, which is one stop away from San Francisco and has parking fees that run \$10.50 per day.

The result is packed lots that fill up well before rush hour at some stations and waitlists tens of thousands of people long for the coveted monthly parking permits that guarantee a space.

Across the entire system, 29% of BART’s weekday riders drove or carpooled to their stop in 2015, according to the most recent data that is available. That share is higher in more car-dependent suburbs. More than half of those commuters drove or carpooled to the Dublin/Pleasanton and Orinda stations, where the lots typically fill well before 8 a.m.

“We clearly are not charging enough to have a big impact on demand,” said BART director Rebecca Saltzman, who said she wants to see a more “market-based” parking rate.

Charge more for spots, the thinking goes, and the people who have another way to get to BART would use it. That would in theory free up a space for some other rider who really needs it — say, a parent who lives far from the nearest station and has to drop off kids before catching the train and can’t show up before 8 a.m. to secure a spot.

At today’s board retreat, agency officials will lay out a couple of scenarios for raising parking rates, though the board won’t vote on any of them.

One option includes raising the cap on daily parking fees from \$3 to \$6. There could be similar price increases for single-day and monthly permits and a range of prices based on demand at each station. Drivers might pay \$6 to park at the Dublin/Pleasanton station, for instance, but perhaps \$2 at North Concord/Martinez, which never fills up. BART estimates such an increase could bring in \$10 million to \$15 million in new revenue.

Or the agency could eliminate the cap entirely, replacing it with a system that allowed for increases every six months with no final limit on how high the price could go. BART forecasts an additional \$12 million to \$17 million annually from that model.

Board members also will consider ideas to lower parking rates when demand is lower, such as on Fridays or during holiday weeks, when lots are less likely to fill. There is no indication the system will start charging for parking during evenings or on weekends, when BART’s ridership is way down.

BART spokeswoman Alicia Trost stressed those ideas are not specific proposals but rather “examples to get the discussion going.” BART staff are now studying what impact higher parking costs could have on low-income riders, a first step toward potentially making those increases a reality.

And any price hike proposal is far from guaranteed — it would require approval from two-thirds of the BART board, which could be a high bar considering several directors come from suburbs where riders see few options but their cars for getting to stations.

“Every time you raise fares, every time you raise parking costs, it becomes less affordable,” said Director Debora Allen, who represents four central Contra Costa County stations. Allen added that she would oppose raising parking rates any more than overall cost-of-living increases.

“We could be charging more and opening up some spaces for people who don’t have another choice,” Saltzman said.

“Let’s talk about how we’re going to bring riders back — we are not going to do that by raising parking fees and reducing parking,” she said.

Another Walnut Creek rider, Linda Fisher, didn’t like the idea of pricier parking, noting that it comes as BART is also raising fares. But she may be an unwitting poster child for the concept.

The North Berkeley BART station parking lot is full on Tuesday.

ARIC CRABB — STAFF PHOTOGRAPHER

Fisher lives less than a mile from the station, saying she drives because it saves her time. She wouldn’t dream of driving to her banking-industry job in downtown San Francisco, with its traffic and astronomical parking costs.

“Even if they increased it \$1 a day, that would be too much” to justify parking at the station, Fisher said. So she’d likely walk to BART or work from home more — freeing up a space in the lot.

Still others at the station said they would keep driving to BART, even if it meant paying more.



<https://pleasantonweekly.com/news/print/2019/07/29/key-7-million-allocated-for-new-parking-garage-at-dublin-pleasanton-bart-station>

Uploaded: Mon, Jul 29, 2019, 2:50 pm

Key \$7 million allocated for new parking garage at Dublin-Pleasanton BART station

Construction expected to begin next spring, opening scheduled for mid-2021

by Elaine Yang

The effort to construct a new parking garage at the Dublin-Pleasanton BART station took another step forward last week as the Metropolitan Transportation Commission (MTC) announced the Tri-Valley project was among those to share in \$9.3 million in funding from bridge toll revenue.

Based on project cost estimates, the \$7 million allocated from Regional Measure 2 revenue to the Alameda County Transportation Commission (ACTC) represents the final piece of funding needed to build the new parking structure adjacent to the existing BART garage on the Dublin side of the station.

"This is a great way to improve the quality of life for a lot of commuters who don't live within walking distance of a BART station or bus stop," Alameda County Supervisor Scott Haggerty, who is also MTC chair, said in a statement.

"Among the ways to reduce congestion on East Bay freeways is to make it more convenient for people to ride transit; and one of the best ways to improve convenience is to solve the chronic parking shortages at so many of our key transit stops," Haggerty said.

The proposed \$34 million, 537-space parking structure aims to provide a needed addition to the parking supply at Dublin-Pleasanton, where the existing BART garage with nearly 3,000 spaces is often filled early on the morning commute. Haggerty joined state and local leaders in devising the plan after BART declined to move forward with building its own second garage at the station.

The project, which held a [ceremonial groundbreaking last October](#), is expected to see onsite construction begin on the new garage next spring, with the opening scheduled for mid-2021.

The \$7 million commitment from MTC supplements \$20 million in state funds awarded to the Livermore-Amador Valley Transit Authority for the project through the Transit and Intercity Rail Capital Program, plus another \$7 million in vehicle registration fee money contributed by the ACTC.

The other \$2.3 million in funding awarded by MTC last week will go to completing a trio of commuter parking lots served by AC Transit's transbay buses through MTC's Bay Bridge Forward initiative. The three commuter parking lots now under construction in the East Bay -- two lots beneath Interstate 880 at High Street and Fruitvale Avenue in Oakland and a third lot adjacent to Interstate 80 at Buchanan Street in Albany -- are scheduled to open by the end of this year.

Regional Measure 2 was approved by Bay Area voters in 2004 and raised tolls by \$1 on each of the region's seven state-owned toll bridges to finance highway and transit improvements in the bridge corridors and along their approaches, as well as to provide operating support for transit services in the bridge corridors.

BART Eyes \$16M Parking Lot At New Antioch Station To Meet High Demand

October 26, 2018 at 2:51 pm

ANTIOCH (CBS SF) – So many riders are driving to Antioch's new BART station that the station's parking lots cannot meet the demand.

BART officials said the station has been a tremendous success and noted that daily ridership has far exceeded their original forecasts.

On Friday, BART officials announced that they have identified full funding for a proposed \$16.4 million parking lot that will be able to accommodate more than 800 new parking spaces, nearly doubling the parking capacity at the station. The new BART station, which opened in May, has extended BART's yellow line further east from the Pittsburg/Bay Point station. Prior to opening, the station's daily ridership was expected to be 2,270, but it is currently at 3,050 daily riders, according to BART officials.

The proposed lot is on a piece of BART land located just east of the existing parking lots.

BART director Joel Keller, who represents East Contra Costa County said in a statement Friday, "We've made it a priority to ensure that every rider has access to the new service which takes drivers off the congested Highway 4 corridor." Funding sources for the proposed parking lot project include BART, Contra Costa Transportation Authority, the Metropolitan Transportation Commission, and the East Contra Costa Regional Fee and Financing Authority.

BART officials said they plan to bring the project to the BART Board of Directors in late 2018 and that if everything goes as planned, the new parking lot could be open in the fall of 2020.

Until then, riders can also consider utilizing the new BART station's shared use bicycle lockers, which cost 5 cents or less per hour, compared to the daily fee for car parking, which is \$3.

BART extension to Antioch so popular there's no room at the station to park

Phil Matier July 29, 2018 Updated: July 29, 2018 6 a.m.



A new diesel-powered train sits at the Antioch Station during a test run of a new BART extension that runs from the Pittsburg-Bay Point station to Hillcrest Avenue in Antioch, Calif., on Wednesday, May 23, 2018. The new people moving line runs down the middle of Highway 4 for that length

Photo: Carlos Avila Gonzalez / The Chronicle

BART's new East Bay extension to Antioch is already rocketing off the charts.

Opened in late May at a cost of \$525 million, the 10-mile link from Pittsburg to Antioch is averaging 3,800 weekday riders — well above the 2,800 BART initially estimated.

“And there likely would be even more riders, but there’s no room in the parking lot,” said BART Board Director **Joel Keller**, whose east Contra Costa County district includes the new station.

The 1,006-slot parking lot, which already is being restriped to allow for more than three dozen extra vehicles, is usually filled by 5:55 a.m.

BART “underestimated the parking,” said Antioch Mayor **Sean Wright**. As a result, riders are parking all day on neighborhood streets.

Now the transit agency is moving to add 700 parking spaces on seven acres it owns adjacent to the station. But if that doesn’t do the trick, it could reopen the long-standing debate among BART directors over whether building more parking is the best way to promote the use of public transit.

NEWS

BART's New Antioch Station Is Very Popular -- and Doesn't Have Enough Parking

By [Dan Brekke](#)

Published on June 1, 2018



Cars parked on a roadside just outside Antioch's new BART station. **(East County Today)**

By all accounts, people in eastern Contra Costa County love the brand-new eBART line from Pittsburg-Bay Point to Antioch. In its first week of operation, the service has far exceeded its projected ridership.

But here's something they don't like: The 1,012-space parking lot at the new Antioch station has been filling up in a hurry every weekday. That has led late-comers to try parking just about any old where so they can catch the new train.

This week, "any old where" has included nearby bicycle lanes and roadsides with tall, dry -- and potentially very combustible -- grass.

BART held a meeting Friday to discuss short- and long-term steps it can take to provide more space for commuters and how to deal with illegal and potentially dangerous parking.

BART spokeswoman Alicia Trost said that among the questions raised at the meeting are whether it's possible to find under-used parking nearby. Among others who have floated that idea is a local resident who posted a video suggesting using a partially empty shopping mall parking lot.

Trost said BART is also evaluating whether it could build additional parking on unused portions of its Antioch property. Among the factors the agency would need to address is how much parking could be provided, how quickly and at what cost.

In the short term, though, BART is going to do what it can to shut down outlaw parking around the Antioch property.

"We are going to be blocking off the illegal spaces people were discovering this week," Trost said. She added that many of the impromptu roadside parking areas pose a high fire danger.

"People were parking on top of tall, dry grass," she said. "Hot engines can spark a fire, so that is an extreme danger."

Many drivers chose to leave their vehicles in bike lanes around the stations, prompting Antioch police to write dozens of parking citations this week.

Trost said that by putting those areas out of bounds, commuters will be prompted to drive to either the new Pittsburg Center station or the Pittsburg-Bay Point station. She said the Pittsburg Center parking lot, which has 245 stalls, did not fill up during eBART's first week. And she said that Pittsburg-Bay Point had spaces open until after 10 each morning, a situation she called "completely unheard of."

"A lot of people who were driving to Pittsburg-Bay Point are going to Antioch," Trost said. "So the idea is it will smooth out. People are going to figure out if they just cannot get to Antioch early enough" they can try the other stations.

Of the 1,000-plus parking stalls, 225 are set aside for monthly and daily passholders and for those using the Scoop carpool app. There are very long waiting lists to get reserved parking at the station, but Trost says the Scoop option has been very lightly used so far.

So far, the parking woes have not put a dent in eBART ridership. The service was projected to record about 5,600 trips a day -- the total of entries and exits at the Pittsburg Center and Antioch stations. The total trips for eBART for the first three workdays this week ranged as high as 7,441, or 33 percent over the initial projection.

Trost said that the strong first-week ridership on the new line has been matched by a decline at Pittsburg-Bay Point, the old end of the system's Yellow Line.

BART Pauses Planning for Dublin Parking Garage

Posted: Thursday, February 16, 2017 12:00 am

The BART Board of Directors voted to delay a decision on a proposed parking garage at the East Dublin Station. If it were to move forward, the garage would provide an additional 540 parking spaces adjacent to the current parking garage.

The vote was unanimous. Staff has 90 days to return with a report.

Directors decided they wanted to look at other options, such as finding nearby surface lots.

There were also questions about whether or not funding was in place to pay for the garage estimated to cost \$37.1 million. Of that total, \$8.6 million would be needed to pay to design the structure. Directors suggested that before spending the design money, they would like more information on where the \$28.5 million to build the garage would come from.

The proposed six-story garage would replace a current surface parking lot of 118 spots, netting 540 more spaces.

John McPartland, who represents the Tri-Valley on the board, stated, "I really want to build this thing today. Arguments to look at other options are reasonable. I don't think surface parking is there."

He stated, that if the motion to delay the process passes, that doesn't mean the parking structure is dead; it's on pause for 90 days.

Director Nick Josefowitz, who made the motion to pause the process, suggested that more work needs to be done. He said that the agency should reach out to nearby neighbors, such as Oracle, who have parking available, to see if BART could lease some of the available spaces. He said he visited the area during a weekday and found over 1000 spaces that were not occupied.

He and other directors also wanted to look at multi-modal access for cars, buses, and bikes, not just cars. Josefowitz said, "There are real access needs in the Tri-Valley that we are not meeting. We need to strive to do so."

Director Joel Keller said that if BART could achieve the parking goals using less taxpayer money, it has an obligation to do so. Among the options would be surface parking away from the station with a shuttle to take passengers to the station.

Funding for the design portion is expected to come from the Metropolitan Transportation Commission and the Alameda County Transportation Commission.

BART General Manager Grace Crunican said it was her understanding that the MTC and ACTC would put in a "substantial amount" of money toward the project, but also want to make sure BART is contributing.

During the public hearing, Dublin Councilmember Don Biddle stated there is an immediate demand for parking in Dublin. He noted that statistics show a wait list for parking permits of 3,000 for the eastside station and 3700 for the station on the westside of the city. "If people don't arrive at the stations by 7:30 or 8 a.m. they are out of luck."

Cindy Chin from Assemblywoman Catharine Baker's office read a letter from Baker supporting the project. It echoed comments made by Biddle and others in support of the garage. The letter concluded, "The need is not going away."

BART TO LIVERMORE

The BART board also received an update on the BART extension to Livermore. It was noted that completion of the I-580 express lanes had eliminated the median.

There is \$533 million in funding committed to the Livermore extension. While it would be cheaper to build in the median, there is no median. It will be necessary to widen the freeway 40 to 45 feet to make room for the extension.

It is anticipated that the draft EIR would be released in this spring and a project adopted in late 2017. If the board were to choose a capital intensive project, a federal environmental impact statement would be required. The final impact statement would be expected in 2020. Construction could be completed in 2026.

Capital intensive options include regular BART, a diesel multiple unit or electric multiple unit (similar to eBART), or enhanced bus service. The enhanced bus service would include direct access to the trains, necessitating construction of new infrastructure.

In looking at ridership, the board was told that extending to Isabel means that those from the Central Valley would park there, rather than at Dublin. This would provide slots in Dublin and Pleasanton for those who have been unable to park there.

http://www.independentnews.com/news/bart-pauses-planning-for-dublin-parking-garage/article_2a4c396c-f3c6-11e6-b3b1-bf671dbbe3ef.html

Pleasanton Working with BART, Stoneridge on Parking Possibilities

Posted: Wednesday, July 1, 2015 12:00 am

By Ron McNicoll, the Independent

BART and the owner of Stoneridge Mall have been talking separately to Pleasanton staff about the problem that some morning commuters find in trying to find a parking place on the Pleasanton side of the West Dublin/Pleasanton BART station.

BART passengers had been using the Stoneridge Mall lot across from BART when they could not find a parking place in the BART parking structure on Stoneridge Mall Road, the ring road around the mall.

However, in May, commuters found posts and chains blocking the way into all of the driveway lanes going into mall parking. The chains were hooked up every night after store hours; then removed after 9:30 a.m. the next day. More parking becomes available in the BART structure after 10 a.m.

Pleasanton residents communicated with vice-mayor Karla Brown, who forwarded their e-mails to the BART board.

The short-term result was removal of the chain barriers in much of the mall's huge lot.

The city used its leverage. Most of the mall had not gone through design review with the city for the chain modifications. "We told them to cease and desist," said City Manager Nelson Fialho.

Although the chains are gone from much of the mall parking lot, it is still private property. Motorists should be aware that mall security can order cars towed, although they cannot issue citations. BART also cannot issue citations there, since it is private property.

The anchor tenants control the parking next to their stores. The city allowed Nordstrom to continue to chain off the area next to its store, but a long-term solution clearly is needed, said Fialho. The Nordstrom lot is the closest one to the BART station.

The solution will require funding and investment, whoever solves it, added Fialho.

There is some vacant land east of the BART parking structure. It is owned by BART, and was zoned for housing at 15 units per acre. The housing was never built.

BART has given a 99-year lease on the land to Workday, which will use the land for a private parking garage. Fialho said that Workday has been cooperative in taking part in discussions with the city about its leased land.

The only apparent solution that could be controlled by BART would be to add two more floors to its existing structure to match the height of the garage on the Dublin side of the station, said Fialho.

Also, there may be a win/win solution with the mall if BART could explore permit parking in the mall lot for BART riders. BART could pay for it, or administer it, said Fialho.

Fialho said another possible tool is the park-and-ride lot at Stoneridge and Johnson drives in Pleasanton. It is across the street from the DSRSD waste-water treatment plant. The lot is used now by carpoolers who travel the freeways, but there is potential that Wheels might be able to run a shuttle to BART from there.

Brown is a member of the LAVTA board, which operates Wheels. She said that a study of routes is underway. The idea would be a good subject to add to the study.

Fialho said that in talking to other cities at the end of BART lines, he found that lack of parking is a common problem. Livermore could learn something for its BART extension from the current Pleasanton problem, declared Fialho.

"They need to be mindful of mistakes of the past. Parking needs to be adequate not only for Livermore, but also for the commute shed for the area. Right now East Dublin/Pleasanton is launch point for riders from Modesto and Tracy. The two stations (including West Dublin/Pleasanton) can easily be overrun with demand."

Talks will continue, with the city as a broker with BART, Workday and the mall, said Fialho.

http://www.independentnews.com/news/pleasanton-working-with-bart-stoneridge-on-parking-possibilities/article_338670e6-202e-11e5-922a-bbcad4a32df7.html

Barriers Stop BART Overflow Parkers From Using Stoneridge Lot

Posted: Thursday, April 16, 2015 12:00 am

Stoneridge Mall has begun chaining off its parking lot each night after business hours, and opening it up again after 9:30 a.m. the next day in an effort to better control parking spaces for its customers and employees.

The mall lot is located close to the Pleasanton side of the West Dublin/Pleasanton BART station. Commuters have been using the Stoneridge lot when parking fills up in the BART parking ramp before 10 a.m. Spaces tend to be available after 10 a.m. in the BART structure.

Mall manager Mike Short said in a prepared statement to The Independent that convenient parking is "an amenity we want to preserve for those who are actively doing business at the center. A controlled parking program ensures the best spaces are available for Stoneridge shoppers and employees anytime of the day, any day of the week."

Short said, "There are signs posted indicating Stoneridge Shopping Center is private property. These signs have always been there."

A Pleasanton resident told The Independent that when her daughter, who goes to law school in San Francisco, showed up at BART on the morning of April 6, she found chains across the Stoneridge parking entrances. She drove on to San Francisco, and paid a high parking fee there. Subsequently, the daughter has been getting rides to BART from her mother.

The mother contacted Pleasanton Vice-mayor Karla Brown, who passed the mother's e-mail on to BART, and sent one of her own. Brown said that she, too, has been unable to find parking in the BART lots, and "had to resort to driving to San Francisco in my car."

"I know many other drivers that have been stuck in the same position, and used their car instead of the preferred BART transportation," said Brown.

BART district secretary Kenneth Duron replied to Brown that he will share the e-mails with the board, and ask the BART Office of External Affairs and the Customer Access Department to investigate and respond.

The Independent talked to BART spokesperson Jim Allison on April 10. He said that he was not aware of the situation, but would look into it.

Allison said that BART averages 400,000 riders daily. Parking spaces are provided for fewer than 10 percent of that number.

"It's a natural tension. People want to drive to the station. Could we build a space for all, or encourage ride-sharing, cycling, buses, by limiting the amount of parking. It's a debate that goes on at the nine-member BART board, which has members from downtown San Francisco and the suburbs," said Allison.

BART tracks parking usage every six months, and reevaluates it at every station. BART looks at permit spots, and daily fees. There is a \$3 cap at all stations, except West Oakland, where it is \$7.

At the West Dublin station, there are 722 parking spaces inside the Dublin structure, and 468 on the Pleasanton side. The structures are split between daily users and monthly permit holders. It's possible to buy a permit for a specific day for \$6 on-line, said Allison. He said that "guarantees" a parking spot in the rush time up to 10 a.m.

If vehicles are illegally parked in the permit area, BART checks regularly for violators, said Allison.

Comment:

BART Parking

Ann Reichert, Livermore | Posted: Thursday, April 30, 2015 12:00 am

I loved your article about the Stoneridge Mall preventing BART riders from using its parking lot. You can't blame the Mall. It was surprising that it took this long for the barricades to go up.

The situation is entirely BART's fault. You can't have 400,000 riders and only provide parking for less than 10% of those riders and think everything is okay. Jim Allison gives the standard BART answer that he wasn't aware of the problems. Wouldn't that be his job to be aware? BART is never aware of the problems. I guess BART thinks that if you ignore problems they will somehow go away.

http://www.independentnews.com/news/barriers-stop-bart-overflow-parkers-from-using-stoneridge-lot/article_5c4602ba-e42b-11e4-a776-938a45e20df2.html

BART parking spaces filling up quickly

By Kelli Phillips | Bay Area News Group

PUBLISHED: March 25, 2008 at 9:17 am | UPDATED: August 17, 2016 at 4:01 am



A sign is posted at the Pittsburg – Bay Point BART station for additional parking at the North Concord / Martinez BART station on Wednesday, February 27, 2008, in Pittsburg, Calif. BART riders have a hard time finding parking at the stations closest to their homes and find themselves driving to other stations. (Bob Larson/Contra Costa Times)

Jessica Morgan wants to take her mind and her car off the road, but she can't find parking.

The Walnut Creek resident enjoys riding BART to work in San Francisco, but finding an empty space at nearby stations has become increasingly difficult.

"Lately, there are times when I've just given up and got on the freeway," Morgan said. "Once I drove from Walnut Creek to Lafayette and then Orinda, and there wasn't a single parking space."

On weekdays, more than half of BART's 46,392 parking spaces are filled by 8 a.m., and it jumps to at least 73 percent by 8:45 a.m., according to BART parking data analyzed by MediaNews.

Parking is an issue at several stations, and while a few lot expansions are in the works, BART says just building more parking lots and garages is a costly and impractical solution.

With 441 spaces, the West Oakland station is the first to fill on weekdays at 6 a.m., while Concord (2,367 spaces) and San Bruno (1,083 spaces) are the last to reach capacity at

8:45 a.m.

Pleasant Hill, which has the most parking at 3,011 spaces, is full by 8:30 a.m.

The West Dublin station, slated to open in 2009, will add another 1,200 parking spaces along the Dublin-Pleasanton line, and the Richmond, Ashby, Pittsburg-Bay Point and West Oakland stations are negotiating for additional parking over the next several years.

But the cost is significant.

The 1,200-space garage scheduled to open this spring at the Dublin-Pleasanton station carries a \$42 million price tag — or \$28,000 per parking space, BART spokesman Linton Johnson said.

“Having more parking in general will encourage people to live further out, which means they have to drive further back in,” Johnson said.

“It’s really environmental, cost and land planning. It’s not just BART, but there are state-mandated goals to reduce greenhouse gases, and you do that by getting people out of their vehicles,” he said.

Transit-oriented development, such as the transit village in Fruitvale or proposed sites in Pleasant Hill and Walnut Creek, are putting the land around BART stations to better use, Johnson said.

“There are people who say they don’t want to live in a transit village, but there are people who would,” he said. “That frees up a parking spot for those in the suburbs because (transit village residents) don’t have to drive to the station.”

Marci McKillian of Pinole takes public transportation to hiking-club activities around the Bay Area. During a recent trip to the El Cerrito del Norte station, McKillian found parking in a nearby neighborhood.

“I parked 4 1/2 blocks away because all the closer streets were either full or four-hour parking,” she wrote via e-mail. “It was no problem to walk down to the station, but after hiking for almost five miles, another 4 1/2 blocks up El Cerrito hills was a bit much for an 83-year-old.”

The Walnut Creek station’s 2,089 spaces and Lafayette’s

1,509 are taken by 8 a.m., and the 1,406-space lot in Orinda reaches capacity 30 minutes later.

Lots are filling faster each morning, but it's not deterring patrons. The transit agency saw a ridership increase of 23,000 between this February and last.

"Our parking hasn't increased that much, but we're seeing lots and lots of new riders," Johnson said. "The cost and convenience of commuting drives our ridership, and gas prices are one of the most volatile factors."

With a gallon of unleaded going for \$3.50 or higher, more people are turning to BART instead of turning the ignition.

BART's average weekday ridership is about 360,000 people, up from 301,000 three years ago. "Even with this monstrous ridership increase, people are finding other ways to get to BART," Johnson said.

The transit agency is also encouraging those who can to carpool, walk or bike to nearby stations. BART is installing more than 2,000 electronic bike lockers systemwide, and it's working with County Connection and AC Transit to better inform riders of the "Bus to BART" option.

"There are only a couple of routes that don't hit a BART station," said County Connection spokeswoman Mary Burdick.

The bus agency is working to produce schedules that are more user-friendly to BART riders.

"There's a perception that our schedules don't mesh," Burdick said. "We're not going to meet every train, but to make (the schedule) more understandable, we've added the train (times) our buses are scheduled to meet."

AC Transit has 14 park-and-ride lots where BART riders can catch a bus to stations in Castro Valley, Fremont, Oakland and Richmond. "Part of our plan is to provide an available service for riders to get to BART," AC Transit spokesman Clarence Johnson said.

Linton Johnson said BART is trying to devise "all kinds of ways to help those who don't have to take their car to BART," but the agency realizes it's crazy to expect people to just "ditch their cars."

Some motorists, such as Jonathon Peacock, have found ways around the parking issue, at least for now.

The Pittsburg resident lives 10 minutes from the Pittsburg-Bay Point station, but he doesn't bother looking for a space because the lot is full by 7:40 a.m. "I don't leave until about 9 a.m., and parking is long gone by the time I'm looking," he said.

Instead, Peacock, who takes BART to the Montgomery station in San Francisco, slugs through Highway 4 traffic to the North Concord-Martinez station.

The detour adds 15 minutes to his commute, but it guarantees him an empty spot. But, even there, the number of available spaces is shrinking, he says.

“It’s getting bad lately,” Peacock said. “The lower lot is in three pieces. I was finding a space in the middle of the second portion, but now I find myself parking three-fourths of the way down the third portion. I’m going to have to start leaving earlier.”

For those who have to drive, BART does offer a limited number of “single-day parking permits” at 11 stations and “monthly parking permits” at those stations and 21 others.

Monthly permits range from \$30 to \$115.50 per month, while single-day permits go for \$3 to \$6.

On Thursday, monthly permits were sold out at 22 of the 32 stations, including all seven in Contra Costa County, and single-day permits for the Walnut Creek station were sold out through April 2.

These permits guarantee the user a parking space at a specific location before 10 a.m. Monday through Friday.

Some motorists become so frustrated with parking that they risk a ticket by parking illegally. BART’s Board of Supervisors voted March 13 to raise fines for permit violations from \$25 to \$40.

“A \$25 fine is a bargain. It’s cheaper than paying the bridge toll and trying to park in downtown San Francisco,” Linton Johnson said. “We’re hoping the higher fines will eliminate some parking poachers.”

Reach Kelli Phillips at 925-945-4745 or kphillips@bayareanewsgroup.com.

<http://www.eastbaytimes.com/2008/03/25/bart-parking-spaces-filling-up-quickly/>

If You Can't Park, You Can't Ride / For a BART commuter in the suburbs, every workday morning begins with a race to claim one of the precious spots in the transit system's inadequate parking lots

By Michael Cabanatuan, San Francisco Chronicle

Published 4:00 am, Sunday, January 28, 2001

It's 7:45 a.m. -- witching hour at the BART parking lot in Orinda -- but Lark Hilliard is stuck a mile away in molasses-slow traffic on Moraga Way while the last available spaces are vanishing.

Hilliard, chief financial officer for a San Francisco architectural firm, tries to arrive early enough to find a spot in the BART lot but life sometimes gets in the way. On this rainy morning, for instance, trouble with her daughter's carpool forced Hilliard to shuttle the freshman through stop-and-go traffic to Miramonte High School before fighting her way back to BART.

By the time she arrives just after 8 a.m., there's little hope but Hilliard quickly circles the lot anyway before deciding to try her second option, a city park-and-ride lot a half-mile away across Highway 24 and up a hill. She arrives as the last spaces fill. Finally, around the corner, she finds a space on a steep side street just beyond signs limiting parkers to four hours. From there, it's a brisk 10-minute walk to the BART station.

"If I can't find a space, I end up driving," she said. "And I hate driving to San Francisco."

BART's parking shortage is fast becoming the transit agency's most pressing problem. At all but three of the 29 stations that offer parking, the spaces are gone by 8 a.m. To make matters worse, many communities with BART stations have imposed commuter-hostile parking limits on streets anywhere within walking distance.

With demand for parking growing along with ridership, but money to build lots and garages scarce, BART is slowly moving toward a future in which it will charge for parking for the first time in its 28-year history. Not all parking, perhaps, but some.

A recent survey shows that BART is putting a lot of would-be passengers on the highway because they can't find parking at its stations, and is likely to lose even more if it doesn't deal with the problem.

BART surveyed 602 customers who have ridden BART regularly and parked at the stations since 1998. It found that 17 percent of those riders stay in their cars and drive to their destinations

when BART lots are full. The rest park on neighborhood streets, get rides to BART, try to find spaces at other stations or figure out another way to get to the station. And if the parking shortage worsens, 27 percent said they would stop riding BART.

While BART is poised to begin small-scale experiments with paid reserved parking, satellite lots and commuter shuttles, it has no plans, no intent and no money to do what many commuters want: build big new lots or parking garages at every BART station whose lots fill early each morning.

BART's parking shortage is nearly universal. Most of the 41,666 spaces at the 29 stations with parking fill early each weekday. By 8 a.m., just three stations -- North Concord/Martinez, Richmond and Coliseum -- have empty spaces, according to a recent BART study.

BART stations have small reserves of parking spots they save for "midday" parkers that open at 10 a.m. But desperate commuters who could not find parking spots earlier in the morning often begin circling the lots or lining up outside well before the hour.

Several obstacles -- political, financial and philosophical -- stand in the way of more parking at BART.

Building parking is a pricey proposition, with a surface lot costing about \$10,000 a space and a parking garage about \$20,000 a space. Maintenance and security costs add up to about \$1 a space per year, BART officials estimate.

With government funds for parking lots scarce and BART's board of directors averse to charging for parking, that leaves BART the option of raising fares or coming up with creative solutions, such as joint ventures with private developers.

While BART directors aren't ready to start charging for every space at BART, they are moving toward levying parking fees at new lots or stations but not charging for existing parking, which has always been free.

Sometime next year, BART will test the waters with a reserved parking program at a handful of stations. In return for paying a monthly or weekly fee, a BART user will be guaranteed a parking space close to the station.

In another program, BART and the Contra Costa cities of Orinda and Moraga are considering a shuttle bus service that would pick up patrons at church and park-and-ride lots and take them to and from the Orinda station.

BART is also preparing to see if it can interest developers in either building or leasing new parking garages on BART property -- and charging whatever they want.

Travelers bound for San Francisco International Airport on BART once the extension opens in a little more than a year may also be charged to leave their cars behind. BART officials, fearing fliers could tie up valuable parking spaces for days while they travel, are leaning toward opening

some long-term lots that would charge a fee. The matter of parking charges at airport extension stations has not been determined.

BART Director Dan Richard said the board seems to be headed toward a future in which it will build more parking but charge for it -- along with special parking services including reserved, long-term, perhaps even valet parking -- while existing lots and garages would remain free.

"The new parking is going to have to be provided on a different basis," Richard said.

But that's not enough for some BART directors like Roy Nakadegawa, who argues that people who don't drive to BART are paying higher fares and subsidizing the parking places for those who do. Nakadegawa would like to charge everyone who parks at BART and use the money to maintain parking -- and subsidize better transit to stations.

"The fact is, people will start paying when there is a demand," Nakadegawa said. "Why don't we take the big leap forward and just put in paid parking without putting in any additional parking?"

But Richard, voicing an opinion held by a majority of BART directors, believes it would be a mistake to start charging for parking that has always been free. "I think we'd have a revolt on our hands if we tried to take away something we have already given people," he said.

Joel Keller, a director who represents eastern Contra Costa County, contends commuters from the end-of-the-line Pittsburg/Bay Point station already pay excessive fares and can't afford an added parking charge.

"(Eastern Contra Costa) BART riders pay more for their trip than any other riders in the Bay Area," said Keller. "Any increased cost would be unfair." But Hilliard, whose last-resort parking spot was a couple of weeks later posted with a two-hour limit, says she would gladly pay for a place to leave her car.

"I wouldn't mind paying if I knew I would have a space," she said. "In fact, I'd pay almost anything."

<http://www.sfgate.com/bayarea/article/If-You-Can-t-Park-You-Can-t-Ride-For-a-BART-2958316.php>

Despite ambitious traffic goals, fewer employees are biking to work in Mountain View

by [Kevin Forestieri](#) / Mountain View Voice

Uploaded: Fri, Nov 13, 2020, 1:55 pm



Google's main campus in North Bayshore. Photo by Michelle Le.

Mountain View's vision for North Bayshore is banking on a car-lite future for the city's bustling jobs center, home to massive tech offices for Google, Microsoft and Intuit. But when it comes to getting commuters to bike to work, the city is missing the mark and losing ground.

Getting tech workers out of cars has been a critical strategy in building out the city's [urban vision](#) for the mostly low-density office park, and the bar is set high. The goal is to get the number of solo drivers down to 45% of the total commuters into North Bayshore, and hit a lofty goal of 10% commuters heading in by bike.

Failing to meet those goals threatens to jam roadways into and out of the area, some of which were arguably over capacity prior to the coronavirus pandemic and temporary telecommuting policies.

Starting in 2015, the city saw a surge in bike commuting into North Bayshore that reached about 6% of the total trips into North Bayshore, which amounts to about 1,500 employees, according to data collected by the city. That number remained steady through spring 2017, at which point it precipitously dropped to only 3% -- or about 750 employees -- and never

bounced back. Meanwhile, the number of solo drivers heading into North Bayshore hasn't budged, making up about 57% of the trips into the area in the spring this year.

When asked by the City Council about the puzzling change, particularly as the city priorities bike and pedestrian infrastructure, city staff could only speculate. It could have to do with busy construction activities in North Bayshore discouraging bike use, or it could be caused by differing methodologies used to count commuters.

Representatives from Google, North Bayshore's largest employer, did not respond to requests for comment.

Reaching 10% of commutes by bike may not be feasible, at least not yet. The future plans for North Bayshore include robust bike infrastructure that criss-crosses all of the major roads in the area intended to make it easy and safe to get to work. Many of the proposals in the North Bayshore Precise Plan call for dedicated bike lanes, including "cycle tracks" completely separate from the road and the sidewalk. The city is also planning to build a [new bridge](#) over Highway 101 for bicycles and pedestrians to commute between North Bayshore and the rest of the city.

A 2015 study by the city found that bike commuters prefer to use Stevens Creek Trail to get to work, followed by Middlefield Road, California Street and Shoreline Boulevard. The most loathed streets, considered the least bike friendly, including El Camino Real, Castro Street and San Antonio Road. At the time, 6.5% of the Mountain View's residents biked to work, significantly higher than the average across Santa Clara County but falling short of Palo Alto at 9.1%.

At a community meeting last month, residents overwhelmingly told city staff that they would like to see Mountain View prioritize bike infrastructure as a top priority, even over transit services, and ensure bike and pedestrian routes are both safe and convenient.

City officials closely watch commute patterns into North Bayshore as part of its "trip cap" policy for the area, which monitors traffic flows and whether they exceed the maximum roadway capacity into and out of the jobs center. Though the traffic lull during COVID-19 has given commuters a reprieve from the gridlock, data from earlier this year shows some city roads are already at or exceeding their "practical capacity." Shoreline Boulevard in the morning had 3,170 commute trips in the morning -- a touch over the 3,110 target set by the city -- while Rengstorff Avenue was clogged and overcapacity during the evening commute.

Looming over transportation decisions for North Bayshore is what, if anything, will happen to the area's commute patterns following COVID-19. During the approval of Google's [Landings office project](#), Mountain View council members that met with company officials suggested that the tech company may shift gears, drop some of its office proposals and embrace telecommuting on a permanent basis. Google is currently reevaluating its need for additional offices, council members said at the time, and may not move forward with building the Landings project.



December 8, 2020

VIA EMAIL (shannon.hill@sanjoseca.gov)

Shannon Hill
Environmental Project Manager
City of San Jose
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Re: Downtown West Mixed-Use Plan
Draft Environmental Impact Report

Dear Ms. Hill:

I am writing to you as the Vice President and Director for Planning and Land Use of the Shasta / Hanchett Park Neighborhood Association (S/HPNA), on behalf of the NA, with our comments on the scope of the Draft Environmental Impact Report (DEIR) for the above-referenced project. S/HPNA represents 4,500 households immediately west of Diridon Station, in the Garden Alameda, Shasta / Hanchett Park, and St. Leo's neighborhoods, directly adjacent to the western boundary of the proposed development area. For more than thirty-five years, we have sought to work with the City of San Jose, developers, and our neighbors to create a vibrant neighborhood.

Given the scale of the Downtown West proposal, and the rare opportunity it presents to reshape an underutilized portion of West San Jose under the auspices of a single, coherent development proposal, the project needs to be held to a higher standard. Therefore, our comments and concerns include, but are not limited to, the following:

- **Google Outreach:** We commend Google for taking a direct, active interest in engaging with adjacent neighborhoods. Google's willingness to meet and discuss the project, and its potential impacts, should be the standard for engagement on any development proposal.
- **Downtown West Design Standards and Guidelines (DWDSG):** Given the size and scope of the proposal, the DWDSG should be the standard for the entirety of the Diridon Station Area (DSA). To hold Google to a higher, more consistent standard than the remainder of the DSA sends the wrong message, and misses an opportunity to create a coherent, vibrant district. The City of San Jose should require that all development within the DSA meet the standards of the DWDSG.
- **Construction Phasing:** The development cycle for Downtown West and the DSAP is a matter of decades. The planning for this time period needs to be just as robust as that for the end product. Any Construction Management Plan (CMP) needs to address all these realities; environmental documents that are created and analyzed in a silo, ignoring tangible adjacencies and real physical and economic challenges, cannot be considered comprehensive. Given the project's immediate adjacency to Diridon Station, the Diridon Integrated Station Concept (DISC) should be a construction phasing and mitigation concern as well. Long before the development is fully occupied, there will be a decade or more of construction, impacting public services, transportation, and quality of life issues for the surrounding residents.

AA.1

AA.2

AA.3

- **Lack of Parks and Open Space:** The Quimby Act requires (3) acres of park area for every 1,000 persons. The Envision San Jose 2040 General Plan policy provides for 3.5 acres per 1,000 persons. The DEIR indicates a project population, at full build-out, of 12,980 people. Under the Quimby Act, this equates to 38.94 acres of park land, while City Policy would call for 45.43 acres. The DEIR indicates that 15 acres will be provided, 10 acres of which is private land that will allow public access. The DEIR does not outline quantifiable mitigations to address the drastic under-provision of parks. The General Plan and 2014 DSAP identified the San Jose Fire Department (SJFD) Training Center as a potential site for a 5-acre community park. This has been removed, with no indication as to how it will be replaced / mitigated.

AA.4
 - **Private Land as Park Space:** Private land should not be counted towards park requirements. What, if any, restrictions are to be put in place to prevent this ‘park space’ from being sold, and converted back to private use? How can a plaza filled with tables for an adjacent restaurant or coffee shop be considered public space? Will members of the public be guaranteed the right to use such seating, regardless of whether or not they have purchased anything from the nearby venue? Will restaurants be forbidden from taking reservations for said seating, or roping / fencing off said seating during peak hours?

AA.5
 - **Trails and Mid-Block Passages as Park Space:** Google has quite correctly embraced the use of the Los Gatos Creek Trail as an integral part of its proposed internal, non-vehicular circulation. However, counting linear strips of macadam, used solely for circulation, as park space is inappropriate. Similarly, the mid-block passages are a means by which to allow Google employee circulation. If properly lined with ground floor commercial spaces, they can become important connectors, but, like the trails, these are byways for non-vehicular and pedestrian circulation. A development proposal would not be given park land credits for providing landscape pavers at dedicated vehicular circulation; why does hardscape for non-vehicular circulation qualify as park space?

AA.6
 - **Park Maintenance and Service:** The City of San Jose has a proven track record of making substantial capital expenditures for parks and community centers, and then underfunding maintenance and programming. The DEIR indicates no mechanism by which the multiple proposed ‘serviced’ and ‘unserved’ pavilions will be maintained; given the City’s penchant for neglecting such things, it cannot be assumed that this will be done properly without a specific, binding agreement being put into place as part of the development approval.

AA.7
 - **Separating Means of Transportation:** The City’s General Plan Land Use Goals, and its embrace of Vision Zero, emphasize that walking and bicycling become primary transportation methods. While the DEIR shows substantial improvements, it falls short in key areas. Connecting the Los Gatos Creek Trail across West Santa Clara Street with token crosswalk and curb improvements is inadequate. The DEIR calls for massive intensification of uses at this area; an office building, two residential buildings, an events center, the adaptive re-use of the San Jose Water Company Building, a large plaza, the upgraded Los Gatos Creek Trail, the Guadalupe River Park Trail, Arena Green (with the pending Urban Confluence structure), and SAP Center. The proposed improvements would only nominally improve the congestion caused by SAP Center alone and would do little to substantively protect cyclists and pedestrians. The City has cited an overcrossing as an ‘ideal solution’, at some future, undefined date. The overcrossing needs to be studied as part of the project proposal, and a solution, based on robust analysis of pedestrian and non-vehicular access, should be part of any development approval.

AA.8
- A pedestrian crossover on West Santa Clara Street, close to Diridon Station, would address further shortcomings in the current proposal. The lack of a BART station entrance on the north side of West Santa Clara Street will create a substantial uptick in traffic across West Santa Clara, as will Downtown West’s substantial developments to the north. The DEIR does not address this likely order-of-magnitude increase in crossings.

- **West San Fernando Street and Cahill Park Promenade:** West San Fernando Street between Race Street and the project area is indicated as a protected bike lane. This would bisect Cahill Park, eliminating the promenade between the playground and the open grass. West San Fernando Street is a narrow street that already experiences heavy pedestrian, motorized scooter, skateboard, and bicycle usage. The area was converted to permit parking as part of the Arena Traffic and Parking Management Plan (TPMP) more than twenty-five years ago. The proposed protected bike lane is vital, but it undermines the TPMP's detailed commitments and requirements. The proposal reduces the safety and functionality of the single large park immediately adjacent to Downtown West - a proposal that is drastically lacking in parks, reduces the efficacy of mitigations made as part of the Arena's construction - directly undermining the City's commitments to its residents, and substantially increases the non-vehicular usage of a street that is already substandard in many ways - a clear dismissal of Vision Zero principles. Analysis and recommendations for how to improve West San Fernando Street and Cahill Park without causing these substantial harms must be included in the development proposal.

AA.9

- **Expedite Downtown Transportation Plan:** West San Fernando Street, Cahill Park, and West Santa Clara Street at Diridon Station will all be bottlenecks that clearly prioritize car and bus traffic. The Downtown Transportation Plan (DTP) should be expedited, so that its findings and recommendations can be incorporated into the Downtown West proposal. To undertake an effort as substantial as the DTP, only to have it not apply to the single largest district-wide development proposal in the City's history, is either farcical or a cynical effort to ensure that any impacts of the Downtown West proposal are dismissed as 'existing'. The DTP should provide City Council and PBCE staff with the necessary data and models to address the potential impacts of Downtown West and the DSAP Amendments before they are approved.

AA.10

- **Historic Resources:** Downtown West calls for the preservation of only one-third of the identified historic resources within its boundaries. If nine developers came before the City with proposals for the DSA, and six of them asked to demolish the resource, the City's Historic Preservation Officer and Historic Landmarks Commission would find this unacceptable. For Google to cite logistics and cost as obstacles to preserving the resources is comical; as of September 2020, Alphabet, Google's parent company, had \$132 billion in liquid assets on hand, a \$13 billion increase in one year. In the past, the City has challenged local developers' claims of preservation as being financially restrictive; one such developer even proposed moving the First Church of Christ, Scientist, a City Landmark, **twice** during construction, to accommodate their condominium proposal. Why is the City willing to accept that one of the five most valuable companies in the world cannot afford to preserve, relocate, or adaptively reuse six structures across over 60 acres?

One need only turn to Google's 'Ten Things We Know To Be True', the company's publicly stated philosophy, to find gaps in the DEIR's findings:

AA.11

- *'7 – There's Always More Information Out There':* Google states that *"other efforts required a bit more creativity"*. Mayor Liccardo once echoed this sentiment, when speaking about the revitalization of St. James Park. To paraphrase the Mayor, he said that, when doing something as comprehensive as the rethinking of a major urban park, the City needed to get creative about financing the undertaking. St. James Park's revival is a minor undertaking compared to Downtown West, and Google clearly has the means and team members to think more creatively and come up with uses for these historic structures.
- *'10 – Great Just Isn't Good Enough':* The header speaks directly to the current proposal. Defaulting to the standard means by which local developers opt-out of extra effort is disingenuous for a company with Google's stated philosophy, financial means, and professed dedication to San Jose. The text insists that Google strives for *"products and services that set new standards"*, yet the response to addressing the inevitable impacts upon the area's historic resources is anything but a 'new standard'. The verbiage also insists that *"we're always looking for new places where we can*

make a difference. Ultimately, our constant dissatisfaction with the way things are becomes the driving force behind everything we do.” The project’s response to historic resources falls well short of this aspiration.

Three of the six historic resources – the homes at 559, 563, and 567 West Julian Street – are candidates for the City’s receiver site program. Relocating the homes to a single site would help meet Google’s stated environmental goals. The DEIR includes a commitment to affordable housing; reusing existing housing stock on a new, underutilized site would, with the right precepts and covenants, embrace affordable housing, maintain existing housing stock, and show a commitment to the preservation of historic resources. The property at 615 Stockton Avenue – an empty single story commercial building surrounded by surface parking, a stone’s throw from the western boundary of Downtown West – could readily accept all three structures. S/HPNA’s Board and some of its member residents have indicated our willingness to work with the City and Google to make this happen, as it would be a net benefit to all parties. We strongly encourage Google to incorporate this relocation and reuse of historic resources and underutilized land into their development proposal.

AA.11
cont.

We take pride in our neighborhood; S/HPNA Board members and volunteers have been diligent advocates for decades. Density and additional development within, and adjacent to, our boundaries are inevitable; developments that don’t strive to be exceptional, that do all of the necessary things, but few exceptional things, while ignoring or minimizing significant impacts on the adjacent residents, should not be. We welcome development that supports the neighborhoods with community services and amenities, while maintaining and encouraging the walkability and vibrance of the area.

Respectfully submitted,



Edward Saum
Vice President & Director for Planning & Land Use
Shasta / Hanchett Park Neighborhood Association

Cc: Ricardo Benavidez, Google
Councilmember Dev Davis
Councilmember Raul Peralez
Mayor Sam Liccardo
Rosalynn Hughey, Director, Department of Planning, Building and Code Enforcement
Robert Manford, Deputy Director, Department of Planning, Building and Code Enforcement
Toni Taber, City Clerk



San Mateo, Santa Clara and San Benito Counties

December 8, 2020

Shannon Hill, Environmental Project Manager
City of San Jose

Via email to: shannon.hill@sanjoseca.gov

Dear Ms. Hill,

On behalf of our thousands of members and supporters in San Jose, the Sierra Club Loma Prieta Chapter appreciates the opportunity to provide comments on the Downtown West Mixed-Use Plan Draft Environmental Impact Report (DEIR).

Please consider our comments as follows.

Biological Resources – Riparian Setbacks and Habitat Plan

Google LLC, the project applicant, is proposing the Downtown West Mixed-Use Plan (proposed project) as part of the company's expansion of its workforce and business operations in the Bay Area. Draft EIR Section 2.12 Downtown West Design Standards and Guidelines states, "As part of the proposed project, the project applicant is proposing the adoption of detailed design standards and guidelines that would apply to development on the project site. These enforceable Downtown West Design Standards and Guidelines, a draft of which is provided in Appendix M, would be approved as part of the Planned Development Permit. In addition to the project-specific Downtown West Design Standards and Guidelines, the Downtown Design Guidelines and the Complete Streets Standards and Guidelines would continue to apply to development of the project unless a standard or guideline under the Downtown Design Guidelines or the Complete Streets Standards and Guidelines is expressly superseded by the Downtown West Design Standards and Guidelines."

The Downtown West Design Standards and Guidelines, FIGURE 4.16: Riparian setbacks and ecological enhancement zone, depicts several Santa Clara Valley Habitat Plan covered activities that shall not be permitted since under Condition 11, Exemptions, as it states, "Regardless of project location, stream setback exceptions may not reduce a Category 1 stream setback to less than a distance of 50 feet for new development or 35 feet for existing or previously developed sites with legal buildings and uses (Figure 6-3b). All applicable fees must be paid for areas granted an exception." Page 6-54, <https://www.scv-habitatagency.org/DocumentCenter/View/128/Chapter-6-Conditions-on-Covered-Activities-and-Application-Process>

BB.1

The Downtown West Design Standards and Guidelines, page 83, states, “Consistent with the previously approved project on the former San José Water Company site, the Project provides a 30-foot setback for new building construction from the top of the channel wall along the Guadalupe River.” This is inconsistent with the Santa Clara Habitat Plan for this Category 1 stream. It may qualify for an exception to the 100 ft. setback since an existing development already exists but still a minimum 35 ft. setback is required.

The Downtown West Design Standards and Guidelines, S4.8.3 Los Gatos Creek Riparian Setback, page 85 states, “If existing structures encroach on the Los Gatos Creek Riparian Setback, replacement structures are permitted subject to standards of Sections 5.5 and 5.6.” yet there are structures of the project well within the Santa Clara Habitat Plan minimum setback for this Category 1 stream. Again, the Santa Clara Habitat Plan for this Category 1 stream does not permit structures to be replaced unless they are setback to its minimum required 35 ft. FIGURE 4.42: Illustrative plan of the Creekside Walk at South Autumn Street, clearly depicts existing buildings well within the minimum setback which should not be permitted to be replaced in the 35 ft. setback.

Furthermore, construction staging should not be allowed within the 50 ft. setback area.

Please include in the EIR discussion of the reduced setback exception, how the required findings will be made, and how encroachment into the 50’ and 35’ riparian setbacks will be mitigated under the rules of the Habitat Plan and regulations of other agencies.

BB.1
cont.

Biological Resources – Mitigation and Monitoring Plans

Many possible impacts from the project are deferred to mitigation and monitoring plans and adaptive management, for example the *Riparian Habitat Mitigation and Monitoring Plan* and the *Riparian Vegetation Monitoring Plan*. Instead, up front mitigations should be emphasized such as: requiring lower building height and massing step-back to avoid riparian shading and avian impacts; avoidance of glass curtain walls within riparian setback area (up to 300’ for bird safety); and requiring construction activities to avoid existing higher quality riparian areas.

BB.2

Noise – Impacts on Riparian Habitats

Wherever mitigations refer to “noise sensitive land use,” change this to “noise sensitive land use or riparian corridor.” Similarly, for “Stationary-Source Equipment Placement” change to “... shall be located as far from adjacent properties and riparian corridors as possible.” Other noise mitigation measures should be updated similarly to ensure the riparian corridor is protected from noise sources to the same extent as sensitive land uses.

BB.3

Transportation – Parking

Parking in this district needs to be efficient and usable by the public as well as office workers and residents. Districtwide parking strategies have not yet been defined by the City.¹

We note that parking is described as follows:

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¹ DEIR page 3.13-23: The City will also prepare area-wide implementation strategies for shared parking, infrastructure financing, and affordable housing.

DEIR Project Description, page 2.14: The project proposes to provide up to 4,800 publicly accessible commercial parking spaces in below-ground parking structures of up to three levels, as well as above grade in a limited number of the office structures. Some of the commercial parking could be provided using mechanical parking stackers, which permit the floor area of a single parking space to accommodate more than one vehicle. Up to about 2,360 unbundled parking spaces would be available for the proposed project's residential uses, and would be provided in either below-ground or above-ground parking structures; a portion of these residential spaces could be available for shared parking by project office employees

We have the following concerns:

Inefficiency: Scattering public parking in a variety of office buildings is a recipe for inefficient use of parking, regardless of how good interactive signage may be that indicates empty spots in random buildings along a one-mile-long area.

Event center parking: For the SAP center, visitors with no familiarity to the area will be looking for parking. It is not realistic to assume that the public will wander from building to building looking for an available parking spot.

Security concerns will make parking unavailable: It is our experience that Google has security considerations that frequently require it to secure its buildings from random acts of terrorism. Providing public access to the basement levels of its buildings, with public parking, is not a viable solution for Google office buildings. Only public parking garages are going to assure the public permanent access to Google office parking.

Parking is a critical element in the success of the Diridon area. The project description is not a sustainable solution to shared parking: MOST of the parking should be accumulated in clearly marked public parking structures that are located about a 5 to 10-minute walk apart, easily found and with good signage. ALL office parking is supposed to be shared parking and some residential parking is shared.

Timing for parking in office buildings: Is shared parking in office buildings going to be shared throughout the day? Or only during the evening hours?

Parking in separate public parking structures is the only way, long term, to assure that office parking will be available to the public at all times and will be efficiently utilized.

Mitigation: Clear requirements for percentage of parking to be in public parking structures for publicly accessible parking and shared parking need to be included as mitigation requirements.

BB.4
cont.

Hydrology and Water Quality – Stormwater

Hydrology, Stormwater management, page 3.8-6: Under existing conditions, stormwater runoff from the project site is not treated before its discharge to the City's collection network.²

The project area includes 3.5 miles of backbone storm drainpipe (18 inches in diameter or larger) with five outfalls extending to the Guadalupe River and nine outfalls to Los Gatos Creek. Three pump stations

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² Arup, Lendlease & Sherwood Design Engineers, Google Downtown West Infrastructure Plan, October 7, 2020.

drain under the railway underpass, at Julian Street, Santa Clara Street, and Park Avenue. This infrastructure serves to prevent flooding of streets and highways and is maintained by the City's Department of Transportation and Public Works Department.

We have the following concerns about stormwater runoff and potential water quality issues:

DEIR TABLE 3.8-2 BENEFICIAL USES AND IMPAIRMENT STATUS OF WATER BODIES IN THE PROJECT AREA lists contaminants in stormwater being directed to water bodies in the area. Toxics from tire dust and brake dust are not listed in this table. Recent studies have shown that toxics from these are lethal to fish.³ Existing storm water lines are directing stormwater into nearby creeks and waterways. Toxic tire dust and brake dust should be included as contaminants that need to be removed from stormwater before discharge into streams.

Monitoring should include toxic tire dust and brake dust in the list of toxins that are tested.

ALL stormwater from all the streets should go through bioretention basins that are specially designed to remove toxins from tire and brake dust before the water goes into pipes that discharge into the creeks and rivers.

BB.5
cont.

Hydrology and Water Quality – Dewatering

Thank you for your attention to groundwater dewatering in the DEIR. Groundwater levels at the project site range between 0 and 20 feet, per groundwater elevation data from the Valley Water website. Therefore, any below-ground construction for the project will require dewatering and may permanently impact the water table and subsurface groundwater flows.

Therefore, we suggest the following additional mitigation measures:

Require analysis of the impacts of groundwater pumping on the surface water levels in Los Gatos Creek and Guadalupe River (Hydrogeological Study). Will the interaction between groundwater and surface water be impacted?

Require analysis of the impacts of groundwater pumping on the capacity of the City's storm drain system or sanitary sewer system, especially during the rainy season from November through March.

Include a list of potential actions and solutions in case the groundwater monitoring program indicate problems (during construction or operation), such as:

- Install groundwater monitoring wells.

BB.6

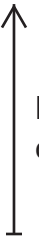
³ Science Daily Dec 2020: Tire-related chemical is largely responsible for adult Coho salmon deaths in urban streams.

The Guardian Dec 3, 2020: Pollution from car tires that washes into waterways is helping cause a mass die-off of salmon on the US west coast, researchers have found.

In recent years, scientists have realized half or more of the Coho salmon, also known as silver salmon, returning to streams in Washington state were dying before spawning.

<https://www.theguardian.com/environment/2020/dec/03/coho-salmon-pollution-car-tires-die-off#:~:text=Pollution%20from%20car%20tires%20that,state%20were%20dying%20before%20spawning>

- Test groundwater discharged into a storm drain for contamination per Regional Water Quality policies.
- Meter extracted groundwater.
- During dewatering, submit periodic reports showing current groundwater levels, pumping rates, and water quality standards.
- Require avoidance measures to minimize the flow rate and duration of the pumping



BB.6
cont.

Thank you for considering our concerns about the environmental impacts of the Downtown West Mixed Use Plan and we look forward to continuing to work with the City and the applicant to make sure these impacts are mitigated to the greatest extent feasible.

Sincerely,

Dave Poeschel

Guadalupe Group Conservation Chair
Sierra Club Loma Prieta Chapter

Gita Dev

Sustainability and Land Use Committee Chair
Sierra Club Loma Prieta Chapter

Cc: James Eggers, Director, Sierra Club Loma Prieta Chapter



December 8, 2020

Shannon Hill
Environmental Project Manager
City of San Jose
shannon.hill@sanjoseca.gov

Re: DOWNTOWN WEST MIXED-USE PLAN (GOOGLE PROJECT, Project)

The Santa Clara Valley Audubon Society (SCVAS) thanks you for the opportunity to provide comment on the Draft Environmental Impact Report (DEIR) for the Downtown West Mixed-Use Plan Project. SCVAS was founded in 1926, and is one of the largest National Audubon Society chapters in California. SCVAS' mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation. SCVAS has engaged in the protection of riparian and aquatic ecosystems in Santa Clara Valley for decades. Our members have a strong interest in projects that could impact creeks, rivers, and other biological resources. We advocate for the protection of creeks and riparian ecosystems and preservation of wildlife linkages, bird-safe design, reduction of light pollution, fish passage and habitat improvements.

Here are our comments:

1. Bird Collision

Glass facades of buildings located within 300-ft of the creeks create a hazard to migratory birds. The Project and its associated EIR will comply with the City's Design Standards, but we believe that these standards are not strict enough and ask for 90% all building facades and 100% of other transparent structures within 300-ft to include visual cues to reduce bird collisions to a less than significant level. Google applies this standard in Mountain View, and can do the same here.

CC.1

2. Artificial Light at Night (ALAN) interferes with all biological function

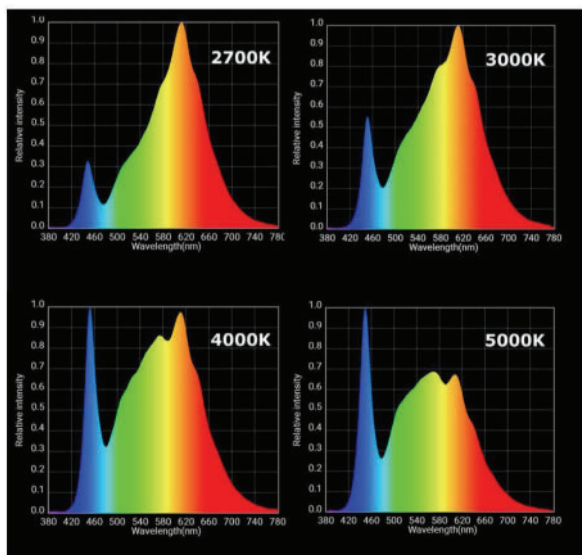
The incremental and cumulative impacts of outdoor Artificial Light at Night on all living organisms, ecosystems, natural phenomena and human health are pervasive and indisputable¹. Emerging science shows that the most damaging light is in the blue wavelength. Since LED lighting has a pronounced peak at the hazardous wavelengths (see figure below), the International Dark Sky Association recommends that light temperature in all lighting should not

CC.2

¹ A meta-analysis of biological impacts of artificial light at night. 2020. Dirk Sanders et al. Nature Ecology & Evolution November 2020 <https://www.nature.com/articles/s41559-020-01322-x>

exceed 3000K². Others (Softlight) recommend that outdoor lighting should not exceed 2700K to protect both ecosystems and human health, especially that of light-sensitive neurodiverse populations.

The project and the EIR provide standards and mitigations to reduce the impacts of light on the riparian corridor. We ask to add a mitigation measure that limits outdoor lighting temperatures to 3000K, and to 2700K within 100-ft of the creeks. This mitigation should reduce impacts to vegetation, bird and fish migration, aquatic insects and wildlife movement along the creek.



LED emits a spike of blue wavelength light, which is more pronounced at temperature higher than 2700K.

CC.2
cont.

3. Nesting Birds

Mitigation Measure BI-1e identifies the nesting season for most birds as February 1 through August 15 (inclusive). The mitigation suggests avoidance of construction during the nesting season, but offer the possibility of nesting surveys if construction is conducted during the nesting season. In the thick riparian forest on the site, identifying nests is not a feasible mitigation and it is likely that:

- Bird nests in the thick riparian vegetation will be missed
- Or
- Nesting birds will be found and delay the progress of the project

CC.3

To avoid harming nesting migratory birds, in-channel construction activities, including channel dewatering, would be limited to the dry season outside of the nesting season, thus it should occur only August 15 through October 15.

4. Valley Habitat Plan

The Santa Clara Valley Habitat Conservation Plan/ Natural Community Conservation Plan (VHP) requires a minimum of 35-ft riparian buffer to protect the waterways, water quality and their riparian ecosystems from a large scope of construction impacts as well as activities along

CC.4

² <https://www.darksky.org/our-work/lighting/lighting-for-citizens/3k/>

waterways. The Project as proposed is inconsistent with the minimum setback requirements of the VHP. This conflict should be recognized as a significant, unavoidable impact. Hopefully, the project can be modified to avoid this impact.

↑ CC.4
cont.

We appreciate the opportunity to provide comments.

Thank you,

Shani Kleinhaus, Ph.D.
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December 07, 2020

Shannon Hill, Environmental Project Manager
City of San Jose
200 E. Santa Clara St
San Jose, CA 95113

RE: Downtown West Mixed-Use Plan (Google Project) GP19-009, PDC19-039, and PD19-029

Dear Shannon Hill,

We write to you from grassroots organizations including **Silicon Valley De-Bug**, a longstanding community organization who has worked with communities that face multiple barriers to full inclusion, families impacted by the criminal justice system and a community that has demonstrated a commitment to work together to collectively improve our lives and continue building San Jose; the **Affordable Housing Network of Santa Clara County**, formed in 1987 with the goal of expanding the supply of housing affordable to low-income families and individuals, and organizing the people in need of affordable housing to advocate on their own behalf; **Serve the People San Jose** organizing against the displacement of San Jose communities; **Showing Up for Racial Justice at Sacred Heart**, a group of mobilizing white people to be in solidarity with our brown and black brothers and sisters, and working to end racism and discrimination throughout Silicon Valley; and, the **South Bay Community Land Trust** with a mission to acquire and steward land in trust for the permanent benefit of low income communities in San Jose.

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In particular, Silicon Valley De-Bug is located northwest of the Project Site, behind The SAP center along Lenzen Ave. On account of this, our immediate community and extended community will receive a notable impact from the long term construction and subsequent massive changes to the physical environment caused by the project's operation. For these reasons, we present our comments with the well being of our pre-existing communities in mind. Our collective of community organizations want to ensure that the project conscientiously evaluates its potential environmental impacts to our community and, in good faith, questions the general extractive nature of large scale tech projects to our communities. Once the transformation begins, we cannot retrieve the past in which this project will build over.

We also approached this project's proposal through the lens of the extraordinary circumstances caused by the COVID-19 Pandemic. The pandemic has left the future beyond calculable

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projections. There is no doubt that the pandemic will have long term impacts on our local economy and the structure of our social worlds. Since this draft was created before and used data from years previous to this pandemic, and the baseline information from 2019 -- of which the ensuing Draft EIR is based on -- is outdated, we believe that said proposal is inadequate, irrelevant, and requires a more thorough updated evaluation after the pandemic recovery period. We urge the City to immediately halt the EIR process and require the project applicant to start over. The proposal states itself many times that it is "too early to determine the overall effect of the COVID-19 pandemic", and through these lenses, we submit the following comments:

Covid Impact Reassessment

COVID-19 has affected many aspects of this project and without more of an analysis in this report it would not be accurately representing the current reality for San Jose residents. This "Environmental Impact Report" is supposed to focus on the environment and COVID-19 has in fact been involved in changing the city's carbon footprint. Many cities saw clearer skies and other dramatic air quality improvements, leading to the appearance that the pandemic may have a slight positive change in the environment. However this would only be possible if there was a continual reversal in the environmental impacts that would slow down construction, and pollution. However since large projects such as this one are continuing and not taking COVID-19 into consideration there is no room to consider how San Jose's environment can be improved. It is likely that other projects in the city will be buying and building to make up for lost time and create a negative environmental impact. In addition to the climate effects that will come out of this, another long term consequence that has already been plain to see is the effects COVID-19 has had on housing.

Additionally, since the research and studies for the report were conducted prior to the outbreak of COVID-19, there are significant gaps that need to be addressed. For example, as there is the expectation that employees work from home to avoid unnecessary exposure to the virus, the amount and configuration of office space must be re-evaluated. In contrast to the Google employees who are able to work from home, we see no assessment of the possible impact on the vast amount of construction-related workers who will build these buildings nor how that will impact the growing amount of COVID-19 cases in San Jose and Santa Clara County. Additionally, since there are greater demands to reduce housing density, the apartment-style living that the housing units are designed need to be reconfigured as well. The Google project as a whole needs to be entirely rethought to account for these changes in how we can safely be in proximity with each other, particularly with regard to indoor spaces. The project as it is currently designed simply does not provide a safe or feasible style of living or working. We recommend doing a complete overhaul of the research and studies that have already been done, to account for the dramatic changes brought on by COVID-19. Anything short of that is simply irresponsible.

Project Impact on Housing Affordability

Pursuing the effects on affordable housing by the planned development, we seek a more in-depth investigation of housing affordability and the health/environmental risks caused by the

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displacement of current housed and unhoused residents. Though the report claims not to be responsible for socio-economic projections, it cannot be denied that they are inseparable from the environmental impact of increased population injections. A project like this would exacerbate the already lacking, affordable housing in the South Bay with speculated rippling effects on other city sectors. The decreased affordable housing would negatively impact the service economy, whose wages will not increase with the development but will cause displacement due to housing market adjustments; All boats will not rise with the tide. Pushed out residents will likely search for more affordable housing in the Central Valley, as they have been forced to do in the past due to similar developments. In turn, this migration will have increased commuting that will not utilize the built train transportation adding heavy traffic congestion, air pollution, and latent environmental risks.

Let's look at the rising costs of housing and the subsequent displacement of East Palo Alto residents after the expansion of the Facebook campus. We can see that a job nexus analysis does not adequately account for the rising rents accompanying tech industrial developments in the region and how those higher wages do not reach most service workers. With COVID-19 as an immediate risk for the non-working and working population, housing has become of utmost importance for public health. Without stable housing, residents are not able to isolate or social distance as County health orders require us to do further jeopardizing the accumulative safety of San Jose and Santa Clara County. Already with the COVID-19 pandemic, we see that this report is now outdated and skewed because it does not include the considerable shifting effects of COVID-19 in its analysis. For this reason, it would be irresponsible of the city to accept this report's evaluation of population and housing as is, for it is now incomplete and inadequate. The effects of the COVID-19 pandemic on housing cannot be underestimated. The development should further investigate the changes COVID-19 will have on the proposed high density living communities and the inevitable impact of displaced populations on the environment caused by such a large project, which may come to find an impasse due to its anthropogenic hazards.

Avoiding the question of the inevitable displacement of communities of color as a result of the building of the Google project is highly irresponsible. The Draft EIR makes a very convenient argument throughout the "Indirect Displacement" section of 3.11: Population and Housing, that a single project cannot be responsible for displacement of communities of color. This convenience shirks the Google project of assuming responsibility for the indirect effects of this project. This section poses a distinct contrast from language in other places related to the project that emphasize functions of the project that go far beyond what a single building can do: "Places are about people and connections between them. We want to contribute to vibrant places that promote well-being, inclusion, and interconnectivity."

(<https://realestate.withgoogle.com/sanjose/>) Clearly, the project permits itself to pick and choose when it decides to limit its scope to a being a single project, and when it expands to be a transformative movement for the entire community. That choice clearly occurs when it portrays the project as bringing a net good to the San Jose community, and not when it leads to displacement or gentrification. Particularly at a time when communities of color are not only facing the brunt of the economic downfall of the COVID-19 pandemic, but are also on the verge of a massive wave of evictions, anything can push families over the edge, rendering many potentially houseless. Denying that this Google project would have any relation to mass evictions

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in San Jose is plainly irresponsible. History has shown that the footprint of big tech companies has led to massive amounts of displacement throughout the Bay Area. Our own experiences show that too. Considering displacement to be an indirect result of the project shows a shamefully shortsighted understanding of causation and correlation.

Effects of Higher Income Jobs

The Draft EIR gave an estimated amount of jobs but not by type. In a previous letter we submitted in 2019, we asked that the EIR account for the nexus between higher income Google employees and the subsequent multiplier effect those jobs have on lower income service sector job generation, however this was not included in the jobs portion of the report. The report does not account for creating safe working practices necessary for highly contagious pandemics like COVID-19 or ones that could occur in the future. If Google employees are on the campus for work, they risk the spreading COVID in the workplace and in the surrounding areas. However, if Google employees are working remotely and a large number of the buildings go unused, we believe this is a waste of space considering what other resources could have been provided with the land. When any developer comes and builds upon land, we want to know if they will truly benefit the community, or if the benefits will only go to a few. It is hard to trust that the jobs created by Google will go to the community of San Jose that have a deep connection to their homes and community. Over the years more tech companies and developers have come in and taken over space to accommodate individuals wanting to get a job in the tech industry, changing the landscape of San Jose which is unrecognizable and unaffordable to its long time residents. Another concern is that Google has had a severe lack of diversity in the hiring process which is very discouraging considering the goal for this project is supposed to be “inclusive to all communities.”

Since there is no clear categorization of the jobs in this report, it is hard to believe that jobs will be a long term benefit for this project. The construction jobs might be temporary, and the report and supporting documents provide no way to ensure the higher paid and longer term jobs will be sourced in San Jose. The EIR dismisses the Law Foundation’s comment voicing concerns to this job sourcing matter and stated, “in fact many Google employees are already residents of the county.” Unfortunately, there was no proof or numbers given about the number of employees who are already local county residents. Instead of addressing the legitimate concerns introduced by the public comment provided by the Law Foundation of Silicon Valley in 2019, the EIR spends multiple pages rationalizing why the question sits beyond the scope of the EIR, and beyond the scope of the Google project as a whole. Therefore, since this is not a legitimate claim, there still needs to be analysis done on the effects of the project on higher income jobs for non-tech workers, the increased housing costs of the area and the possible displacement that will occur outside of the border of the project. The indirect effects are just as significant to the project’s feasibility as the direct ones.

Impacts of Estimated Space Use

To state that the proposed plans are simply unavoidable is inconsistent with existing land use plans, policies, and regulations creating a false dichotomy. If the effects on the open space and

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land use are significant and unavoidable only if the project continues unfettered, we strongly call for a halting of said project. The request to have the 81-acre project re-zoned to planned development mutes all the existing land use plans, policies, and regulations set by Plan Bay Area, the Santa Clara County CLUP, the Santa Clara Valley Habitat Plan, the General Plan, Downtown Strategy 2040, the DSAP, and the existing Zoning Ordinances. These are set in place to preserve and protect space, not to be overlooked as “inconsistencies.”

As for the proposed street network changes, it is unclear how the restructuring will better navigate traffic congestion around one of our few large scale entertainment venues, The SAP Center, and close a direct corridor from Santa Clara Street to the 87 freeway entrance. The networks suggest removing or co-opting existing streets to become private roads. This proposal, along with the vague Public Park developments, needs to be more adequately reviewed within the request to ensure that the existing balance between green space and local traffic holds more public value than private roads and plazas do. We have houseless neighbors that live within the project areas, and we are concerned about how increased privatized zones will balloon houseless criminalization. How much of the small percentage of “open space” will be land designated for “private recreation”. It is worrisome how much this land-use proposal gives considerable discretionary control to Google and the successive owners.

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Surveillance and Policing

The absence of any discussion in the EIR or supporting documents about the surveillance and policing apparatus that will be implemented in the project is highly concerning. The project offers the guise of being a publicly accessible place, complete with a network of parks, plazas, and greenspace. The reality of these spaces, however, is that they are not true public spaces owned and operated by the City of San Jose. Rather, they will be privately owned public spaces. Although they are seemingly accessible to members of the public and have the look and feel of public land, these sites are not subject to ordinary local authority bylaws but rather governed by restrictions drawn up by the landowner and usually enforced by private security companies. With this being true, and with reports of private security and increased surveillance in these sorts of areas in cities around the world, it is likely that Google will be treating the parks, plazas, and greenspaces similarly. When private security, or even public/private partnerships between private security and the San Jose Police Department will enforce a code of conduct in these spaces, Black and Brown folks will be targeted at a higher rate than other users of the space. This is known given our past experiences, and given the most recent movement of protests against police brutality, including locally. Again, we see the land, environment, and the people on it as inseparable and how Google plans to police the area, whether privately or with the publicly funded San Jose Police Department, that needs to be addressed as part of the environmental impact of the area. Additionally, surveillance technologies including facial recognition cameras, license plate readers, stingray towers, and other structures will likely be used to contribute to this further unaccountable system of policing. We as a community are extremely wary of the methods Google and other private companies will implement to secure their spaces. A silence in planning and documentation around the matter legitimizes our concern. In a following report, there should be an opacity to the plans that Google aims to implement regarding the policing and

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surveillance of the project as a whole, including the privately owned public spaces that the project touches.

↑ DD.5
| cont.

Project Impact on Traffic and Transit

The DEIR states that the plan aims to increase transit options, with an increase in peak-hour Caltrains from 5 to 6 trains and increase in capacity by more than 30 percent. We know that where there is an increase in public transit there is also an increase in traffic. Although there are more options for public transit, people also drive their cars to the train station to board public transit. It is also common for people to use public transit, then take an Uber or Lyft to where they need to go. It is naive for the report to assume that the “increases [in traffic] would be minimal because as the distance from the project site grows, the increasing number of possible travel routes for people traveling to and from the project site would result in a dispersion of trips.”

Anybody who has lived and worked in this area, like we have, knows the overwhelming amount of traffic during rush hour that occurs in the surrounding area of this proposed project from Alameda Street and Stockton Ave to Santa Clara Street and 1st street to the 280 freeway and 87 freeway. This traffic is multiplied tenfold when there are the frequently occurring events at the SAP Center with San Jose Sharks games, live events etc. Again, this bumper to bumper traffic that we already have here is *before* the proposed construction of the Google project. The proposed transformation of part of Delmas Ave to a private lane alone is raised for concern as Delmas Ave is an entrance to the 87 South Freeway, one of the most congested freeways in the area during rush hour. For the report to state increases in traffic would be “minimal” suggests that the evaluation was not done by people who live and work in this area.

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Furthermore, an increase in activity in transit also means an increase in people in one concentrated area, in this case, the train station. How does the report account for the increase in litter and waste that will come with the increase of activity? These might seem like mundane things to consider, but are central to any space where there is an increase in human activity. This needs to be considered when evaluating the environmental effects.

DD.7

We cannot ignore that locally we are back to the purple tier of our public health emergency. We cannot assume that things will go back to normal or to what we once knew. If transit is supposed to increase its capacity by 30%, how does this consider potential distancing guidelines that may still be in place due to COVID-19? We urge that this be considered when analyzing public transit.

DD.8

Health Impact Assessment

In our previous letter, we urged the City to include a health impact assessment that looks comprehensively at health impacts of the Project. The DEIR is inadequate in its analysis of the health impacts of the Project because:

- Outdated baseline information given the pandemic.
- Limited scope of analysis in the population to whom the health impacts would apply to.

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Outdated Baseline Information

While the DEIR notes that the baseline information produced in October 2019 does not include COVID-19 and notes that long-term effects of the pandemic cannot be identified at this time, it would then be irresponsible for the City of San Jose to move forward with a project design based on those two factors -- an outdated baseline information and unknown effects of one of the biggest pandemics that hit our lifetime.

It is flawed to use the growth assumptions from October 2019 baseline information because the project was designed with an increase of 20,000 jobs, high density office areas, and structures that exceed height limits. Of course, no one could have predicted the pandemic and its effects that have shut down and shifted the way we live, work, and play. With an increased mandate to work from home, it is unknown at this time how Google will change their workplace conditions. We do not want to build a massive campus that ends up empty with no use. One doesn't have to travel far to see the effects of empty tech campuses because of the pandemic.

In Section 3.01 Air Quality, the baseline numbers used reflect 2014 - 2018, arguably with peak traffic and construction. Given the pandemic and the economic shutdown, especially the stoppage of construction in the downtown San Jose area which exacerbates air quality with dust and traffic, the levels of air quality should be re-measured. In addition, with the numerous California fires this year, it is unknown what the longterm effects are of the fires to our regional air quality. These effects should also be taken into consideration.

In their comments on the NOP, the BAAQMD already notes that the City of San Jose is "cumulatively impacted with air pollution, which makes additional air pollution a potentially significant localized impact." The report notes that 'cumulative impact' was analyzed from various agencies, and that the Bay Area Quality Management District is currently developing new guidelines. For example, the BAAQMD's Clean Air Plan was based in 2017. At the very least, the City of San Jose should delay the process to base analysis on these new guidelines.

Limited scope of analysis in the population to whom the health impacts would apply.

The Draft EIR assumes that "construction activities would occur over 11 years total, which is the fastest potential period over which the proposed project could be constructed."

Even the conservative estimate of 11 years of construction is frightening - that the downtown area of the City of San Jose would be subjected to increased impacts in air quality without proper analysis of the COVID pandemic is irresponsible. Those jobs in particular are also filled largely by people of color - who already are disproportionately affected by COVID-19.

Furthermore, the Draft EIR doesn't consider workers or homeless individuals as sensitive receptors, and were not included in the analysis of health impacts.

DD.10

DD.11

This analysis also specifically writes that:

- Workers are not considered sensitive receptors because they have other legal protections, including regulations set forth by the Occupational Safety and Health Administration. These protections guarantee the health and safety of workers; therefore, potential worker health risks are not evaluated in the HRA, per the BAAQMD CEQA Guidelines. 124

However, in our current COVID-19 pandemic world, construction workers are deemed a certain level of essential - and to protect them, they should be considered as sensitive receptors to be evaluated on -- especially because it will take 11 years of construction.

The analysis further writes:

- Homeless individuals also not considered sensitive receptors - Homeless individuals who may be temporarily living in the project area were also not considered sensitive receptors for the purposes of this analysis. Because their locations are not known, it would be speculative to assume the long-term presence of individual homeless receptors at any given location in the modeling domain. In addition, cancer risk is evaluated over a lifetime exposure of 30 years, and it is unlikely that any homeless individual would remain present near the project site for a full 30 years.

However, the report includes residents, stating:

- Thus, the air pollutant exposure to residents typically results in the greatest adverse health outcome for all population groups. It also represents a highly conservative assessment, as the typical resident spends time away from the residence.

Again - in a COVID-19 world, that is not the case. People in the Google project area are working from home, going to school from home. These are families. What then is the exposure to these residents? At the very least, this report is incomplete as it doesn't take into account the COVID-19 reality. While the report says it refers to COVID-19 for informational purposes, it is only when it is convenient and serves the interest of moving the Google project forward.

We urge the City to include a health impact assessment on construction workers, homeless individuals and residents who are working from home. Excluding them from the 'sensitive receptor' analysis is irresponsible.

DD.11
cont.

Carbon Footprint

While the proposed current Draft EIR aims at giving the audience a better understanding of environmental impacts in connection with climate change the lingering sentiment is that The Project will have a bigger localized impact that would affect the City of San Jose in disproportionate ways. The DEIR outlines ways in which California has moved towards being more environmentally conscious and extensively outlines how The Project aims to be aligned

DD.12

with the new regulations. The truth of the matter is that The Project has failed to do an analysis of the totality of circumstances that would affect the City of San Jose and the carbon footprint that it is leaving behind.

One of the main sources of CO₂ gas emissions is vehicle pollution. It is estimated that about 40 percent of The Project will be dedicated to parking allocation. There are issues with how this significant part of the Project will feed into greenhouse gases that will be detrimental to our environment. This means that new parking structures will be built which in correlation vehicles will be parked there. It goes like the saying 'If you build it they will come'. It is estimated that over 100,000 metric tons of carbon dioxide will be released into the environment due to the change in vehicle population. Again, this is just an estimate because we cannot adequately predict the amount of vehicle usage in The Project. As much as we want to foresee alternatives to vehicle usage the reality is that people will use their own vehicles if given the opportunity for commodity. And although the attempts are to house workers close enough to not have to use their vehicles, you cannot discount the amount of employees who will still be traveling to, from, and in between work. Remember this is a highly concentrated area of about 2 miles where CO₂ emissions can haphazardly affect the population of San Jose. Vehicle pollution is a highly sensitive subject because it's the leading cause of exceeding CO₂ emissions which take part in increasing climate change consequences on our environment. California alone is estimated to rise in temperatures between 5 to 9 degrees by 2040. This Project alone can be the leading cause of increasing those temperatures.

In addition to the negative environmental effects that CO₂ emissions cause, CO₂ emissions in high amounts can be detrimental to human health and can lead to cardiac challenges and increased respiratory rate. Given that COVID-19 is a virus that attacks the respiratory tract, this needs to be considered and re-evaluated.

DD.12
cont.

Analysis through a Racial Equity Lens

With the newly formed Office of Racial Equity, the City should direct the Office to provide an analysis of the impact of the Google project with a racial equity lens.

DD.13

View Equity Impact

A crucial objective and aim of the Project should be to consider the view equity of the existing residents of downtown San Jose. The current project is currently being considered to be one and two-story buildings with certain areas allocated for high rise buildings. Both of these two types of building should consider view equity within the design. When we mention view equity we mean two things: the view accessible to current downtown residents - how it would be obstructed or eliminated- and the type of view they will be subjected to. With these two frames in mind we write to urge the appraisal of the view equity for residents.

DD.14

Current residents shouldn't be subject to change their view choices for the proposed Project. Existing residents would have to accommodate and live with any view obstructions built by The Project. It is not an action that they willingly agreed to. It is one thing to move to a building

where you know you have no view equity and it is something completely different when the building moves in front of your field of sight to obstruct your view.

According to the proposed Project, many of the rooftops of one and two story buildings could become parking structures. To be subject to change your view to constantly observe the movement of vehicles jeopardizes the view equity of current downtown residents. Although the Project proposes 'green spaces' for recreational use of employees and pedestrians, not every current downtown resident will have access to this view, if any. Since many of the 'green spaces' are allocated for higher foot traffic it's not a guarantee that current residents will be compensated with these views. Lastly, a final process to the County has not been submitted on how the Project proposes to increase 'green space' to existing trails nearby the Project. It is also not a guarantee that the new 'green spaces' will be accessible to all of San Jose residents.

DD.14
cont.

DD.15

Project Alternatives

With the limited scope of the project alternatives, we are alarmed by the several **significant and unavoidable impacts of the proposed Google Project** to our local and regional air quality, health risks, cultural and historic resources, land use, population and housing. Unsurprisingly, other alternatives analyzed all report less impacts with mitigation measures. However, they are not enough. Even the No Project Alternative/ DSAP that is described to have the least amount of impact to our environment still has major impact and is limited in its analysis because there is no health impact assessment associated with it.

The bigger issue is that the given assumptions of the proposed Google project objectives, the December 2018 MOU, and the City's General Plan were all developed before the COVID-19 pandemic. Therefore, it excludes and could not possibly take into account the impact the pandemic has or will have on the way we work, live, and play. Because of that, the 'no project alternative' should be given serious consideration, and we urge the City of San Jose to revisit the General Plan to take into account the effects of the COVID-19 pandemic in the City's development plans.

DD.16

We urge you to take our comments into serious consideration and re-evaluate the Google Project. If all of the above considerations are meaningfully factored into the plans, we expect the project to be discontinued entirely. The current Draft EIR of the Google project shows to have significant impacts that will harm the environment, our residents, and displace our communities. What is even more compelling, however, is that the Google project and any further analysis (NOP, Draft EIR, etc) does not include the impacts of COVID-19, and any further development should be at the very least halted in light of one of the most historic pandemics that has affected our lifetime. Anything short is irresponsible.

DD.17

Sincerely,

Silicon Valley De-Bug
Affordable Housing Network

Serve the People San Jose
Showing Up For Racial Justice (SURJ) at Sacred Heart
South Bay Community Land Trust

From: [Bill Souders](#)
To: [Hill, Shannon](#)
Subject: Response to DOWNTOWN WEST MIXED-USE PLAN EIR
Date: Tuesday, December 8, 2020 4:02:52 PM
Importance: High

[External Email]

Shannon:

I have been raising my concerns as a SAAG member for sometime that the mitigation of traffic impact (and overall quality of life) during all of the construction with DSAP, DISC, and DTW (250 acres) is woefully under-planned. Below is just one excerpt (from the reams of documentation) saying that it will likely be a problem but no one has begun to really model the years-long impact. It should not be up to individual developers or VTA, it should be the responsibility of SJ-DOT.

Please consider the impacts to the thousands of residents like me who live in the downtown core. Furthermore, none of this analysis seems to take into account the Almaden Hotel project which in itself will add 2400 vehicle trips a day to that corner, which is the de facto gateway to downtown from the west.

I am very afraid that this is being evaluated in a fragmented fashion and, as such, will yield real challenges when construction finally begins.

“Construction of the proposed project may overlap with the construction of BART Phase II, the new Diridon Station, and other nearby developments. If the construction time frames of the major phases and other development projects adjacent to the project site overlap, the project applicant must coordinate with City agencies through the adjacent developers to minimize the severity of any disruption to adjacent land uses and transportation facilities from the overlapping construction transportation effects. The project applicant, in conjunction with the adjacent developer(s), must propose a construction traffic control plan that includes measures to reduce potential construction traffic conflicts, such as coordinated material drop offs, collective worker parking, SAP Center ingress/egress, and transit to the job site.”

Thank you for your consideration. Bill



[Redacted]

[Redacted]

EE.1



BUILDING AMERICA®

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

Re: San Jose, CA - Downtown West Mixed-Use Plan (Google Project)
 Union Pacific Railroad Company's Comments to Draft Environmental Impact Report

Dear Ms. Hill:

Union Pacific Railroad Company (Union Pacific) has reviewed the Draft Environmental Impact Report (DEIR) for the Downtown West Mixed Use Plan (Google), and comments on the document as follows:

Section 3.1.3 of the DEIR notes that Union Pacific's tracks run along the boundary of the project area. However, the DEIR's treatment of railroad operations, their impact on the proposed project, and the proposed project's impacts upon the railroad are inadequate in a number of respects:

Initially, the DEIR fails to adequately address the impacts of train noise and railroad operations on the project. The DEIR makes some very general comments regarding railroad noise. However, as the City is well aware, train operations can change significantly over time and those operations and operational changes have been an issue in the City. Train traffic can increase in intensity over time and, moreover, what was once only train traffic during the day can become train traffic in the middle of the night. Rail noise consists of locomotive noise, the blowing of train horns (both approaching crossings and for hazards, including trespassers), as well as from the movement of a train over the rails. The DEIR indicates that closest measuring point for noise was in sampling location LT-A. Given the dissipation of noise levels with distance, this is simply too far removed from Union Pacific's rail line bounding the northern end of the project area to determine noise levels, particularly in light of the fact that development is proposed immediately adjacent to the railroad right of way. Moreover, it is not clear whether noise from freight rail traffic was captured at all in the data from LT-A. The issue of rail specific noise is highlighted by the DEIR's discussion of the potential for a "quiet zone" on the Warm Springs Corridor (p. 2-41). Yet, while that might mitigate *some* rail noise (assuming it's ultimately approved and implemented), it won't eliminate rail noise, including locomotive horn noise sounded for reasons other than approaching a crossing or in proximity to the crossing itself.

Given the proximity of development to the rail line, the DEIR is deficient for its failure to specifically measure and address freight rail noise and the changing nature of rail operations on the project, as well as its failure to consider mitigation measures such as sound walls, as well as noise deadening windows and construction materials sufficient to reduce noise (as well as vibration) to

FF.1

Shannon Hill, Planner III

Re: San Jose, CA - Downtown West Mixed-Use Plan (Google Project)

Union Pacific Railroad Company's Comments to Environmental Impact Report

Page 2

acceptable levels, together with the requirement of written disclosure to residents concerning rail noise and the potential for rail operations in the area at any time, day or night.

↑ FF.1
cont.

Similarly, generic data as to air quality from a remote location cannot be used as a surrogate for human exposure to diesel particulate matter in areas slated for development immediately adjacent to the rail line. The DEIR simply fails to evaluate, characterize and discuss possible mitigation measure which may be necessary or beneficial for addressing this issue.

FF.2

Additionally, from a transportation standpoint, the DEIR only discusses railroad crossings in the context of access of emergency vehicles. It fails to discuss the traffic and safety issues associated with increased traffic from the project. While the DEIR indicates that the project proponent has "evaluated a range of options, including a grade separated crossing and enhancements to at grade crossings, the DEIR doesn't require that any such improvements (or anything else) be included as mitigation for the project. Rather, it summarily concludes that as for mitigation measures "none required." (page 3.14-50). The proposed project will clearly and substantially increase and impact vehicular and pedestrian traffic at the Montgomery Street crossing. Union Pacific has previously advised the City of San Jose that any development inside the Wye will require a grade separation at Montgomery Street, as well as at least one additional structure for emergency access. The Autumn Street crossing must also be evaluated in terms of the need for a grade separation or other mitigation measures, based upon an increase in vehicle and pedestrian traffic. Yet, again, railroad crossing safety impacts of the project are not even discussed, directly or otherwise. Thus, the DEIR is deficient, both in its failure to discuss these issues, evaluate their impacts, and in failing to require mitigation measures concerning these impacts.

FF.3

Finally, the DEIR fails to even consider and evaluate let alone provide mitigation measures for pedestrian safety associated with potential trespassers on the railroad right of way. Once again, this issue is highlighted by virtue of a proposed development which is immediately adjacent to the rail line. Not only must this issue be considered, but mitigation measures such as fencing or other natural barriers should be not only evaluated, but required.

FF.4

In short, Union Pacific believes that, given the significant size and scope of the proposed project, its location in proximity to the railroad, as well as its inclusion of residential development, that these rail related impacts simply can't be ignored or summarily treated, as they have been in the DEIR. Union Pacific would be happy to discuss these concerns and potential mitigations strategies with City staff, should that be desired.

FF.5

Very truly yours,

Robert C. Bylsma
Senior General Attorney

From: [Robert Wahler](#)
To: [Hill, Shannon](#)
Subject: Downtown West
Date: Friday, November 13, 2020 4:16:36 AM

[External Email]

Shannon,
Hi. I bike Guadalupe Trail almost daily. Is there a plan for the homeless in The Downtown West Project? I have time to help, if there is anything the public is allowed to do to help speed the cleanup, or whatever else. I worked for years at the City Wastewater facility on Zanker. This is a very exciting plan!

GG.1

Robert Wahler
San Jose, CA
[REDACTED]

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

From: [Jordan W](#)
To: [Hill, Shannon](#)
Subject: Public Comment - EIR Downtown West
Date: Thursday, October 8, 2020 7:34:38 AM

[External Email]

Dear Ms. Shannon Hill,

I struggle to understand how Downtown West is "destined to be a true part of the city - the opposite of a traditional corporate campus", as Laura Crescimano states, when the Active Use areas are entirely surrounded by Office space, and are likewise dwarfed in size and area. The Downtown West project takes formerly publicly-owned land and reduces public access through office construction. In addition, public green space along Los Gatos Creek and the Guadalupe River now abuts office space, extending the domain of private control to the creek's edge, and thus to the creek itself. The entirety of the plan between Park Avenue and Santa Clara Street now limits public access to public green space with development forming a physical barrier between public roads and public green space - undoubtedly added security over the corporate campus is necessary and could result in restriction of movement by private security, to access a public domain. The plan takes no steps to address these concerns and instead endorses the creeping privatization in public spaces.

HH.1

Thank you,
Jordan Weinberg

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

From: [tessa.woodmansee](#)
To: [Hill, Shannon](#)
Cc: [tessa.woodmansee](#)
Subject: GOOGLE WEST DRAFT ENVIRONMENTAL IMPACT REPORT COMMENTS
Date: Tuesday, December 8, 2020 4:56:09 PM

[External Email]

In Light of all the crises we are facing the Google West Draft plan should be scraped and started over to address our critical basic needs for food clothing and shelter. And our critical need to live fossil fuel free so that our Google city is built without cars or car infr and all business is hyperlocal and no need for hotels or travel accommodations. These lands should be used for housing and growing food, orchards and to make the earth a garden again. Here are some suggestions to make this so:

II.1

- air quality

- Our neighborhood The Garden Alameda within the Greater Rose Garden is part of a CARE community as designated by the Bay area Air Quality management district : a community at high risk from pollution and the negative health impacts

II.2

- We need stockton Avenue to not be a truck route

- We need stockton avenue to have traffic calming

- We need stockton avenue **Neighborhood traffic calming circles** which are much smaller than modern roundabouts and often replace stop signs at four-way intersections. They are typically used in residential neighborhoods to slow traffic speeds and reduce accidents, but are typically not designed to accommodate larger vehicles. Many drivers often turn left in front of the circles rather than turning around them.

II.3

- We need home zones where are residential streets off of stockton ave Schiele, Harding, Pershing are not through streets and have .

- We need Traffic barricades [transportable 100 lb. Jersey water barriers](#) to stop the traffic

¾ ways down the streets and neighbors with cars access from Stockton AVE or the Alameda BUT NOT A THROUGH STREET signs on both sides and directing traffic to use the main street--Taylor Street.

◦

The shape of a corner curb radius (the radius defined by two sidewalks on perpendicular streets that come together at a corner) has a significant effect on the overall operation and safety of an intersection. Smaller turning radii increase pedestrian safety by shortening crossing distances, increasing pedestrian visibility, and decreasing vehicle turning speed.

◦

The shape and dimensions of curb radii vary based on street type and transportation context.

◦

Curb radius changes may be installed as part of a traffic calming project or other public or private initiative.

◦

Bulb-outs or sidewalk widening off of stockton and on stockton avenue to slow traffic

◦

Class four bicycle lan with three foot strips for fulfilling state of CA law for 3 feet of separation from bicyclist and separated bike lane with raised from the roadway separation on STockton Avenue

◦

All construction should use Brigade Electronics broadband self-adjusting backup beepers or any other company that makes this broadband good neighbor warning device.

- We need the traffic lights on STockton and Taylor and Lenzen ave and STockton ave to have a dedicated left-hand turn signal. We may be a capital of personal reinvention, but a simple left-hand turn? It's a common grievance aired among both transplants and natives alike, that there aren't nearly enough protected turn signals. Inching forward into an intersection to turn left is a foreign concept to lots of people, and the idea follows that *if only* Los Angeles had more left-hand signal lights, then *maybe* driving here would be a little bit easier. For a numbers perspective, just about 14 percent (2,100) of Los Angeles' signaled intersection approaches have a left-turn arrow.

•

BIOLOGICAL RESOURCES

II.3
cont.

II.4

II.5

- The whole design of the google village is wrong in light of our climate crisis and ecological collapse II.6
- We need to move the three homes on East Julian street that are part of the many historical resources risking demolition because of the poor planning of this project
- These three homes should be renovated and brought up to highest green building standards with off grid solar and water capture
- These homes should be put in a circle facing inwards towards their neighbors to start to build a resilient neighborhood at the receivership lot of 615 stockton Avenue II.7
- 615 Stockton Avenue is owned by Alan Nyguen and he is willing to sell it for 3 million dollars.
- This receivership lot at 615 stockton ave for the three historic homes placed in a circle should have a common gardens a potager garden: **Mid 17th century from French jardin potager 'garden providing vegetables for the pot.**
- This site at 615 STockton Avenue with the 3 homes in a circle with a common potager kitchen garden that is shared by the three homes and their inhabitants is a demonstration project for building resilient neighborhoods II.8
- The garden will follow regenerative garden principles **Regenerative** agriculture is a holistic land-management practice that uses the power of photosynthesis in plants to sequester carbon in the soil while improving soil health, crop yields, water resilience, and nutrient density.

Search for: [What is regenerative gardening?](#)

How do I regenerate my garden soil?

Add Organic Matter

1. Try composting. Composting is a means of recycling almost any organic wastes. ...
2. Tap chicken power to mix organic materials into the **soil**. ...
3. “Mine” **soil** nutrients with deep rooted plants. ...
4. Plant cover crops. ...
5. Cover the **soil** with mulch. ...
6. Use permanent beds and paths. ...
7. Try low-tech tillage.

II.8
cont.

- WE need to buy other properties every five blocks in the greater google village to be a demonstration project for food security and for urban sustainability so we live without fossil fuels we must grow our food locally.
- We need larger farms to grow crops that take more room like beans and grains that we need a lot of to share.
- We need to rebuild our ecosystem through native plants along with food plants for creating habitat and food for the food web since we are destroying our food web.
- Only brooms and rakes will be used for clearing leaves that will be mulched

II.9

for compost

-
-
- cultural and tribal cultural resources,
-
- geologic hazards,
-
- paleontological resources,
-
-
- greenhouse gas emissions,

The Google Village should be aimed to be fossil fuel free. No cars. OUR transit should be open air buses.

Google should be providing for free open air electric buses for our santa clara county.

II.10

We need to not have BART to Santa Clara since the entire BART design is not useful in stopping the spread of virus. And we need to not dig underground and destroy our neighborhoods with vents, noise and pollution to have it built so close to our neighborhood when we dont' need a station in santa clara or maintenance yard.

II.11

-
- hazards and hazardous materials,
-
- hydrology and water quality,
-
- land use,
-
- all tech workers should work at home so we need housing not office buildings.

↓ II.12

- The LAND USE ISSUE needs to be completely changed from highrise office buildings to housing and gardens back to basics needs to be our clarion call a strongly expressed demand or request for action from the scientists about pandemic vulnerability and climate crisis.

II.12
cont.

- We do not need hotels. We need to stay home, not fly and not drive that is what the science is telling us to reduce our fossil fuels to zero by 2025.

- We need to work at home and telecommute

- We need Universal basic income for all other non technical workers.

- Google needs to pay a large tax to supply universal basic income and have those that are nontechnical to work on growing and producing other resources we need locally.

- When we build our homes there should be no car infrastructure and no parking garages

II.13

- We need to live hyperlocal if we are to survive and only those that learn to live fossil fuel free will survive.

- Google needs to create a community center of urban sustainability and the school of the Pagan Arts to teach mother/caregivers and children to live without fossil fuels and create a world made by hand and human scale.

- noise and vibration,

- population and housing,

The housing can be high rise but every other floor will grow food and have balconies to make more human scale.

II.14

- The housing to house many should be in the form of the 'Arcology'? It is a concept introduced by architect, Paolo Soleri, who defined it in his book *Arcology: City in the Image of Man*; the idea of a fusion between architecture and ecology and an ecological vision in response to city growth.

II.15

The premise of an arcology is to be a self-sufficient, green building that is more of a small town as a result of its size and the number of services it houses. The inhabitants of this 'small city' would benefit from services such as waste management, power generation and transport as part of the same development.

The concept was created as a solution to one of the serious problems faced by modern society: the overcrowding of cities as the result of population increase and the consequent loss of natural environments. Thus, this new wave of architecture opts for vertical growth, with the construction of huge skyscrapers that occupy the least space possible, as well as making a commitment to minimizing environmental impact.

Arcology buildings would, thus, meet all the essential living requirements; able to generate their own energy, produce their own food, control air and water quality, and support sustainable waste management. In addition to the provision of all services in the same vertical space, the buildings would also do away with cars, thereby reducing pollution and carbon emissions.

We cannot know what path the architecture of the future will take but one thing we do know is that, according to United Nations predictions, there will be 9.7 billion people living on our planet by 2050, that figure rising to 11,200 by 2100. For now, we will just have to wait and see what measures will be taken and how architecture will consequently respond to the challenge.

II.15
cont.

recreation,

- transportation, and utilities and
- Google needs to build battery powered substations to help with backup power for all roof top solar installations throughout the city we need a battery microgrid for our local backup power to completely get off of a transmission delivered electrical grid and have a hyperlocal electrical renewable solar wind grid.

II.16

◦ service systems. The California Environmental Quality Act (CEQA)

requires this notice to disclose whether any listed toxic sites are present at the project location

•
WARM REGARDS,

TESSA WOODMANSEE

[REDACTED]

San Jose, CA.

[REDACTED]

air quality,

*

biological resources,
cultural and tribal cultural resources,
geologic hazards,
paleontological resources,
greenhouse gas emissions,
hazards and hazardous materials,

hydrology and water quality,
land use,
noise and vibration,
population and housing,
recreation,
transportation, and utilities and
service systems. The California Environmental Quality Act (CEQA) requires
this notice to disclose whether any listed toxic sites are present at the
project location

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Clean Air and Quiet Neighborhoods--A Natural Right.

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