



CALIFORNIA
NATIVE PLANT SOCIETY

Santa Clara Valley Chapter

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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.

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.

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

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."***

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.

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..."*

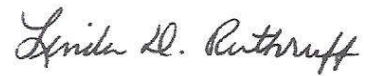
The Google plan proposes a bikeway, walking trail and various other elements that will be constructed within 50-ft of the riparian edge and at intervals shorter than 500-ft. The setback exists to protect the biological value of Los Gatos Creek. These proposed elements will greatly reduce the buffering 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.

Sincerely,

A handwritten signature in cursive script that reads "Linda D. Ruthruff". The signature is written in black ink and is positioned below the word "Sincerely,".

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