

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

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.

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).

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.

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.

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

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.

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

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.

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

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

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

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

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.

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.

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

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>

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.

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

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:

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

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 promote 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

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.

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

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.

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

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?

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.

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

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

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?

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.

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.

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.

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.

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.

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.

³ In fact, the community had similar concerns as shown in Table 1-1 of the DEIR.

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.

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.

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.

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.

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.”

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.

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

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.

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.

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.

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.

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.

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.

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

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.

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.

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."

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 Downtown'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

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.

Please present studies by qualified traffic engineers demonstrating that the project can legitimately assume a 75% mode-share for transit users, pedestrians, and bicyclists.

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.

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?

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:

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

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.

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

- 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

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

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.

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.

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,

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.

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.

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

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.

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.

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.

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.

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.

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.

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?

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

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.

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.

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.

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

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.

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)

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.

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.

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.

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.

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.

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.

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

discussion of possible mitigation measures flows both from the language of the Act and, more expressly, from CEQA's implementing regulations.

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.

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:

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

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.

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.

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.

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.

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.

Sincerely,

Silicon Valley Law Group

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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.

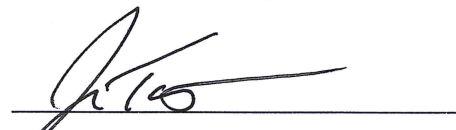
The purpose of this Side Letter is to reaffirm that the parties remain willing to meet and confer with each other as development plans for the Diridon Station Area evolve, to try to find mutually acceptable solutions for parking and transportation issues that arise over the next several years, with the 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:

A handwritten signature in black ink, appearing to read "D. Sykes", written over a horizontal line.

David Sykes, City Manager

San Jose Arena Management, LLC:

A handwritten signature in black ink, appearing to read "John Tortora", written over a horizontal line.

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.

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

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?

p. 3 The description of bicycle network changes needs definitions of referenced bikeway classes I through IV, so the reader can follow the discussion.

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.

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.

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

purported vehicle trip reductions due to TDM and substantial mode shift from single occupant vehicle put forward in the Envision San Jose 2042 General Plan). 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. 61 The first sentence in the last paragraph is incomplete.

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 the Project has a conflict with this transit plan? 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. 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. 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. 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:

- For what reason?
- “The project would not introduce any geometric design features...” Meaning?
- “...this impact would be less than significant.” What impact?

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. 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?

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

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

operations means that SSE should be directly involved in the TDM Program review process; this should be clearly stated.

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.

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.

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.

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?

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

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.

- 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

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

(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.

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.

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

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.

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.

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).

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.

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

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.

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

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EDUCATION

B.E. TRANSPORTATION ENGINEERING

Thayer School of Engineering

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Civil Engineer, CA (C47497)

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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)

gab

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

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.

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.

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

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.

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.

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.**)

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.

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

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.

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.

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.

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.

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 Auzerai 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 Auzerai 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.

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 Auzerai 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

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

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.

Exhibit A

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						
	2007-11	2008-12	2009-13	2010-14	2011-15	2012-16	2013-17
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



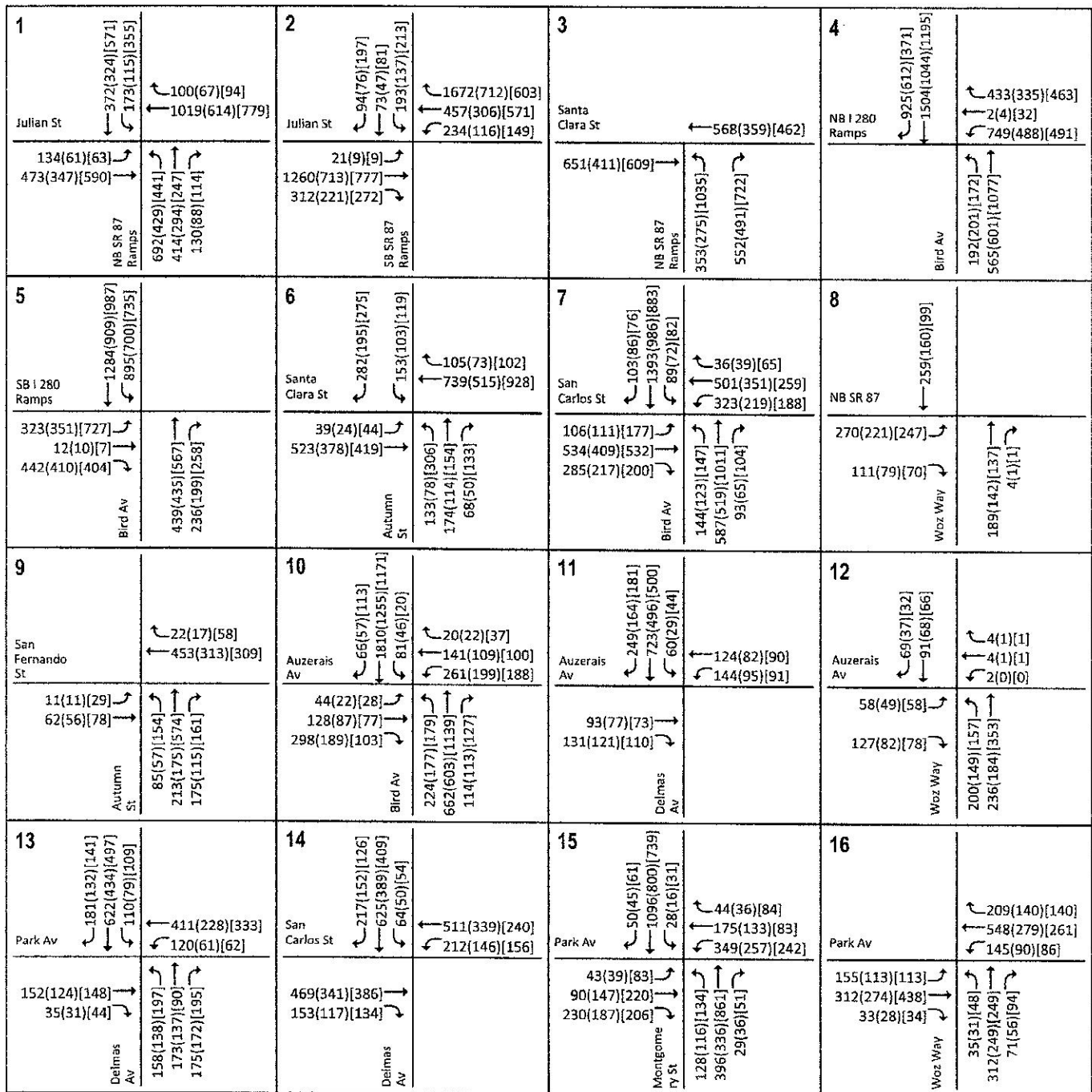
Other measures of determining whether San José is achieving a balanced transportation network include WalkScore, BikeScore, and TransitScore. These annual online assessments measure a geographical area's walkability,

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(XY)[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).

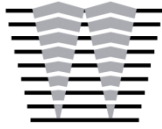
SUPPLEMENTAL COMMENTS REGARDING PARTICULAR STREET SEGMENTS

- 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.

- 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.

SUPPLEMENTAL COMMENTS REGARDING TRAFFIC MANAGEMENT

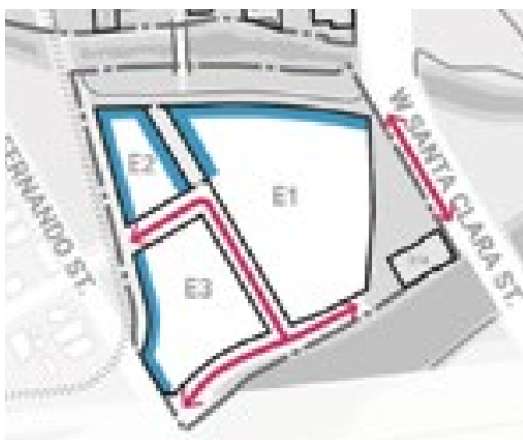
Page 269 in Appendix M for the DEIR makes reference that Autumn Street could accommodate three lanes of traffic for southbound SAP Center egress. To provide that three-lane capacity, Autumn Street would have to be converted from a two-way street to a one-way street during the egress period for SAP Center 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.

**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.

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).

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,
San Luis Obispo, CA

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)
Architect (#11934), NC (12/6/10)
NCARB Certified (#45897), (2/96)

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 antiselementation 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:

http://ascentenvironmental.com/files/3714/0002/4046/Ascent_Paper_Lotus_v__Caltrans_05-13-14_.pdf.

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	B	C	D	E	F	G	H
	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
4							
5		Existing Facility		Existing	Existing	Existing	
6	1	150 S. Montgomery (Navlets)	Google	62	62	43	
7	2	34 S. Autumn (Wine and Roses)	Google	46	46	46	
8	3	510 W. San Fernando (Stephens Meat)	Google	135	135	66	
9	4	65 North Almaden		43	-	-	-
10	5	80 S. Montgomery (former Power Play Hockey)		14	-	-	-
11	6	Adobe 1 (Water Co. East)	Google	453	453	402	
12	7	Adobe 2 (Water Co. West)	Google	324	324	324	
13	8	Adobe 3 (Water Co. Management)	Google	115	115	115	
14	9	Adobe Garage-20%		220	220	162	162
15	10	Akatiff-484 Old W. Julian		55	55	52	
16	11	Almaden Financial Plaza - with Adobe construction, surface lot will be closed		1,153	539	539	384
17	12	Arena Parking (Santa Clara under 87)		257	257	216	216
18	13	Babe's Muffler (The Alameda)		12	12	12	12
19	14	Borschs	Google	14	14	14	
20	15	Cahill 1		180	180	93	
21	16	Cahill 2		162	162	90	
22	17	Cahill 3 (closest to Stephen's Meat)		90	90	44	
23	18	Cahill 4		149	149	92	
24	19	Comerica Garage		609	383	294	294
25	20	CSC Security (Water District)		70	70	48	
26	21	Milligan		138	138	138	138
27	22	NW San Fernando/Autumn (Palmero)		26	26	26	
28	23	Templo la Hermosa		14	14	14	
29	24	Julian/N. Almaden (YA Title)		51	51	15	15
30	25	Montgomery/San Fernando (Patty's)	Google	140	140	140	
31	26	San Fernando E. of 87	Street	6	6	1	
32	27	Autumn N. of Julian	Street	8	8	1	
33	28	Julian W. of Autumn	Street	10	10	-	
34	29	Old Julian E. of Autumn	Street	10	10	5	
35	30	Montgomery N. of Julian	Street	3	3	1	1
36	31	N. Almaden/curve under 87	Street	44	44	6	6
37	32	St. John E. or River St.	Street	4	4	-	-
38	33	Montgomery S. of Santa Clara	Street	79	79	48	48
39	34	Autumn S. of Santa Clara	Street	67	67	29	29
40	35	Park W. of 87	Street	34	34	28	28
41	36	Carlsyle W. of Notre Dame	Street	16	16	1	1
42	37	N. Almaden N. of Santa Clara	Street	18	18	2	2
43	38	Lot D	Google	228	228	228	228
44		Subtotal Existing		5,059	4,162	3,335	1,564
45							1,771 Spaces lost
46							

SPACES LOST

Map 2 - Existing Parking within 1/3 Mile Available Spaces

9/19/2019



Exhibit I

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
	Borsch's	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
	Carlysle 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

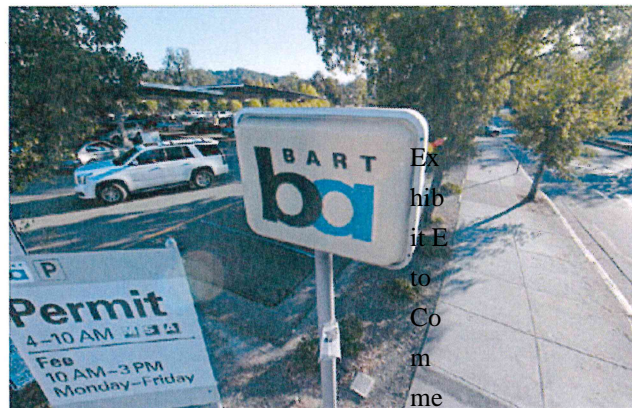
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How much would you pay to park at your local BART station if you knew you could count on getting a spot?

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 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/bavarea/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 prioritizes 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.