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December 8, 2020

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

Re: San Jose, CA - Downtown West Mixed-Use Plan (Google Project)
Union Pacific Railroad Company's Comments to Draft Environmental Impact Report

Dear Ms. Hill:

Union Pacific Railroad Company (Union Pacific) has reviewed the Draft Environmental Impact Report (DEIR) for the Downtown West Mixed Use Plan (Google), and comments on the document as follows:

Section 3.1.3 of the DEIR notes that Union Pacific's tracks run along the boundary of the project area. However, the DEIR's treatment of railroad operations, their impact on the proposed project, and the proposed project's impacts upon the railroad are inadequate in a number of respects:

Initially, the DEIR fails to adequately address the impacts of train noise and railroad operations on the project. The DEIR makes some very general comments regarding railroad noise. However, as the City is well aware, train operations can change significantly over time and those operations and operational changes have been an issue in the City. Train traffic can increase in intensity over time and, moreover, what was once only train traffic during the day can become train traffic in the middle of the night. Rail noise consists of locomotive noise, the blowing of train horns (both approaching crossings and for hazards, including trespassers), as well as from the movement of a train over the rails. The DEIR indicates that closest measuring point for noise was in sampling location LT-A. Given the dissipation of noise levels with distance, this is simply too far removed from Union Pacific's rail line bounding the northern end of the project area to determine noise levels, particularly in light of the fact that development is proposed immediately adjacent to the railroad right of way. Moreover, it is not clear whether noise from freight rail traffic was captured at all in the data from LT-A. The issue of rail specific noise is highlighted by the DEIR's discussion of the potential for a "quiet zone" on the Warm Springs Corridor (p. 2-41). Yet, while that might mitigate *some* rail noise (assuming it's ultimately approved and implemented), it won't eliminate rail noise, including locomotive horn noise sounded for reasons other than approaching a crossing or in proximity to the crossing itself.

Given the proximity of development to the rail line, the DEIR is deficient for its failure to specifically measure and address freight rail noise and the changing nature of rail operations on the project, as well as its failure to consider mitigation measures such as sound walls, as well as noise deadening windows and construction materials sufficient to reduce noise (as well as vibration) to

acceptable levels, together with the requirement of written disclosure to residents concerning rail noise and the potential for rail operations in the area at any time, day or night.

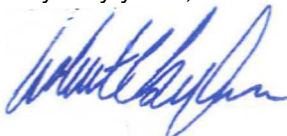
Similarly, generic data as to air quality from a remote location cannot be used as a surrogate for human exposure to diesel particulate matter in areas slated for development immediately adjacent to the rail line. The DEIR simply fails to evaluate, characterize and discuss possible mitigation measure which may be necessary or beneficial for addressing this issue.

Additionally, from a transportation standpoint, the DEIR only discusses railroad crossings in the context of access of emergency vehicles. It fails to discuss the traffic and safety issues associated with increased traffic from the project. While the DEIR indicates that the project proponent has "evaluated a range of options, including a grade separated crossing and enhancements to at grade crossings, the DEIR doesn't require that any such improvements (or anything else) be included as mitigation for the project. Rather, it summarily concludes that as for mitigation measures "none required." (page 3.14-50). The proposed project will clearly and substantially increase and impact vehicular and pedestrian traffic at the Montgomery Street crossing. Union Pacific has previously advised the City of San Jose that any development inside the Wye will require a grade separation at Montgomery Street, as well as at least one additional structure for emergency access. The Autumn Street crossing must also be evaluated in terms of the need for a grade separation or other mitigation measures, based upon an increase in vehicle and pedestrian traffic. Yet, again, railroad crossing safety impacts of the project are not even discussed, directly or otherwise. Thus, the DEIR is deficient, both in its failure to discuss these issues, evaluate their impacts, and in failing to require mitigation measures concerning these impacts.

Finally, the DEIR fails to even consider and evaluate let alone provide mitigation measures for pedestrian safety associated with potential trespassers on the railroad right of way. Once again, this issue is highlighted by virtue of a proposed development which is immediately adjacent to the rail line. Not only must this issue be considered, but mitigation measures such as fencing or other natural barriers should be not only evaluated, but required.

In short, Union Pacific believes that, given the significant size and scope of the proposed project, its location in proximity to the railroad, as well as its inclusion of residential development, that these rail related impacts simply can't be ignored or summarily treated, as they have been in the DEIR. Union Pacific would be happy to discuss these concerns and potential mitigations strategies with City staff, should that be desired.

Very truly yours,



Robert C. Bylsma
Senior General Attorney