APPENDIX A

NOTICE OF PREPARATION AND COMMENT LETTERS

**APPENDIX A-1** 

**OCTOBER 2015 NOTICE OF PREPARATION AND COMMENT LETTERS** 



Department of Planning, Building and Code Enforcement HARRY FREITAS, DIRECTOR

# NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DOWNTOWN STRATEY 2040 PROJECT

FILE NO:PP15-102PROJECT APPLICANT:City of San JoseAPNs:Multiple in Downtown Area

As the Lead Agency, the City of San José will prepare an Environmental Impact Report (EIR) for the project referenced above. The City welcomes your input regarding the scope and content of the environmental information that is relevant to your area of interest, or to your agency's statutory responsibilities in connection with the proposed project. If you are affiliated with a public agency, this EIR may be used by your agency when considering subsequent approvals related to the project. The project description, location, and probable environmental effects that will be analyzed in the EIR for the project can be found in the EIR Library under "Active EIRs" in the Environmental Review section of the Planning Department's website at www.sanjoseca.gov/planning.

According to State law, the deadline for your response is 30 days after receipt of this notice; however, we would appreciate an earlier response, if possible. Please identify a contact person, and send your written response to:

City of San José Department of Planning, Building, and Code Enforcement Attn: David Keyon 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San José CA 95113-1905 Phone: (408) 535-7893, e-mail: <u>David.Keyon@sanjoseca.gov</u>

The Department of Planning, Building and Code Enforcement of the City of San José will hold two Public Scoping Meetings for the EIR to describe the proposed project and the environmental review process in order to facilitate your input on the EIR analysis for the proposal. The EIR Public Scoping Meetings are scheduled for Monday, **October 26, 2015** at **7:00 PM** and Wednesday, **October 28, 2015** at **7:00 PM**. Both meetings will be held in the Wing Rooms at City Hall, 200 East Santa Clara Street. You are welcome to attend and give us your input on the scope of the EIR so that it addresses all relevant environmental issues.

Harry Freitas, Director Planning, Building and Code Enforcement

Jason Rogers Deputy

10 - 6 - 2015

Date

# NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DOWNTOWN STRATEGY 2000 UPDATE (DOWNTOWN STRATEGY 2040)

# October 2015

# 1.0 INTRODUCTION

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment, to examine methods of reducing adverse impacts, and to consider alternatives to the project.

The *San José Downtown Strategy 2000 Plan* (Downtown Strategy 2000) is an integrated strategic urban design plan (2000-2010) that focuses on the revitalization of Downtown San José by envisioning higher density infill development and replacement of underutilized uses within the boundaries of Downtown. The Downtown Strategy 2000 is **not** a land use document per se, but a vision or action guide for development activities in Downtown planned for 2000-2020.

The proposed project includes substantial changes to the amount of residential development contemplated in the Downtown Strategy and extends the horizon year of the Downtown Strategy from 2020 to 2040, consistent with the Envision San José 2040 General Plan. Therefore, the Downtown Strategy 2040 EIR will utilize any pertinent information included in the Downtown Strategy 2000 EIR and the Envision San José 2040 General Plan EIR to the extent possible. While the boundaries of the Downtown will be slightly modified by the proposed project, the vast majority of the Downtown Strategy area is within the boundaries of the approved Downtown Strategy 2000 Project.

A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related: 1) geographically; 2) as a chain of contemplated actions; 3) in connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or 4) as individual activities carried out under the same regulatory authority and having generally similar environmental effects. If the lead agency finds that pursuant to Section 15162 of the CEQA Guidelines, no new significant effects could occur and no new mitigation measures would be required, the agency can approve the activities as being within the scope of the project covered by the Program EIR and new environmental review would not be required.

The Downtown Strategy 2040 EIR will be both a project-level and program-level EIR. The EIR will evaluate the impacts of construction of Downtown development projects consistent with the Envision 2040 General Plan and Downtown Strategy 2040 to the Year 2025 (project-level). Program-level review will be provided for the amount of development contemplated between 2025 and 2035, consistent with the Envision San José 2040 General Plan. For the reasons described above, the EIR for the Downtown Strategy 2040 is a Project- and Program-level EIR (EIR).

The EIR for the proposed Downtown Strategy will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended and the requirements of the City of San José. In accordance with the requirements of CEQA, the EIR will include the following:

• A project description;

- A description of the existing environmental setting, probable environmental impacts, and mitigation measures;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth-inducing impacts of the proposed project; and (d) cumulative impacts.

The Downtown Strategy 2000 document is available for review at <u>http://www.sjredevelopment.org/PublicationsPlans/</u>Strategy2000.pdf. The current Strategy 2000 EIR can be found on the City's "Completed EIRs" website at http://www.sanjoseca.gov/index.aspx?nid=2434.

# 2.0 PROJECT BACKGROUND

On July 20, 2005, the City Council certified the Strategy 2000 EIR (Resolution No. 72767) and adopted the Downtown Strategy 2000 which provided a vision for future housing, office, commercial, and hotel development within Downtown consistent with the San José 2020 General Plan. Downtown Strategy 2000 is a strategic redevelopment plan with a planning horizon of 2000-2010 that focuses on the revitalization of Downtown San José by supporting higher density infill development and replacement of underutilized properties.

The Downtown Strategy 2000 established a set of guiding principles of broad goals and objectives for the future development of Downtown as follows:

- 1) Make the Greater Downtown a Memorable Urban Place to Live, Work, Shop, and Play;
- 2) Promote the Identity of Downtown San José as the Capital of Silicon Valley;
- 3) Create a Walkable, Pedestrian-Friendly Greater Downtown; and
- 4) Promote and Prioritize Development that Serves the needs of the Entire City and Valley.

The Strategy 2000 Plan includes and integrates the following detailed plans and programs that were prepared subsequently to implement its vision, including, but not limited to:

- 1. South First Area (SoFA) Strategic Development Plan
- 2. Diridon/Arena Area Strategic Development Plan
- 3. Guadalupe River Park Master Plan 2002
- 4. Downtown Streetscape Master Plan
- 5. Downtown Design Guidelines
- 6. Downtown Parking Management Plan
- 7. Downtown Access and Circulation Study

Some of these plans have been implemented or recently revised, e.g. the Diridon Area Station Plan (DSAP August 2014). The implementation of others remains on-going.

The Downtown Strategy 2000 EIR evaluated the traffic generated by overall downtown development until 2020. Development capacity was divided into four phases of equal size with transportation

improvements to mitigate traffic impacts tied to each phase as identified in the traffic analysis. The overall development capacity in the Strategy 2000 EIR is as follows:

- 11.2 million square feet of office development (2.8 million square feet per phase)
- 8,500 residential units (2,125 units per phase)
- 1.4 million square feet of retail development (350,000 square feet per phase)
- 3,600 hotel rooms (900 rooms per phase)

While the four development phases were initially equal in size, a subsequent Addendum to the Strategy 2000 EIR was certified by the City Council in October 2014 which shifted only residential and office development capacities in the first two phases, as shown in Table 1. This shift in development capacity was intended to allow additional residential units in the first phase in response to an increase in the market demand for residential units and a reduction in the market demand for office space Downtown since the adoption of Strategy 2000. The overall jobs development envisioned in the Downtown Strategy would not change.

While Downtown intersections are exempt from Council Policy 5-3, the City's Level of Service policy, a traffic analysis was completed and included in the Addendum to demonstrate that the shifting of development in the first and second phases would not result in additional or different traffic impacts than those identified in the Strategy 2000 EIR.

TABLE 1 REVISED DOWNTOWN STRATEGY 2000 DEVELOPMENT PHASES OCTOBER 2014					
	Phase 1	Phase 2	Phase 3	Phase 4	
Office (sq. ft.)	1,400,000	4,200,000	2,800,000	2,800,000	
<b>Residential Units</b>	5,500	1,000	1,000	1,000	
Retail (sq. ft.)	350,000	350,000	350,000	350,000	
Hotel Guest Rooms	900	900	900	900	

The Strategy 2000 EIR stated that public funds were to be allocated towards the construction of identified transportation improvements prior to the build-out of each development phase. The Mitigation Monitoring and Reporting Program (MMRP) for the project identified the City as having implementation responsibility of the traffic mitigation with the Director of the Department of Planning, Building, and Code Enforcement (PBCE) and the Director of Transportation (DOT) providing oversight responsibility. The transportation improvements were to be funded by the Redevelopment Agency. With the dissolution of the Redevelopment Agency by the State of California in 2010, the City is now responsible for identifying other sources of funding for these improvements.

As of August 2015, approved and/or constructed residential development in Downtown is now approaching residential capacities identified in Phase 1 (5,500 residential units), as shown in Table 2

below. However, the required Phase I traffic mitigation from the Strategy 2000 EIR has not been completed and is not programmed within the City's five-year Traffic Capital Improvement Program. Without implementation of the traffic mitigation, development beyond Phase 1 cannot proceed under the current Strategy 2000 EIR and future projects would need to prepare individual EIRs to receive approvals, potentially delaying development that would benefit the fiscal health of the City.

TABLE 2 DOWNTOWN DEVELOPMENT AS OF AUGUST 2015				
Land Use	Overall Current Downtown Strategy 2000	DEVELOPMENT Downtown Strategy 2000 Phase 1*	AS OF AUGUST 2015 Development Completed or Currently on File <sup>1</sup>	Remaining Development Capacity in Phase 1
<b>Residential</b> (in units)	8,500	5,500	4,082	1,4841
<b>Office</b> (in sf)	11.2 million	1.4 million	15,893	1.38 million
<b>Retail</b> (in sf)	1.4 million	350,000	129,712	94,712
Hotel (in rooms)	3,600	900	200	700

\*Development levels established by the October 2014 Addendum to the San José Downtown Strategy 2000 Final EIR.

<sup>1</sup> Approximate number of residential units remaining based upon projects on-file with the City of San José's Planning Department at the time this NOP was circulated.

The Downtown Strategy 2000 was incorporated into the current Envision San José 2040 General Plan adopted in November 2011. The General Plan slightly increased the growth capacity for housing development within Downtown above the development capacities in the Downtown Strategy 2000, as shown in Table 3 below. Because the Redevelopment Agency has been dissolved and the demand for development within Downtown has increased in recent years, the City determined that an update to the Downtown Strategy 2000 EIR is needed to facilitate additional residential development capacity beyond what was envisioned in the General Plan, while maintaining the Downtown Strategy 2000 development capacities for office, retail, and hotel uses.

It is the City's intent to utilize the existing information and analysis in the previous Downtown Strategy 2000 and Envision San José 2040 EIRs to the extent feasible while providing as much project-level environmental clearance as possible for future development until 2025. Project-level analyses will be conducted for traffic and traffic-related air quality and noise impacts, such that future analyses may not be required provided the development proposed does not exceed the overall development analyzed. Future environmental analyses may be required for projects that have the potential to result in site specific impacts such as traffic operations (ingress/egress), cultural/historic resources, aesthetics, and hazardous materials; however, environmental review for these future projects could be tiered off the Downtown Strategy 2040 EIR.

# 3.0 PROJECT LOCATION

San José's Downtown encompasses approximately three square miles generally bounded by Taylor Street to the north, San José State University and City Hall to the east, Interstate 280 to the south, and the Diridon Station Area to the west. State Route 87 runs in a north/south direction and generally divides Downtown. Los Gatos Creek flows into the Guadalupe River at the confluence of Santa Clara Street on the west side of State Route 87. Downtown boundaries are shown on Figure 2.

# 4.0. DESCRIPTION OF THE DOWNTOWN STRATEGY 2040 PROJECT

The Downtown Strategy 2000 and San José 2040 General Plan envisioned Downtown development as shown in Table 3, below. The City is now proposing to update the Downtown Strategy to Year 2035/2040, consistent with the General Plan, and increase the amount of allowed development, as also shown in the table below.<sup>1</sup> The broad recommendations and guiding principles of Strategy 2000 remain generally pertinent to the overall vision for Downtown. The general descriptions of the "Strategies and Actions", which were programmatic improvements described in Downtown Strategy 2000 and the EIR will be carried over to the Strategy 2040 EIR.

TABLE 3 PROPOSED DOWNTOWN STRATEGY 2040 DEVELOPMENT CAPACITIES					
Land Use	Current Downtown Strategy 2000 (2010 Horizon)	Current 2040 General Plan	Proposed Downtown Strategy 2040		
			Year 2025 (Project-level)	Year 2040 (Program-level)	
<b>Residential</b> (in units)	8,500	10,360	10,360	14,360	
Office (in sf)	11.2 million	11.2 million	7.5 million	11.2 million	
<b>Retail</b> (in sf)	1.4 million	1.4 million	500,000	1.4 million	
Hotel (in rooms)	3,600	3,600	2,500	3,600	

The development levels proposed as part of the Downtown Strategy 2000 were evaluated in the Strategy 2000 and 2040 General Plan EIRs at a program-level. The Downtown Strategy 2040 EIR

<sup>&</sup>lt;sup>1</sup> The 2040 General Plan evaluated traffic impacts to a horizon year of 2035 consistent with the Congestion Management Program (CMP) travel demand forecasting model maintained by VTA. The current effort will also use the horizon year of 2035 to match the General Plan.

will evaluate the traffic generated by the revised development capacities shown above at a project-(Years 2015 to 2025) and program-level (Years 2025 to 2035). The City is also proposing a slight modification to the boundaries of Downtown along North 4th Street between East St. John and East Julian Streets, as shown on Figure 3, which will require a change to the General Plan's Land Use/Transportation Diagram.

As shown in Table 3, above, the office, retail, and hotel capacity envisioned for Downtown would be the same as envisioned in the Downtown Strategy 2000 and 2040 General Plan (equivalent to 48,500 jobs). The increase in residential capacity would be achieved by transferring residential units from outlying (beyond the general vicinity of Downtown) Urban Villages and other Growth Areas identified in the General Plan. The Urban Villages/Growth Areas that will contribute residential units have not been identified at this time, but will be included as part of the Draft EIR project description.

The EIRs prepared for the Downtown Strategy 2000 and General Plan included mitigation measures for environmental impacts. These mitigation measures have been included, as appropriate and applicable, as conditions of approval for all approved Phase I projects. As part of the Downtown Strategy 2040 update effort, impacts will be re-analyzed per recent changes in the regulatory and legislative climate, particularly related to air quality and greenhouse gas emissions requirements that were not in effect at the time the previous EIR was completed. Mitigation measures, including traffic mitigation measures, previously identified in the Downtown Strategy 2000 will be reviewed and may be revised, as necessary.

Revisions to the Downtown Strategy 2000 EIR, consistent with the 2040 General Plan, would also include:

- 1) Updating the Downtown traffic analysis to reflect 2015 conditions and potentially, the mitigation measures required;
- 2) Reflecting the recently approved Diridon Station Area Plan;
- 3) Revising mitigation measures pertaining to such topics as cultural resources, shade and shadow, biological resources, and stormwater to reflect Envision 2040 General Plan policies;
- 4) Identifying Jobs Priority Areas in proximity to the future Downtown BART Station; and
- 5) Other General Plan amendments as necessary to update Strategy 2000, such as extending the horizon year and changing the General Plan Land Use/Transportation Diagram to reflect modifications to the boundaries of Downtown.

# 5.0 ENVIRONMENTAL IMPACTS TO BE ANALYZED

The EIR will address the environmental impacts associated with the proposed Downtown Strategy 2040. The City anticipates that the EIR will focus on the following issues:

# Land Use

The EIR will describe existing land uses in the Downtown and the project's consistency with plans and policies including the current Envision San José 2040 General Plan and General Plan Land Use/Transportation Diagram. The EIR will describe the changes in land uses proposed by the project

and identify land use compatibility impacts, as necessary. Mitigation measures will be described for any significant land use impacts.

# **Transportation**

The EIR will describe the existing traffic conditions in the Downtown and compare them to project traffic conditions, based on a Traffic Impact Analysis (TIA) to be completed according to the requirements of the City and Santa Clara Valley Transportation Authority (VTA). The TIA will build on the analysis completed for the Strategy 2000 and General Plan 2040 EIRs. Traffic impacts resulting from the proposed project and feasible mitigation measures for significant impacts will be identified.

# Noise and Vibration

The EIR will describe the existing noise environment and noise impacts to and from the proposed project, using the analysis in the Strategy 2000 and General Plan EIRs to the extent possible. Noise impacts will be identified for: (1) proposed land use changes that will expose new sensitive receptors to noise or vibration levels exceeding those considered normally acceptable based on the City's policies; and (2) changes in the noise environment resulting from the project, including those related to traffic. Mitigation measures will be identified, as appropriate.

# Air Quality

The EIR will describe existing local and regional air quality and the air quality impacts of the proposed project in accordance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines. The impact of the project on local emissions and regional air quality plans will be analyzed. Impacts on the proposed land use scenarios from toxic air contaminants and diesel particulate matter will also be analyzed to the extent possible for project-level development. Mitigation measures will be identified, as appropriate.

# **Biological Resources**

The EIR will include a description of the existing biological setting and an analysis of impacts to biological resources such as habitats, special-status species, and biologically sensitive areas, based on the analysis included in the Strategy 2000 and General Plan EIRs. Impacts from the proposed project will be described and mitigation measures including the Santa Clara Valley Habitat Conservation Plan (the "Habitat Plan") will be identified, as appropriate.

# Geology, Soils and Seismicity

The EIR will identify geologic and seismic hazards based on the Strategy 2000 and General Plan EIRs to the extent possible. The EIR will describe any geologic constraints or risks resulting in impacts to development proposed and identify mitigation measures, as appropriate.

# Hydrology and Water Quality

The EIR will describe existing hydrology and water quality and will evaluate flooding, drainage, and water quality impacts that would result from or impact development in the Downtown. Information from the Strategy 2000 and General Plan EIRs will be utilized to the extent possible. The EIR will identify mitigation measures, as appropriate.

# Hazardous Materials and Hazards

The EIR will describe existing conditions and impacts resulting from hazardous materials contamination from current or former uses in the Downtown using information in the Strategy 2000 and General Plan EIRs to the extent possible. Hazards associated with aircraft operations of the Norman Y. Mineta San José International Airport will also be described. Mitigation measures will be identified for impacts resulting from or to development included in the project, as appropriate.

# Public Services

Increases in demand for public services resulting from the project will be estimated in the EIR based upon a qualitative estimate of demand for school, police, fire, and medical services and estimates of per capita demand for parks and libraries. Likely impacts to the physical environment that could result from these increased demands will be identified. Mitigation measures, such as in-lieu fees, parkland or school site dedication, and other programs and funding mechanisms for new facilities will be identified, as appropriate.

# **Utilities and Service Systems**

The EIR will describe the anticipated demand for utilities and services, including water, sanitary sewer, storm sewer, and solid waste resulting from the proposed project. Exceedance of the existing capacity of existing infrastructure, such as water, stormwater, and sanitary sewer pipelines will be identified. Mitigation measures for utility and service impacts will be identified, as appropriate.

# Cultural Resources

The EIR will describe existing cultural resources in the Downtown based upon available inventories of historic resources in the Downtown, including the Strategy 2000 and General Plan EIRs. The potential for cultural or historic resources to be affected by development will be assessed. Mitigation measures will be identified for significant cultural resource impacts, as appropriate.

# Aesthetics and Visual Resources

The EIR will describe the existing visual character of the Downtown. The EIR will evaluate the aesthetic changes that will result from implementation of the proposed project. Mitigation measures for aesthetic and visual resource impacts will be identified, as appropriate.

# Energy

In conformance with Appendix F of the CEQA Guidelines, the EIR will identify the potential for the project to result in significant energy impacts. Mitigation measures for energy impacts will be identified, as appropriate.

# Population and Housing

The EIR will describe anticipated changes in projected population, jobs, and housing as a result of the proposed project. Population and housing impacts will be addressed and mitigation measures identified, as appropriate.

# Global Climate Change and Greenhouse Gas Emissions

The EIR will describe the regulatory context surrounding the issue of global climate change and will evaluate the greenhouse gas emissions and contribution to global climate change resulting from the project. The EIR will also discuss impacts resulting from the effects of global climate change consistent with the City's Climate Reduction Strategy. Mitigation measures will be identified, as appropriate.

# Cumulative Impacts

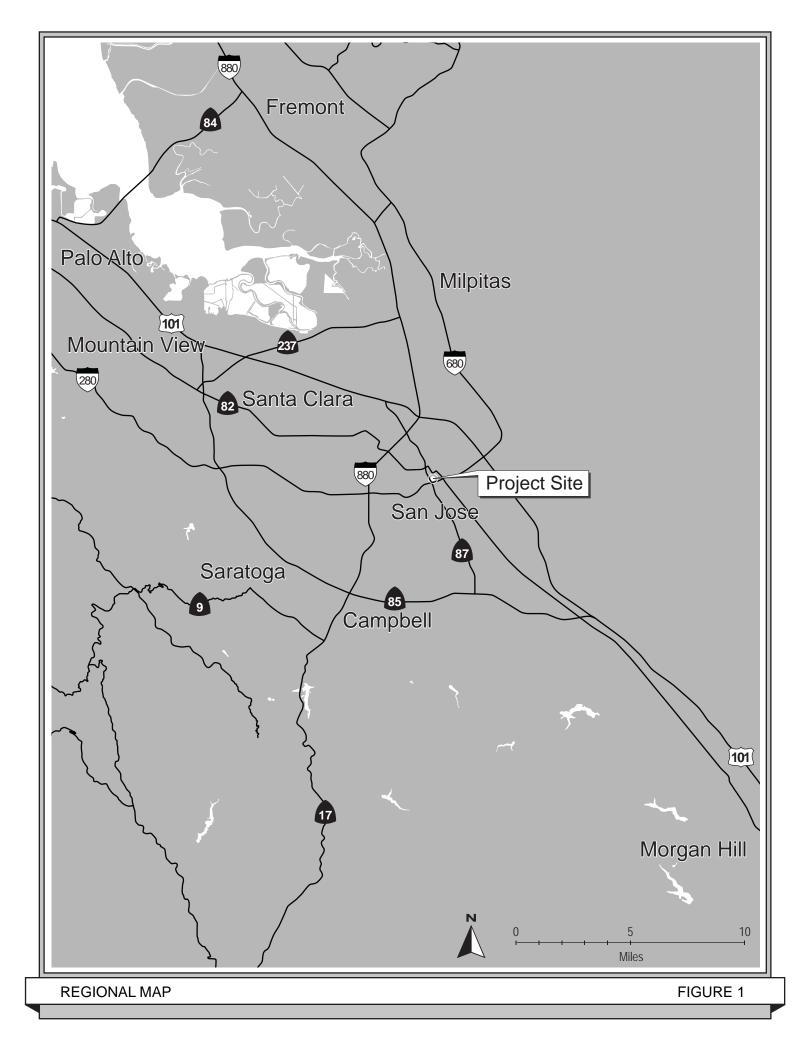
The EIR will discuss the cumulative impacts of the project in combination with other past, present or reasonably foreseeable project-level and programmatic projects. Mitigation measures will be identified to reduce and/or avoid significant impacts, as appropriate.

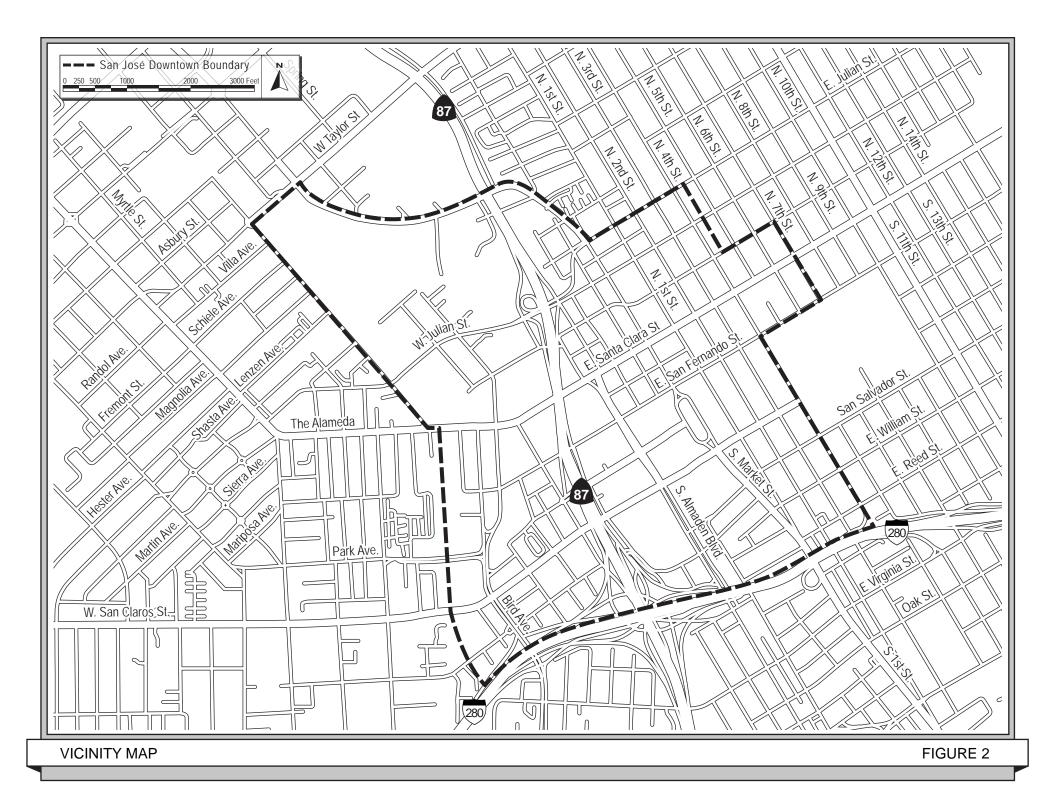
# Alternatives

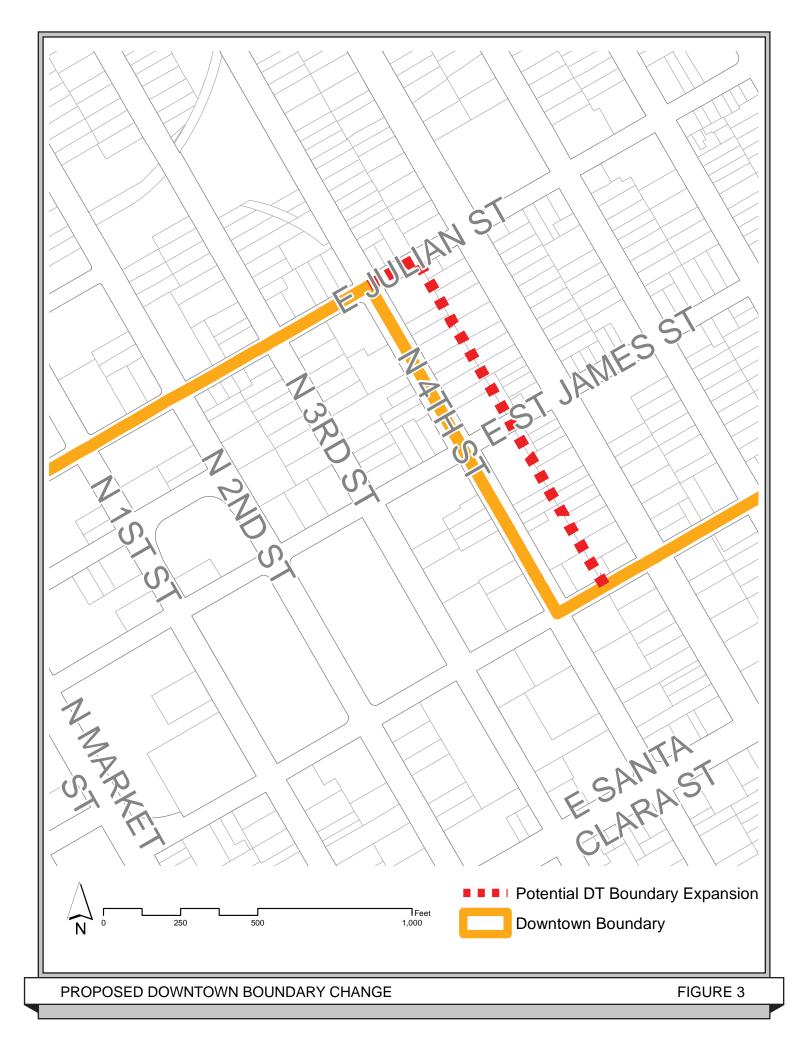
The EIR will evaluate possible alternatives to the project, based on the results of the environmental analysis. The alternatives discussion will focus on those alternatives that could feasibly accomplish most of the basic purposes of the Downtown Strategy 2040 and could avoid or substantially lessen one or more of the significant environmental effects identified in the EIR (CEQA Guidelines Section 15126.6). The environmentally superior alternative(s) will be identified based on the number and degree of associated environmental impacts.

# Other Sections

The EIR will also include all other sections required under the CEQA Guidelines, including: 1) Growth Inducing Impacts; 2) Significant Unavoidable Impacts; 3) Significant Irreversible Environmental Changes; 4) Consistency with Plans and Policies; 5) References; and 6) EIR Authors. Relevant technical reports will be provided as appendices.









Scott Brady Land Agent

408.282.7543 (Office) Scott.Brady@pge.com Land Management

111 Almaden Boulevard Room 814 San Jose, CA 95113

October 19, 2015

Mr. David Keyon City of San Jose Department of Planning, Building, and Code Enforcement 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San Jose, CA 95113-1905

Re: Notice of Preparation of A Draft Environmental Impact Report For the Downtown Strategy 2040 Project, File PP15-102, City of San Jose Project Applicant

Dear Mr. Keyon:

Thank you for the opportunity to review the Notice of Preparation of a Draft Environmental Impact Report for the Downtown Strategy 2040 Project. PG&E has the following comments to offer.

- 1. PG&E owns and operates gas and electric facilities located within the project area. To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access, and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities. Developers should contact PG&E at www.pge.com/en/mybusiness/services/building/index.page or call 877-743-7782.
- 2. Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocations require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.
- 3. Relocations of PG&E's electric transmission and substation facilities (50,000 volts and above) may also require formal approval from the California Public Utilities Commission. If required, this approval process may take up to two years to complete. Proponents with development plans that may affect such electric transmission facilities should be referred to PG&E for additional information and assistance in the development of their project schedules.
- 4. Please note that continued development consistent with your General Plan will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site

additions to the facilities that supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads.

- 5. Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate build out capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions to accommodate additional load on the gas system may include facilities such as regulator stations, odorizer stations, valve lots, and distribution and transmission lines.
- 6. We recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments, and any potential environmental issues associated with extending utility service to the proposed project. This will assure the project's compliance with CEQA and reduce potential delays to the project schedule.
- PG&E remains committed to working with the City of San Jose and developers to provide timely, reliable and cost effective gas and electric service to the downtown area. Please contact me at (408) 282-7543 if you have any questions regarding our comments. We would also appreciate being copied on future correspondence regarding this subject as this project develops.
- 8. The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their concerns. PG&E must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

Thank you for the opportunity to provide input.

Sincerely, Swit 6

Scott Brady Land Agent Pacific Gas & Electric Company



SAN JOSE DOWNTOWN ASSOCIATION 28 N. FIRST STREET SUITE 1000 SAN JOSE, CA 95113 TEL: 408-279-1775 FAX: 408-279-1904 WWW.SJDOWNTOWN.COM

October 30, 2015

David Keyon Environmental Review Planner Planning, Building and Code Enforcement City of San José 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San José, CA 95113

RE: Downtown Strategy EIR

Dear David,

Time is of the essence.

Shifting market preferences and economic trends are encouraging growth and investment in downtown areas throughout the United States. Downtown San Jose is no different. If we do not seize on this opportunity for dense, equitable and fiscally sustainable development, it may be lost.

To that end, the San Jose Downtown Association provides the following recommendations regarding the upcoming Downtown Strategy EIR and General Plan update processes.

# **DEVELOPMENT CAPACITY AND PHASING**

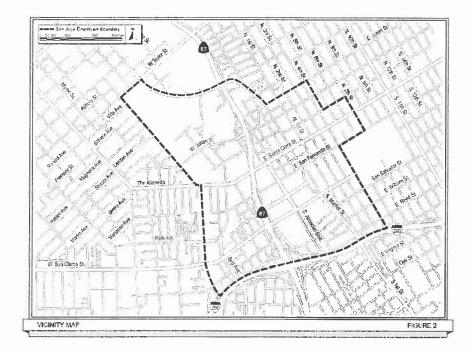
- As currently proposed, the development capacity covered under the EIR update is insufficient. Based on current trends and analysis of the development pipeline, we would likely utilize the 10,360 residential units covered under the proposed EIR update by Q1 2017. This would require another update to facilitate future streamlined investment in the Downtown. Why would we not analyze and clear (at a project-level) the desired amount of development during this update process?
- Increase the development capacity covered at a *project-level* to include 14,360 residential units, 11.2 M SF of Office, 1.4 Million SF of Retail, and 3,600 hotel rooms.
- Eliminate proposed project-level vs. program-level phasing and clear the above recommended development capacity at a *project-level* to 2040.

# TRANSPORTATION IMPACTS, MITIGATION AND FUNDING

- Transportation impact studies and associated mitigation strategies should recognize and incorporate the significant investments (both current and planned) in public transportation, bicycle infrastructure, pedestrian improvements, etc.
- Traffic mitigation strategies should prioritize alternative modes of transportation, TDM management strategies and similar initiatives.
- Cost associated with traffic mitigation strategies within the downtown should not be passed along to development projects in the form of Traffic Impact Fees. There are more sustainable, equitable and cost-effective traffic mitigation strategies for downtown than building new roads and widening roads/intersections.
- If transportation impact studies no longer need to accommodate the assumed traffic impacts from a planned baseball stadium, then it is likely this will free up significantly more development capacity in the downtown.

# DOWNTOWN BOUNDARIES

 The Downtown boundaries as defined in the General Plan and Downtown Strategy EIR should match the boundaries presented in the EIR scoping document (see Figure 2 from Notice of Preparation below). It makes little sense to us that this area would be defined as Downtown for the purposes of the Downtown Strategy, but not the General Plan. The geographic boundaries of the General Plan and Downtown Strategy should be aligned to match the Downtown boundaries as described in the EIR Notice of Preparation.



 Furthermore, we propose expanding the boundaries of Downtown in the General Plan and Downtown Strategy EIR to include the six block area on the northeast boundary of Downtown (See Figure 1: bounded by N. 4<sup>th</sup> Street to the West, Julian Street to the North, N. 7<sup>th</sup> Street to the East and St. John Street to the South), as well as the areas south of San Jose State (See Figure 2: bounded by S. 4<sup>th</sup> Street to West, San Salvador Street to the North, S. 10<sup>th</sup> Street to the East and Highway 280 to the South). See maps below for specific proposed boundary changes.



Figure 1: Northeast Expansion



Figure 2: Southeast Expansion

# **IDENTIFYING "JOBS PRIORITY AREAS" IN PROXIMITY TO TRANSIT**

- While we believe that it is important to encourage high-density commercial development in proximity to future BART stations, we do not feel that this should be done through restrictive zoning, overlays and similar land-use regulation.
- We support economic incentives and similar market-based approaches to encourage commercial development in proximity to regional transit networks.

Our hope is the outcome of the upcoming Downtown Strategy EIR Update process and corresponding General Plan Update process continue to help realize the aspirations of the Envision 2040 General Plan to "Focus growth within the Downtown which will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals." These goals can only be achieved by creating enough development capacity to accommodate the amount of growth envisioned.

Sincerely,

Scott Knies Executive Director

CC: Mayor Liccardo Councilman Peralez Harry Freitas Kim Walesh Darryl Boyd Paul Smith Chris Neale STATE OF CALIFORNIA-CALIFORNIA STATE TRANSPORTATION AGENCY

DEPARTMENT OF TRANSPORTATION DISTRICT 4 P.O. BOX 23660

OAKLAND, CA 94623-0660 PHONB (510) 286-5528 FAX (510) 286-5559 TTY 711 www.dot.ca.gov

November 9, 2015

Mr. David Keyon Planning Division City of San Jose 200 E. Santa Clara Street Tower, 3<sup>rd</sup> Floor San Jose, CA 95113

Dear Mr. Keyon:

# Downtown Strategy 2000 Update (San Jose Downtown Strategy 2040) - Notice of Preparation

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Caltrans District 4 Local Development-Intergovernmental Review Program reviewed the Notice of Preparation (NOP) to ensure consistency with our mission and state planning priorities of infill, conservationism, and efficient development. Please also refer to our previous comment letters. We provide these comments consistent with the State's smart mobility goals to support a vibrant economy and build communities, not sprawl.

### **Project Understanding**

The proposed project is located at the State Route (SR) 87/Interstate (I-) 280 interchange in the northwest and northeast quadrants. This project is an update of the Downtown Strategy 2000, to make it consistent with the Envision San Jose 2040 General Plan, including an update of residential capacity and a revision of development phasing to extend the horizon (buildout) year to 2040. The proposed Downtown Strategy 2000 (11.2 million square feet (sq. ft.) office, 1.4 million sq. ft. retail, and 3,600 hotel rooms), but would increase the residential development capacity in the downtown area by up to 4,000 additional units (from 10,360 units in the Envision San Jose 2040 General Plan up to 14,360 units). The update would also explore the following potential changes: an expansion of the Downtown planning area boundary for two blocks on the east side of N. 4th Street between St. John Street and Julian Street and the identification of "Jobs Priority Areas" near the future Downtown San Jose BART station.

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Serious Drought. Help save water!

SCL/00161 SCL/GEN/PM VAR SCH# 2003042127 Mr. David Keyon/City of San Jose November 9, 2015 Page 2

### Lead Agency

As the lead agency, the City of San Jose (City) is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

### Traffic Impacts

One of Caltrans' ongoing responsibilities is to collaborate with local agencies to avoid adverse impacts by local development on State highways. State facilities which transverse the City of San Jose's (City) jurisdiction are the shared responsibility of the State and the City; Caltrans asks that this be recognized in the project.

Caltrans recommends the City consult with Caltrans regarding plans to mitigate traffic impacts to State facilities. Such strategies include increasing the capacity and efficiency of State facilities. Caltrans also recommends that the project include discussion of contributions with regard to the U.S. Highway (U.S.) 101 Express Lanes Project and the State Route 237 Express Lanes Project (collectively Projects). Caltrans recommends the City include in this project's final environmental document contributions to these Projects, as a means to mitigate transportation impacts.

Caltrans recognizes bicycle, pedestrian, and transit modes as integral elements of the transportation system. Economically, complete streets can revitalize communities by giving people options to lower transportation costs by using transit, walking or bicycling rather than driving to reach their destinations. Implementation of the Complete Streets policy is intended to result in:

- More travel options;
- Less traffic congestion and greenhouse gas emissions;
- More walkable communities (with healthier, more active people); and
- Fewer barriers for older adults, children, and people with disabilities.

### Vehicle Trip Reduction

The Metropolitan Transportation Commission (MTC) Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS) identifies transportation system performance targets including the increase of non-auto mode share by 10 percentage points and a decrease auto vehicle miles traveled (VMT) per capita by 10 percent. Caltrans encourages the City to continue locating housing, jobs and neighborhood services near major mass transit centers, with connecting streets configured to facilitate walking and biking, and develop its Transportation Demand Management (TDM) Program, which promotes usage of nearby public transit lines and reduces vehicle trips on the State Highway System.

These policies could include lower parking ratios; car-sharing programs; transit subsidies, transit passes, and secure bicycle parking and showers for residents and employees; and carpooling with preferred parking or working with the Santa Clara Valley Transportation Authority (VTA) to reduce the headway times on the bus lines serving the City. The Program

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Mr. David Keyon/City of San Jose November 9, 2015 Page 3

should also document vehicle trip reduction with annual reports to demonstrate the ongoing reduction of trips, while continuing to survey the travel patterns of employees within the project area.

For information about parking ratios, see the Metropolitan Transportation Commission (MTC) report *Reforming Parking Policies to Support Smart Growth* or visit the MTC parking webpage; http://www.mto.ca.gov/planning/smart\_growth/parking.

### Traffic Impact Fees

Caltrans requests the City consult with Caltrans regarding payment of traffic impact fees and adhoc fees, as a means to mitigate traffic impacts to State facilities. The State facilities in the City are critical to regional and interregional traffic in the San Francisco Bay region. They are vital to commuting, freight, and recreational traffic and are among the most congested regional facilities. Given the scale and location of the project and the traffic generated, along with projects in the vicinity, this project is likely to have a significant regional impact to the already congested State Highway System.

### Voluntary Contribution Program

Caltrans encourages the City to participate in VTA's voluntary contribution program and plan for the impact of future growth on the regional transportation system. Contributions would be used to help fund regional transportation programs that improve the transportation system to lessen future traffic congestion, improve mobility by reducing time delays, and maintain reliability on major roadways throughout the San Francisco Bay Area. Reducing delays on State facilities will not only benefit the region, but also reduce any queuing on local roadways caused by highway congestion.

### Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Trafficrelated mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See this website for more information: www.dot.ca.gov/hq/traffops/developserv/permits.

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Mr. David Keyon/City of San Jose November 9, 2015 Page 4

Should you have any questions regarding this letter, please contact Brian Ashurst at (510) 286-5505 or brian.ashurst@dot.ca.gov.

Sincerely,

1

PATRICIA MAURICE District Branch Chief Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse Robert Swierk, Santa Clara Valley Transportation Authority (VTA) – electronic copy Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) – electronic copy

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Dedicated to Preserving San Jose's Architectural Heritage

November 10, 2015

David Keyon Department of Planning, Building, and Code Enforcement 200 E Santa Clara Street -- 5<sup>a</sup> Floor San Jose CA 95113

Dear David –

The Preservation Action Council of San Jose (PAC-SJ) was founded in 1990 and is dedicated to preserving and promoting the continued use of historically significant resources in San Jose, and to encouraging quality new design.

We appreciate the opportunity to comment on the scope of the Downtown Strategy 2040 EIR.

We are particularly interested in any potential impacts to the St. James Square National Register Historic District. In addition, given the City's lack of a complete citywide Historic Resources Inventory we are concerned how structures that should be on the Inventory but have yet to be listed will be properly reviewed and protected.

As Mid-Century resources come of age it's critical that they be surveyed and included in all reviews as this process moves forward. It's in the best interest of the City and the development community to identify potential historic resources as early in the process as possible.

We also would like a careful review of any proposed highrise buildings that might surround the historic park and result in negative impacts. This fragile historic district is one of only 3 in San Jose and needs protection from negative development impacts to protect its integrity as a historic district.

Thank you for the opportunity to comment.

Sincerely,

Brian K. Grayson Executive Director

Preservation Action Council of San Jose (PAC\*SJ)

PAC\*SJ is a 501 (c) 3 non-profit organization

5750 Almaden Expressway, San Jose, CA 95118-3614 | (408) 265-2600 | www.valleywater.org

Santa Clara Valley Water District

File: 29510 Guadalupe River

November 10, 2015

Mr. Jason Rogers City of San Jose Planning Division 200 East Santa Clara Street, 3<sup>rd</sup> Floor San Jose, CA 95113-1905

Subject: Notice of Preparation of a Draft Environmental Impact Report – Downtown Strategy 2040 Project

Dear Mr. Rogers:

Santa Clara Valley Water District (District) staff received the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Downtown Strategy 2040 Project on October 14, 2015.

The District is interested in reviewing discussions of the DEIR relating to the hydrological impacts, water quality impacts, flooding, riparian corridor impacts, water supply demand and recycled water usage.

Please provide a copy to the District for review once the DEIR becomes available. Please reference District File No. 29510 on any future correspondence regarding this project. If you have any questions, please contact me at (408) 630-2586.

Sincerely,

A Her Fire

Kathrin A. Turner Assistant Engineer II Community Projects Review Unit

cc: S. Tippets, C. Haggerty, K. Turner, File

29510\_58042kt11-10



November 10, 2015

Mr. David Keyon and Mr. Darryl Boyd Planning, Building and Code Enforcement 200 E. Santa Clara St. San Jose, CA 95113

### **Re: Downtown Strategy 2040 Project**

Dear Mr. Keyon and Mr. Boyd,

SPUR appreciates the opportunity to provide comments on the scope of work outlined in the Notice of Preparation for the Downtown Strategy 2040 Project. The Downtown Strategy 2000 EIR provides areawide environmental clearance to accommodate new development in downtown San Jose. We are glad that the city of San Jose is updating the EIR to continue facilitating growth downtown while acknowledging policy changes at the city and state since 2000. Our hope is that the EIR update process will align with the urban aspirations of the *Envision* 2040 General Plan and make the most of the combined billions of dollars of transit investments coming to downtown.

### Transportation Mitigations and Improvements

Since the Downtown Strategy 2000 was adopted, a sea change has occurred in the practice of analyzing the transportation impacts of new development. Previously, transportation impact analyses focused almost exclusively on auto delay, with intersection level of service (LOS) as the critical metric. Senate Bills 375 (2008) and 743 (2014) move away from this metric and signaled the state of California's commitment to encouraging land use and transportation decisions that reduce greenhouse gas emissions and vehicle miles traveled (VMT). We appreciate that the traffic impact analysis will measure the transportation impacts of new development based on the reduction of greenhouse gas emissions and their impacts on a multimodal transportation network. Not only will this reaffirm San Jose's adopted policies, such as the *Envision 2040* General Plan, which outlines robust VMT and mode-share targets, but it will also help achieve the state's goals.

Because of this sea change, coupled with the combined billions of dollars in transit investments coming to downtown, we recommend that mitigation projects and improvement projects proposed in the Downtown Strategy 2000 EIR be re-evaluated. The Downtown Strategy 2000 EIR measured both LOS and VMT due to the city's protected intersection policy. However, many of the traffic mitigations and improvements that were identified are very auto-oriented and are geared towards improving intersection level of service (e.g., TRAF-3, TRAF-6, TRAF-8, TRAF-9). Some of these projects make it easier to drive through downtown, which directly contradicts the city's 2011 General Plan stated goals of reducing vehicle miles traveled and encouraging non-auto modes of travel. Re-assessing proposed mitigation projects according to more sustainable transportation metrics may help the city invest its transportation dollars wisely.

#### SAN FRANCISCO

654 Mission Street San Francisco, CA 94105 (415) 781-8726 **SAN JOSE** 76 South First Street San Jose, CA 95113 (408) 638-0083 OAKLAND c/o Impact Hub Oakland 2323 Broadway Oakland, CA 94612 (510) 250-8210

spur.org

### Amending the Development Capacity

We recommend that the EIR's project description make development assumptions clearer. For instance, we encourage the city to define the number of residential units that would be covered by the new EIR. One reason that the city is updating the EIR for downtown is to provide environmental clearance for new development, saving developers time and money. To date, it has been a strong incentive for downtown residential development. The Downtown Strategy 2040 Project would environmentally clear a total of 10,360 residential units on a project-level basis by 2025. Currently, the city is nearing its 5,500 unit Phase I cap, and there are already several thousand more units that the have been identified in the pipeline. It would be beneficial to identify the number of additional residential units the Downtown Strategy 2040 EIR would allow for before hitting the 10,360 cap once those projects in the pipeline are accounted for. We also encourage the city to evaluate the project-level impacts of 14,360 residential units in its early analysis to evaluate what types improvements might be needed.

### Maximizing Development

In SPUR's report, *The Future of Downtown San Jose*, we argue that it is critical to make maximum use of the development opportunities within a half-mile, or about a 10-minute walk, of regional transit. In this broader geography, we are agnostic about use and more interested in seeing that the city achieves significant density. In the *Future of Downtown San Jose*, SPUR found that downtown has the capacity to double its employment and population base if development averaged 10.0 FAR east of Highway 87 and 6.0 FAR around Diridon station (including parking) and did not exceed minimum parking requirements. **To that end, we recommend analyzing the impacts of minimum density requirements within a 1/2-mile of regional transit.** Assuming a greater concentration of higher density development —for all uses—within a half-mile of BART provides certainty that a high-density project is allowable under the EIR.

However, as we are seeing more market interest for both residential and commercial development, this is a good time to think about how to encourage more employment uses near the future BART stations. We recommend maximizing the number of jobs within a quarter-mile of regional transit. There are two reasons for this. The first is that regional transit works best when it is located close (1/4 mile) to jobs. Studies show that there is a greater likelihood that people will use transit if their workplace is close to transit.<sup>1,2</sup> The second reason is that many employers recognize that proximity to regional transit is an increasingly important factor in selecting a business location. Downtown San Jose is relatively small geographically and it has significant development constraints from the airport height limits and continuous high parking demand so it is important to think carefully about how the use of each parcel supports BART and the additional regional transit lines that meet at Diridon station.

While incentive-based approaches are generally preferable to regulation, we are supportive of identifying possible locations for jobs priority areas and analyzing the impacts of potential development in those areas. We encourage the city to evaluate the impacts of the following approaches to encourage job growth downtown. We give three suggestions to allow the greatest flexibility for determining any future policies. There are at least three ways to approach this in the traffic impact or alternatives analyses:

<sup>&</sup>lt;sup>1</sup> Cervero, Robert. 2008. *Residential Self Selection and Rail Commuting: A Nested Logit Analysis: www.uctc.net/papers/604.pdf* <sup>2</sup> Transit Cooperative Research Program. 2014. Report 167: *Making Effective Fixed-Guideway Transit Investments: Indicators of Success.* http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\_rpt\_167.pdf

# 1. Buffer Approach

The transportation impact analysis could assume the maximum concentration of high-density employment uses in the Traffic Analysis Zones or parcels within 1/4 mile of future regional stations. San Jose can help make regional rail successful by projecting a higher concentration of commercial growth within 1/4 mile of future regional rail stations.

# 2. Site-by-Site Approach

Another option that could be assessed in the alternatives analysis is maximizing the office and commercial capacity on sites that can accommodate a 30,000 square foot building. We caution that a site-by-site approach could still be based on proximity to transit in order to encourage ridership on BART—up to 1/2 mile of future regional transit stations.

### 3. Target Share Approach

Establish a target share or future percent of total new floor area for office or employment uses. The target share could be applied to all sites within 1/4 mile of BART stations. By establishing a target share, it is clear that mixed-use is an appropriate strategy for transit oriented development while ensuring that a substantial amount of new development is reserved for jobs near transit. If the analysis finds that a target share approach is an appropriate solution for downtown San Jose, the city might also consider review its zoning and municipal code to identify changes that could bring mixed-use development and jobs near transit.

# Expanding Downtown Boundaries

The Downtown boundaries in the General Plan and Downtown Strategy should align with the boundaries presented in the EIR scoping document. It may also make sense to expand the Downtown boundaries to areas near San Jose State University and along key corridors and close to future regional transit. For instance, expanding east of St. James Park—between N.4th and N.7th streets to the east and between Julian St. to the north and St. John to the south (see Figure 1)—could allow for higher intensity development in areas that are still within a ten-minute walk to the future downtown BART station and that are close to concentrations of market demand.



Figure 1. The Downtown Boundary Could be Expanded

Source: SPUR

Thank you for the opportunity to provide comments on the proposed scope and direction of the Downtown Strategy 2040 Project. Please feel free to contact me with any questions at 408-638-0167 or <a href="https://literativecommons.org">https://literativecommons.org</a>.

Sincerely,

Laura Tolkoff San Jose Policy Director

cc: Reena Brilliot Paul Smith Jim Ortbal



November 12, 2015

City of San Jose Department of Planning and Building 200 East Santa Clara Street San Jose, CA 95113

Attention: David Keyon

Subject: City File No. PP15-102 / Downtown Strategy 2040

Dear Mr. Keyon:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the NOP for the Downtown Strategy 2040 Plan which includes increasing the residential development capacity of the downtown area by up to 4,000 residential units. We have the following comments.

### Land Use Density & Mix

VTA supports the proposal to increase the total amount of development allowed in Downtown San Jose by reallocating 4,000 residential units from other Urban Villages and Growth Areas identified in Envision 2040. VTA also supports the creation of Jobs Priority Areas at the future downtown BART station to ensure a diverse mix of land uses near the station and maximize allday ridership demand. Downtown San Jose is identified as a Regional Core in VTA's Community Design & Transportation (CDT) Program Cores, Corridors and Station Areas framework, which shows VTA and local jurisdiction priorities for supporting concentrated development in the County. The CDT Program was developed through an extensive community outreach strategy in partnership with VTA Member Agencies, and was endorsed by all 15 Santa Clara County cities and the county.

### Land Use Reallocation

The NOP notes that "The increase in residential capacity would be achieved by transferring residential units from outlying (beyond the general vicinity of Downtown) Urban Villages and other Growth Areas identified in the General Plan. The Urban Villages/Growth Areas that will contribute residential units have not been identified at this time, but will be included as part of the Draft EIR project description." VTA recommends that the City avoid reducing planned residential densities near key transit services such as existing light rail and Caltrain stations and planned BART stations and Bus Rapid Transit (BRT) corridors.

### **Transportation Analysis**

The City recently circulated a Long Range Traffic Impact Analysis for the proposed City of San Jose 2015 General Plan Amendments, and this proposed Downtown Strategy Plan Update. The

City of San Jose November 12, 2015 Page 2

proposals were analyzed jointly. The analysis included multimodal performance measures such as Vehicle Miles Traveled per Service Population, Mode Share, and Peak-Hour Vehicle Speeds in Transit Priority Corridors. VTA recommends including a similar multimodal transportation analysis in the DEIR, but focused solely on the effects of the proposed Downtown Strategy Plan Update. Please see VTA's additional comments on the Long Range Traffic Impact Analysis submitted on October 7, 2015, attached.

### **Transportation Demand Management**

VTA recommends including Transportation Demand Management (TDM) measures in new residential developments in the Downtown area. TDM measures for Downtown residential projects could include:

- Transit fare incentives, such as free or discounted transit passes on a continuing basis.
- Parking management measures such as shared parking and unbundled parking.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed Senior Environmental Planner

cc: Michael Liw, San Jose Development Services Patricia Maurice, Caltrans Brian Brander, Caltrans

SJ1519

**APPENDIX A-2** 

# MARCH 2017 NOTICE OF PREPARATION AND COMMENT LETTERS

# NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE DOWNTOWN STRATEGY 2000 UPDATE (DOWNTOWN STRATEGY 2040) <u>REVISED MARCH 2017</u>

# 1.0 INTRODUCTION

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment, to examine methods of reducing adverse impacts, and to consider alternatives to the project.

The *San José Downtown Strategy 2000 Plan* (Downtown Strategy 2000) is an integrated strategic urban design plan (2000-2010) that focuses on the revitalization of Downtown San José by envisioning higher density infill development and replacement of underutilized uses within the boundaries of Downtown. The Downtown Strategy 2000 is **not** a land use document per se, but a vision or action guide for development activities in Downtown planned for 2000-2020.

The proposed project includes substantial changes to the amount of residential and office development contemplated in the Downtown Strategy and brings the Strategy into conformance with the Envision San José 2040 General Plan. Therefore, the Downtown Strategy 2040 EIR will utilize any pertinent information included in the Downtown Strategy 2000 EIR and the Envision San José 2040 General Plan EIR to the extent possible. While the boundaries of the Downtown will be slightly modified by the proposed project, the vast majority of the Downtown Strategy area is within the boundaries of the approved Downtown Strategy 2000 Project.

A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related: 1) geographically; 2) as a chain of contemplated actions; 3) in connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or 4) as individual activities carried out under the same regulatory authority and having generally similar environmental effects. If the lead agency finds that pursuant to Section 15162 of the CEQA Guidelines, no new significant effects could occur and no new mitigation measures would be required, the agency can approve the activities as being within the scope of the project covered by the Program EIR and new environmental review would not be required.

The Downtown Strategy 2040 EIR will be both a project-level and program-level EIR. The EIR will evaluate the impacts of construction of Downtown development projects to approximately the Year 2025. It will also evaluate proposed development consistent with the Envision 2040 General Plan (program-level). The project also includes General Plan Land Use Transportation Diagram and text changes to bring the 2040 General Plan up-to-date in terms of development proposed Downtown.

The EIR for the proposed Downtown Strategy will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended and the requirements of the City of San José. In accordance with the requirements of CEQA, the EIR will include the following:

- A project description;
- A description of the existing environmental setting, probable environmental impacts, and mitigation measures;
- Alternatives to the project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth-inducing impacts of the proposed project; and (d) cumulative impacts.

The Downtown Strategy 2000 document is available for review at:

http://www.sjredevelopment.org/PublicationsPlans/Strategy2000.pdf. The current Strategy 2000 EIR can be found on the City's "Completed EIRs" website at: http://www.sanjoseca.gov/index.aspx?nid=2434.

A previous NOP for the DEIR was circulated to local, state, and federal agencies on October 6, 2015 and two public scoping meetings were held on October 26, 2015 and October 28, 2015. Due to changes to the project description (primarily the addition of three million square feet of office development consistent with General Plan 4-Year Review recommendations (City Council Memo for December 13, 2016 http://sanjose.granicus.com/MetaViewer.php?view\_id=&event\_id=2662&meta\_id=604932), the NOP was revised and is now being recirculated for the standard 30-day comment period. The City of San Jose will also hold additional scoping meetings as shown on the NOP cover sheet to discuss the revised project and solicit public input as to the scope and contents of the DEIR. Appendix A of the DEIR will include both NOPs and all of the comments received during the circulation periods.

# 2.0 PROJECT BACKGROUND

On June 21, 2005, the City Council certified the Strategy 2000 EIR (Resolution No. 72767) and adopted the Downtown Strategy 2000 (Resolution No, 72766), which provided a vision for future housing, office, commercial, and hotel development within Downtown consistent with the San José 2020 General Plan. Downtown Strategy 2000 is a strategic redevelopment plan with a planning horizon of 2000-2010 that focuses on the revitalization of Downtown San José by supporting higher density infill development and replacement of underutilized properties.

The Downtown Strategy 2000 established a set of guiding principles of broad goals and objectives for the future development of Downtown as follows:

- 1) Make the Greater Downtown a Memorable Urban Place to Live, Work, Shop, and Play;
- 2) Promote the Identity of Downtown San José as the Capital of Silicon Valley;
- 3) Create a Walkable, Pedestrian-Friendly Greater Downtown; and
- 4) Promote and Prioritize Development that Serves the needs of the Entire City and Valley.

The Strategy 2000 Plan includes and integrates the following detailed plans and programs that were prepared subsequently to implement its vision, including, but not limited to:

- 1. South First Area (SoFA) Strategic Development Plan
- 2. Diridon/Arena Area Strategic Development Plan
- 3. Guadalupe River Park Master Plan 2002

- 4. Downtown Streetscape Master Plan
- 5. Downtown Design Guidelines
- 6. Downtown Parking Management Plan
- 7. Downtown Access and Circulation Study

Some of these plans have been implemented or recently revised, e.g. the Diridon Area Station Plan (DSAP August 2014). The implementation of others remains on-going.

The Downtown Strategy 2000 EIR evaluated the traffic generated by overall Downtown development until 2020. Development capacity was divided into four phases of equal size with transportation improvements to mitigate traffic impacts tied to each phase as identified in the traffic analysis. The overall development capacity in the Strategy 2000 EIR was as follows:

- 11.2 million square feet of office development (2.8 million square feet per phase)
- 8,500 residential units (2,125 units per phase)
- 1.4 million square feet of retail development (350,000 square feet per phase)
- 3,600 hotel rooms (900 rooms per phase)

While the four development phases were initially equal in size, two subsequent Addenda to the Strategy 2000 EIR were prepared (10/8/2014 and 7/15/2016) that shifted residential and office development capacities in the first two phases, as shown in Table 1. These shifts in development capacity were in response to changes in market demand for residential units and office space Downtown since the adoption of Strategy 2000. The phasing of retail space and hotel guest rooms was not changed. The two Addenda did not change the total development capacity envisioned in the Downtown Strategy 2000.

While Downtown intersections are exempt from Council Policy 5-3, the City's Level of Service policy, traffic analyses were completed and included in the Addenda to demonstrate that the shifting of development in the first and second phases would not result in additional or different traffic impacts than those previously identified in the Strategy 2000 EIR.

TABLE I CURRENT ADJUSTED DOWNTOWN STRATEGY 2000 DEVELOPMENT PHASES AUGUST 2016					
	Phase 1	Phase 2	Phase 3	Phase 4	Total
Office (sq. ft.)	2 million	3.6 million	2.8 million	2.8 million	11.2 million
<b>Residential Units</b>	7,500	334	333	333	8,500
Retail (sq. ft.)	350,000	350,000	350,000	350,000	1.4 million
Hotel Guest Rooms	900	900	900	900	3,600

The Strategy 2000 EIR stated that public funds were to be allocated towards the construction of identified transportation improvements prior to the build-out of each development phase. The Mitigation Monitoring and Reporting Program (MMRP) for the project identified the City as having

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implementation responsibility of the traffic mitigation with the Director of the Department of Planning, Building, and Code Enforcement (PBCE) and the Director of Transportation (DOT) providing oversight responsibility. The transportation improvements were to be funded by the Redevelopment Agency. With the dissolution of the Redevelopment Agency by the State of California in 2012, the City is now responsible for identifying other sources of funding for these improvements, such as regional contributions, transportation impact fees, or financing districts.

As of August 2016, approved and/or constructed residential development in Downtown is now approaching residential capacities identified in Phase 1 (7,500 residential units), as shown in Table 2 below. However, the required Phase 1 traffic mitigation from the Strategy 2000 EIR (including the widening of Coleman Avenue from Autumn Parkway to Hedding Street) has not been completed and is not programmed within the City's five-year Traffic Capital Improvement Program (CIP).

Without implementation of the traffic mitigation, development beyond Phase 1 cannot proceed under the current Strategy 2000 EIR (with Addenda) and future projects would need to prepare individual EIRs or other CEQA documents to receive approvals, potentially delaying development that would benefit the fiscal health of the City.

TABLE 2DOWNTOWN DEVELOPMENT AS OF FEBUARY 2017				
Land Use	Overall Current Downtown Strategy 2000	Downtown Strategy 2000 Phase 1*	Development Completed or Currently on File <sup>1</sup>	Remaining Development Capacity in Phase 1
<b>Residential</b> (in units)	8,500	7,500	6,549	951 <sup>1</sup>
<b>Office</b> (in sf)	11.2 million	2 million	1,195,649	804,351
<b>Retail</b> (in sf)	1.4 million	350,000	258,512	91,488
Hotel (in rooms)	3,600	900	397	503

\*Development levels established by the June 2016 Addendum to the San José Downtown Strategy 2000 Final EIR. <sup>1</sup> Approximate number of residential units remaining based upon projects on-file with the City of San José's Planning Department at the time this Revised NOP was circulated.

The Downtown Strategy 2000 was incorporated into the current Envision San José 2040 General Plan adopted in November 2011. The General Plan slightly increased the growth capacity for housing development within Downtown above the development capacities in the Downtown Strategy 2000, as shown in Table 3 below. Because the Redevelopment Agency has been dissolved and the demand for development within Downtown has increased in recent years, the City determined that an update to the Downtown Strategy 2000 EIR is needed to facilitate additional residential and office development capacity beyond what was envisioned in the General Plan, while maintaining the Downtown Strategy 2000 development capacities for retail and hotel uses. This increase is

consistent with the General Plan 4-Year Review recommendations. The future construction of two BART stations and improvements at Diridon Station are also driving demand for additional development Downtown.

It is the City's intent to utilize the existing information and analysis in the previous Downtown Strategy 2000 and Envision San José 2040 EIRs to the extent feasible while providing as much project-level environmental clearance as possible for future development until 2025. The Projectlevel analyses will be completed for traffic and traffic-related air quality and noise impacts, such that future analyses may not be required provided the development proposed does not exceed the overall development analyzed. Future environmental analyses may be required for projects that have the potential to result in site specific impacts such as traffic operations (ingress/egress), cultural/historic resources, aesthetics, and hazardous materials; however, environmental review for these future projects could be tiered off the Downtown Strategy 2040 EIR.

# 3.0 RELATIONSHIP TO EXISTING DOWNTOWN STRATEGY 2000

As previously described, the existing Downtown Strategy 2000 has a total development capacity of 8,500 residential units, with 7,500 allowed in Phase 1. The original Downtown Strategy FEIR evaluated all potential environmental impacts, including traffic, noise, air quality, biological resources, and land use at a program (General Plan/policy) level. The program-level environmental impacts were updated as part of the Envision San José 2040 General Plan EIR, certified in September 2011, and supplemented in December 2015 for adoption of an updated Greenhouse Gas Reduction Strategy. Therefore, the environmental impacts of developing 8,500 residential units within Downtown were evaluated in the 2005 Downtown Strategy FEIR at a program-level, which remains current.

Further, an Addendum to the Downtown Strategy 2000 EIR was prepared to update traffic conditions a decade after the 2005 FEIR was certified. The Director of PBCE determined that no new environmental impacts would occur related to the construction of Phase 1 of the Downtown Strategy 2000 (7,500 residential units). Utilizing 2014-2015 traffic counts and the City's updated CUBE model, it was determined that up to 7,500 units could be constructed within Downtown without resulting in new or different traffic impacts than had been disclosed in the 2005 Downtown Strategy FEIR. For this reason, and those described above, the Downtown Strategy 2000 EIR continues to be an accurate evaluation of program-level and traffic-related project-level impacts of proposed Phase 1 development projects Downtown and will remain in effect until the development levels are achieved or the Downtown Strategy 2040 is approved.

# 4.0 **PROJECT LOCATION**

San José's Downtown encompasses approximately three square miles generally bounded by Taylor Street to the north, San José State University and City Hall to the east, Interstate 280 to the south, and the Diridon Station Area to the west. State Route 87 runs in a north/south direction and generally divides Downtown. Los Gatos Creek flows into the Guadalupe River at the confluence of Santa Clara Street on the west side of State Route 87. Downtown boundaries are shown on Figure 2.

# 5.0 DESCRIPTION OF THE DOWNTOWN STRATEGY 2040 PROJECT

The Downtown Strategy 2000 and San José 2040 General Plan envisioned Downtown development as shown in Table 3, below. The City is now proposing to update the Downtown Strategy consistent with the 2040 General Plan and 4-Year Review, and increase the amount of allowed development. The broad recommendations and guiding principles of Strategy 2000 remain generally pertinent to the overall vision for Downtown. The general descriptions of the "Strategies and Actions", which were programmatic improvements described in Downtown Strategy 2000 and the EIR will be carried over to the Strategy 2040 EIR.

The development levels proposed as part of the Downtown Strategy 2000 were evaluated in the Strategy 2000 and 2040 General Plan EIRs at a program-level. The Downtown Strategy 2040 EIR will evaluate the traffic generated by the revised development capacities shown in Table 3, below, at a project-level (approximately 2025) and program-level (2040).

The retail, and hotel capacity envisioned for Downtown would be the same as envisioned in the Downtown Strategy 2000 and 2040 General Plan. The increase in residential capacity would be achieved by transferring residential units from outlying (beyond the general vicinity of Downtown) Urban Villages and other Growth Areas identified in the General Plan. The increase in office development (or jobs) would be achieved by transferring 10,000 jobs from Coyote Valley development identified in the General Plan, as recommended during the 4-Year General Plan Review process.

TABLE 3 PROPOSED DOWNTOWN STRATEGY 2040 DEVELOPMENT CAPACITIES					
Land Use	Current Downtown Strategy 2000	Current 2040 General Plan	Proposed Downtown Strategy 2040		
	(2010 Horizon)		2025 (Project Level)	2040 (Program Level)	
<b>Residential</b> (in units)	8,500	10,360	14,360	14,360	
Office (in sf)	11.2 million	11.2 million	7.5 million*	14.2 million	
Retail (in sf)	1.4 million	1.4 million	500,000*	1.4 million	
Hotel (in rooms)	3,600	3,600	2,400*	3,600	
market demand. It is	been reduced from what was expected that market demand nt is constructed Downtown.				

The EIRs prepared for the Downtown Strategy 2000 and General Plan included mitigation measures for environmental impacts. These mitigation measures have been included, as appropriate and applicable, as conditions of approval for all approved Phase 1 projects. As part of the Downtown

Strategy 2040 update effort, impacts will be re-analyzed per recent changes in the regulatory and legislative climate, particularly related to air quality, greenhouse gas emissions, and traffic analysis requirements that were not in effect at the time the previous EIR was completed. Mitigation measures, including traffic mitigation measures, previously identified in the Downtown Strategy 2000 will be reviewed and may be revised, as necessary.

Revisions to the Downtown Strategy 2000 EIR, consistent with the 2040 General Plan, could also include:

- 1) Updating the Downtown traffic analysis to reflect current conditions and potentially, the mitigation measures required;
- 2) Reflecting the recently approved Diridon Station Area Plan;
- 3) Revising mitigation measures pertaining to such topics as cultural resources, shade and shadow, biological resources, and stormwater to reflect Envision 2040 General Plan policies;
- Identifying Employment Priority Areas in proximity to the future Downtown BART Station (both options) as described in the recently released BART Silicon Valley Phase II Extension Project SEIS and SEIR (December 2016);
- 5) Changing the Zoning Code regulations and applicable design guidelines for Downtown as necessary to support General Plan policy consistency and implementation;
- 6) Revising the project phasing;
- Amending the General Plan's Land Use/Transportation Diagram to reflect a slight modification to the boundaries of Downtown along North 4th Street between East St. John and East Julian Streets (Figure 3);
- 8) Amending the General Plan Land Use/Transportation Diagram to change the land use designation from *CIC Combined Industrial/Commercial* to a combination of *Downtown* and *Commercial Downtown* on an approximately 10-acre site generally located south of Coleman Avenue between SR-87 and the Guadalupe River to allow a mix of residential and commercial development;
- 9) Amending the General Plan Land Use/Transportation Diagram to change the land use designation from *Downtown* to *CIC Combined Industrial/Commercial* on approximately 2.05 acres located on the north side of Ryland Street, east of SR-87, and south and west of Coleman Avenue;
- 10) Amending General Plan Transportation Policies and/or Council Policy 5-3 if necessary to implement SB 743; and
- 11) Other General Plan amendments as necessary to update Strategy 2000, such as extending the horizon year and changing the General Plan Land Use/Transportation Diagram to reflect modifications to the boundaries of Downtown.

# 6.0 ENVIRONMENTAL IMPACTS TO BE ANALYZED

The EIR will address the environmental impacts associated with the proposed Downtown Strategy 2040. The City anticipates that the EIR will focus on the following issues:

# Land Use

The EIR will describe existing land uses in the Downtown and the project's consistency with plans and policies including the current Envision San José 2040 General Plan and General Plan Land Use/Transportation Diagram. The EIR will describe the changes in land uses proposed by the project and identify land use compatibility impacts, as necessary. Mitigation measures will be described for any significant land use impacts.

# **Transportation**

The EIR will describe the existing traffic conditions in the Downtown and compare them to project traffic conditions, based on a Traffic Impact Analysis (TIA) to be completed according to the requirements of the City and Santa Clara Valley Transportation Authority (VTA). Implications of the recently enacted Senate Bill 743 will be considered. The TIA will build on the analysis completed for the Strategy 2000 and General Plan 2040 EIRs. Vehicle miles travelled (VMT) will be calculated and Transportation Demand Measures (TDMs) will be described. Traffic impacts resulting from the proposed project and feasible mitigation measures for significant impacts will be identified.

# Noise and Vibration

The EIR will describe the existing noise environment and noise impacts to and from the proposed project, using the analysis in the Strategy 2000 and General Plan EIRs to the extent possible. Noise impacts will be identified for: (1) proposed land use changes that will expose new sensitive receptors to noise or vibration levels exceeding those considered normally acceptable based on the City's policies; and (2) changes in the noise environment resulting from the project, including those related to traffic. Mitigation measures will be identified, as appropriate.

# Air Quality

The EIR will describe existing local and regional air quality and the air quality impacts of the proposed project in accordance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines. The impact of the project on local emissions and regional air quality plans will be analyzed. Impacts on the proposed land use scenarios from toxic air contaminants and diesel particulate matter will also be analyzed to the extent possible for project-level development. Mitigation measures will be identified, as appropriate.

# **Biological Resources**

The EIR will include a description of the existing biological setting and an analysis of impacts to biological resources such as habitats, special-status species, and biologically sensitive areas, based on the analysis included in the Strategy 2000 and General Plan EIRs. Impacts from the proposed project will be described and mitigation measures including the Santa Clara Valley Habitat Conservation Plan (the "Habitat Plan") will be identified, as appropriate.

# Geology, Soils and Seismicity

The EIR will identify geologic and seismic hazards based on the Strategy 2000 and General Plan EIRs to the extent possible. The EIR will describe any geologic constraints or risks resulting in impacts to development proposed and identify mitigation measures, as appropriate.

# Hydrology and Water Quality

The EIR will describe existing hydrology and water quality and will evaluate flooding, drainage, and water quality impacts that would result from or impact development in the Downtown. Information from the Strategy 2000 and General Plan EIRs will be utilized to the extent possible. The EIR will identify mitigation measures, as appropriate.

# Hazardous Materials and Hazards

The EIR will describe existing conditions and impacts resulting from hazardous materials contamination from current or former uses in the Downtown using information in the Strategy 2000 and General Plan EIRs to the extent possible. Hazards associated with aircraft operations of the Norman Y. Mineta San José International Airport will also be described. Mitigation measures will be identified for impacts resulting from or to development included in the project, as appropriate.

# Public Services

Increases in demand for public services resulting from the project will be estimated in the EIR based upon a qualitative estimate of demand for school, police, fire, and medical services and estimates of per capita demand for parks and libraries. Likely impacts to the physical environment that could result from these increased demands will be identified. Mitigation measures, such as in-lieu fees, parkland or school site dedication, and other programs and funding mechanisms for new facilities will be identified, as appropriate.

# Utilities and Service Systems

The EIR will describe the anticipated demand for utilities and services, including water, sanitary sewer, storm sewer, and solid waste resulting from the proposed project. Exceedance of the existing capacity of existing infrastructure, such as water, stormwater, and sanitary sewer pipelines will be identified. Mitigation measures for utility and service impacts will be identified, as appropriate.

# Cultural Resources

The EIR will describe existing cultural resources in the Downtown based upon available inventories of historic resources in the Downtown, including the Strategy 2000 and General Plan EIRs. The potential for cultural or historic resources to be affected by development will be assessed. Mitigation measures will be identified for significant cultural resource impacts, as appropriate.

# Aesthetics and Visual Resources

The EIR will describe the existing visual character of the Downtown. The EIR will evaluate the aesthetic changes that will result from implementation of the proposed project. Mitigation measures for aesthetic and visual resource impacts will be identified, as appropriate.

# Energy

In conformance with Appendix F of the CEQA Guidelines, the EIR will identify the potential for the project to result in significant energy impacts. Mitigation measures for energy impacts will be identified, as appropriate.

# Population and Housing

The EIR will describe anticipated changes in projected population, jobs, and housing as a result of the proposed project. Population and housing impacts will be addressed and mitigation measures identified, as appropriate.

# Global Climate Change and Greenhouse Gas Emissions

The EIR will describe the regulatory context surrounding the issue of global climate change and will evaluate the greenhouse gas emissions and contribution to global climate change resulting from the project. The EIR will also discuss impacts resulting from the effects of global climate change consistent with the City's Climate Reduction Strategy. Mitigation measures will be identified, as appropriate.

# Cumulative Impacts

The EIR will discuss the cumulative impacts of the project in combination with other past, present or reasonably foreseeable project-level and programmatic projects. Mitigation measures will be identified to reduce and/or avoid significant impacts, as appropriate.

# Alternatives

The EIR will evaluate possible alternatives to the project, based on the results of the environmental analysis. The alternatives discussion will focus on those alternatives that could feasibly accomplish most of the basic purposes of the Downtown Strategy 2040 and could avoid or substantially lessen one or more of the significant environmental effects identified in the EIR (CEQA Guidelines Section 15126.6). The environmentally superior alternative(s) will be identified based on the number and degree of associated environmental impacts.

# Other Sections

The EIR will also include all other sections required under the CEQA Guidelines, including: 1) Growth Inducing Impacts; 2) Significant Unavoidable Impacts; 3) Significant Irreversible Environmental Changes; 4) Consistency with Plans and Policies; 5) References; and 6) EIR Authors. Relevant technical reports will be provided as appendices.

# **County of Santa Clara**

**Parks and Recreation Department** 

298 Garden Hill Drive Los Gatos, California 95032-7669 (408) 355-2200 FAX 355-2290 Reservations (408) 355-2201

www.parkhere.org

28 March 2017

Mr. Darryl Boyd City of San José Department of Planning, Building, and Code Enforcement 200 E. Santa Clara St., 3<sup>rd</sup> Fl. Tower San José, CA 95113-1905

SUBJECT: Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Downtown Strategy 2040 Project

To Whom It May Concern:

The County of Santa Clara, Parks and Recreation Department (County Parks) has reviewed the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the City of San José Downtown Strategy 2040 Project. The Downtown area is approximately three square miles generally bounded by West Taylor St. /Coleman Ave. /East Julian St. to the north, San José State University and City Hall to the east, Interstate 280 to the south, and the Diridon Station Area to the west. The project proposes to increase residential capacity from 8,500 units to 14,360 units and increase office capacity from 11.2 million square feet to 14.2 million square feet.

The County Parks Department is charged with the planning and implementation of *The Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan)*, an element of the Parks and Recreation Section of the County General Plan adopted by the Board of Supervisors on November 14, 1995. Although responsibility for the actual construction and long-term management of each individual trail varies, the County Parks Department provides general oversight and protection for the overall trail system.

The Downtown Strategy 2040 Project does not specifically call out development projects within the area. However, within the designated Downtown area, the existing trails and proposed trail routes located near the Project site are as follows:

- Sub-Regional Guadalupe Trail (S3) is a constructed off-street trail that runs north- south through the project site. The trail is routed from the regional San Francisco Bay Trail (R4) in San Jose to the Guadalupe Reservoir.
- Sub-Regional Los Gatos Creek Trail (S4) is a partially constructed off-street trail that runs east and west through the project site, connecting to the Guadalupe River Trail (S3) on W. Santa Clara Street. The trail begins in San Jose at the Guadalupe River Trail (S3) and crosses upstream



through the cities of Campbell and Los Gatos to the Regional Bay Area Ridge Trail Santa Cruz Mountains (R5-A) at Lexington Reservoir.

Guadalupe River – Coyote Creek Trail Connector Route (C34) – is a constructed on-street bike route running along W. San Fernando Street. The route connects the Los Gatos Creek Trail (S4) and Guadalupe/San Teresa Trail (S3) with the Coyote Creek / Llagas Sub-Regional Trail (S5).

The County Parks Department respectfully recommends that the following items be addressed in the DEIR as they relate to the existing and proposed countywide trail routes in the vicinity of the Project site:

# Aesthetics

Concerning the potential for visual and aesthetic impacts, the DEIR should evaluate any degradation of views in the area of the Project site, including from the Guadalupe Trail (S3), Los Gatos Creek Trail (S4) and Guadalupe River – Coyote Creek Trail (C4).

# Land Use

The DEIR should address the proposed project's consistency with the Countywide Trails Plan (1995).

# **Traffic and Parking**

A full traffic study should be performed to analyze additional traffic the Project may generate, including how it may impact the existing surrounding neighborhoods as well as the existing/proposed trails listed above. The traffic study should also address the impact to traffic and parking related to the VTA BART Silicon Valley – Phase II Extension Project

# **Other Areas:** Recreation

The Project may potentially impact recreational facilities within the Project vicinity. Project maps and the overall DEIR should document the countywide trail routes, and consider that the trails offer opportunities for non-motorized connections from the surrounding neighborhoods to the Project site. As documented routes of countywide significance, these trails also provide connections between nearby parks, trails, and open space areas.

This update to the City of San José Downtown Strategy 2000, known now as the Downtown Strategy 2040 will impact the Trails Element of the Parks and Recreation Chapter of the 1995 County of Santa Clara General Plan. The County Parks Planning Team is available as a resource to ensure compliance with the Trails Element of the Parks and Recreation Chapter of the 1995 County of Santa Clara General Plan.

Thank you for the opportunity to comment on the Notice of Preparation of the City of San José's Downtown Strategy 2040 DEIR. The County requests a copy of the Draft EIR once it is released for public review. If you have questions related to these comments, please call me at (408) 355-2228 or e-mail me at <u>Cherise.Orange@prk.sccgov.org</u>.

Sincerely,

Cherise Orange Associate Planner



**Board of Supervisors:** Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian **County Executive:** Jeffrey V. Smith



April 10, 2017

Attn: Darryl Boyd Department of Planning, Building and Code Enforcement 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San Jose, CA 95113-1905 E: Darryl.Boyd@sanjoseca.gov

# Subject:Notice of Preparation of Draft Environmental Impact Report for the<br/>Downtown Strategy 2000 Update (Downtown Strategy 2040)

Dear Mr. Boyd,

Thank you for the opportunity to provide comments regarding the Notice of Preparation (NOP) of Draft Environmental Impact Report (EIR) for the Downtown Strategy 2000 Update (Downtown Strategy 2040). The City of Santa Clara would like to highlight main points of concern and areas of proposed extended analysis below for your consideration.

- The NOP identifies that the City of San Jose's 5 year Traffic Capital Improvement Program (CIP) does not extend beyond what is identified in Phase 1 of development capacity. It is recommended that traffic impacts are analyzed in detail for a period of 5 years but that the EIR is more general regarding impacts after this period with intent to revisit analysis after this time. Re-evaluation after a period of five years will allow for changes in development intentions and a more accurate depiction of future traffic impacts.
- Please include the City of Santa Clara intersections in the Traffic Impact Study and EIR per the Congestion Management Program (CMP) Guidelines. Additionally, trips from approved and pending projects in the City of Santa Clara need to be included in the traffic analysis.
- The City of Santa Clara recommends further traffic impact analysis from Coleman Street and East Santa Clara to the Alameda that will directly impact traffic within the City of Santa of Clara and include mitigation measures. In particular, traffic impacts of the projects identified in the NOP such as the 10-acre site generally located south of Coleman Avenue between SR-87 and the Guadalupe River to allow a mix of residential and commercial development as well as the approximately 2.05 acres located on the north side of Ryalnd Street, east of SR-87, and south and west of Coleman Avenue, should be analyzed in more detail.



- Further analysis and clarification of the traffic impacts and traffic pattern shifts caused by transferring 10,000 jobs from the Coyote Valley development area to the Downtown area should be identified and analyzed. Would this transfer require an update to the traffic analyses conducted for the Envision 2040 General Plan?
- Does the level of commercial development in the Downtown area continue to be similar to what was analyzed in the Addendum to the Downtown Strategy 2000 EIR under Phase 1(2.0 million square feet)? Section 3.0 Relationship to Existing Downtown Strategy 2000 states that 7,500 units could be constructed within Downtown without resulting in new or different traffic impacts then what was disclosed in the 2005 Downtown Strategy FEIR. The Downtown Strategy 2000 EIR showed impacts under Phase 1 that required mitigations including Coleman Avenue widening. The Addendum concluded that the widening of Coleman Avenue is not necessary to serve Phase 1 but if the commercial development has exceeded what was analyzed in the Addendum then additional traffic analysis would be required.
- Regarding Section 5.0 of the NOP: Is the transferring of residential units from outlying areas into the Downtown area consistent with other Planning efforts currently under way at the City of San Jose including the Urban Village plans?
- Finally, revision of traffic impacts relating to changes in the proposed Residential, Office, Retail and Hotel development capacities from what was envisioned from the Downtown Strategy 2000 and General Plan 2040 to what is proposed for the Downtown Strategy 2040. It is recommend that traffic impacts and analyzed in particular to Residential units as the total number has increase the 14,360 units (which includes pending or approved projects from Phase 1).

The City of Santa Clara thanks you for the opportunity to review and comment on the NOP. Please do not hesitate to contact us with any questions regarding our comments and concerns.

Sincerely,

Lu histe

Andrew Crabtree Director of Community Development



April 10, 2017

Attn: Darryl Boyd Project Manager for City of San Jose Downtown Strategy 2040 Update Darryl.Boyd@sanjoseca.gov

# Comments on the Notice of Preparation for Environmental Impact Review for City of San Jose Downtown Strategy

Dear City of San Jose planning staff,

Thank you for the opportunity to comment on the EIR for the Downtown Strategy. It is good to see the city move forward with its plans for the Downtown and Diridon areas in line with planned transportation investments, and taking into account updates to city and state policies and current economic conditions.

Friends of Caltrain is a 501c3 nonprofit focused on successful modernization of Caltrain in the context of an integrated transportation network and increased use of sustainable transportation in the Peninsula Corridor from San Francisco through San Jose.

As the City knows well, the State of California is in the process of a transition in how the California Environmental Quality Act assesses the environmental impact of transportation. The metric to assess transportation impact is changing from Vehicle Level of Service (LOS), a measure of vehicle delay at intersections, to Vehicle Miles Traveled per service population.

The change is being implemented because the use of LOS as a metric has had a tendency to discourage infill development which is environmentally beneficial; since infill is more conducive to transit and active transportation which generate less pollution. Use of the LOS metric tends to encourage greenfield development which consumes natural habitat, generates more pollution, and is less resource-efficient. In addition, the mitigations fostered by the use of LOS as a metric typically focus on increasing roadway capacity, inducing increased driving and pollution, while making the streets less safe and appealing for walking, bicycling, and transit use.

Several cities, including San Francisco, Oakland, and Pasadena have already shifted to the use of the new metric. Cities will have up to two years to migrate to the new metric once the formal rulemaking process is complete. Cities have discretion about about when to start using the new rules. We

understand that the City of San Jose, with prudence and foresight, has already started assessing the process changes required to adopt the new rules.

We strongly urge the City of San Jose to migrate to the VMT metric for the Downtown Strategy Area, since the new metric is more complementary to the city's goals of urban infill development, encouraging and increasing the use of transit, walking, and bicycling.

# Case study: San Francisco Central SOMA EIR vs. Mountain View North Bayshore EIR

Relevant examples showing the contrast between the old and new transportation impact metrics can be seen by comparing the recent Environmental Impact Reports from the City of San Francisco's Central SOMA plan, which is the first land use EIR in the region that we know of to use VMT as the primary metric, and the EIR for the City of Mountain View's updated plan for North Bayshore which seeks to add housing to an area initially developed as a single-use office park, evolving the area into a mixed use neighborhood with jobs, homes and services.

In the San Francisco Central SOMA EIR, which uses the VMT metric, the analysis, impacts, and mitigations are highly complementary with the city's goals to foster infill development and increase the already high share of transit and active transportation. Unfortunately, the Mountain View North Bayshore EIR, which still uses the LOS metric, provides analysis and recommendations, describes impacts, and proposes mitigations that are at odds with the city's strong policies to increase the use of sustainable transportation.

# San Francisco Central SOMA plan - VMT metric fosters transit, active transportation, and infill

San Francisco's <u>Central SOMA plan envisions adding space</u> for 25,500 households and 63,600 jobs by 2040 in 230 acres surrounding the southern portion of the Central Subway transit line. The San Francisco Central SOMA EIR does away with LOS analysis entirely.

Using the VMT metric, the EIR concludes that "development under the Plan... would not cause substantial additional VMT or substantially increase automobile travel." Using the new rules, because the large amount of infill development in a transit-rich area would not trigger increased driving, the main conclusion is that the plan would not have a major negative impact on the environment. (S-16)

	2005*	2040 with Plan		
Туре		VMT per Capita	% Reduction in VMT in Central SoMa from 2005	
Central SoMa Area				
Residential <sup>b</sup>	2.8	2.0	30.7%	
Employment <sup>c</sup>	10.4	7.6	26.6%	
Bay Area Regional Average (without the Plan)				
Residential <sup>b</sup>	16.2	14.8	-	
Employment	24.5	20.3	-	

# TABLE IV.D-5 Average Daily VMT per Capita, Plan Bay Area Data, 2005 Baseline and 2040 (with Central SoMa Plan) Conditions

SOURCE: MTC/ABAG; LCW Consulting, 2016.

a tomo

The core finding of the report is this table showing that with the infill development in the plan, <u>vehicle</u> <u>miles per capita is projected to decrease</u> by 27% for employment uses and 31% for residential uses, well under the regional average - showing a benefit to the environment - see IV.D-37

At the starting point, the driving mode share in the area is just under 40%. The implementation of the plan is projected to reduce the rate of driving even further to 30%, with a few points increase in transit use, and substantial increases in walking and bicycling due to increased density and improvements to streets and sidewalks.

TABLE IV.D-4	SUMMARY OF MODE OF TRAVEL FOR CENTRAL SOMA – WEEKDAY PM PEAK PERIOD –			
	EXISTING AND 2040 CUMULATIVE CONDITIONS			
200 C				

	Existing Conditions		2040 Cumulative Conditions	
Mode of Travel	Existing	Existing plus Plan	No Project	2040 Cumulative plus Plan
Auto	39%	37%	31%	30%
Transit	30%	29%	32%	32%
Other*	31%	34%	37%	38%
Total	100%	100%	100%	100%

SOURCE: San Francisco Transportation Authority; Fehr & Peers, 2016. NOTES:

The mode share conditions for a.m. peak conditions are similar to the p.m. peak presented in this table, however, with slighter higher transit mode share and slightly lower mode share for other modes, which includes walking and bicycling.

a. Other includes non-motorized modes, including walking and bicycling.

However, the EIR does foresee an increase in transit demand that would cause delays to local and regional transit routes. Mitigations to speed transit include include transit-only lanes, transit signal priority, transit boarding islands and, pre-payment to speed boarding (S-17, 18). The EIR finds impacts to bicycle travel, to be mitigated by the addition of protected bike lanes. Another impact found by the study is crosswalk crowding, to be mitigated by widening crosswalks. The EIR proposes funding strategies to mitigate the impacts including raising revenue from parking, congestion pricing, and grant funding. The recommendations for improvements to transit, bicycling, and walking are richly detailed, in line with the area's heavy use and projected increase in these modes.

# Mountain View North Bayshore - Recommendations at cross-purposes to the city's policies

The City of Mountain View also places a high priority on reducing the share of driving in the North Bayshore area, where Google is headquartered. The North Bayshore Precise Plan requires a reduction

in drive-alone mode share from the current rate around 60% to 45% in the time frame of the plan. Currently, the city is updating its North Bayshore Precise Plan to incorporate housing, transforming a single use office park into a mixed-use neighborhood with housing and services.

Adding housing and services near jobs would logically be expected to reduce driving, since some of the residents would take advantage of the convenient option to live near work, and would commute by walking and bicycling; and more people will also use nearby services without driving. In fact, the report finds that adding housing and services near jobs reduces the expected driving by 27%.

# TABLE 8-A MIXED-USE REDUCTION OF PERSON TRIPS<sup>1</sup>: BASE SCENARIOS AND LAND USE SENSITIVITY TESTS

Scenario	Daily	AM Peak Hour Total	PM Peak Hou Total
Base Scen	arios		
2014 North Bayshore Precise Plan	5.4%	8.7%	8.9%
	(8,360)	(1,680)	(1,460)
North Bayshore Precise Plan with Standard Residential	10.1%	13.7%	12.9%
Units, Standard Parking	(23,520)	(3,440)	(2,980)
North Bayshore Precise Plan with Standard Residential	15.4%	20.7%	18.6%
Units, Reduced Parking	(35,860)	(5,200)	(4,290)
North Bayshore Precise Plan with Smaller Residential Units,	13.3%	18.0%	16.5%
Standard Parking	(29,490)	(4,440)	(3,730)
North Bayshore Precise Plan with Smaller Residential Units,	18.6%	25.0%	22.2%
Reduced Parking	(41,240)	(6,160)	(5,020)
Land Use Sensit	ivity Tests		
North Bayshore Precise Plan with 500 Standard Residential	7.8%	11.3%	11.6%
Units, Standard Parking, within Gateway Capacity	(12,690)	(2,270)	(1,980)
North Bayshore Precise Plan with 2,000 Standard Residential Units, Reduced Parking, within Gateway Capacity	13.1% (22,780)	18.3% (3,820)	17.3% (3,120)
North Bayshore Precise Plan with 1,500 Smaller Residential	10.8%	15.8%	14.5%
Units, Standard Parking, within Gateway Capacity	(18,190)	(3,250)	(2,560)
North Bayshore Precise Plan with 3,000 Smaller Residential	15.8%	22.8%	20.9%
Units, Reduced Parking, within Gateway Capacity	(28,130)	(4,850)	(3,880)

Note:

 Table shows the mixed-use reduction of person trips, both as a percentage of total person trips and as the number of trips reduced. Because the total number of person trips for each alternative differs, there will be cases where the percentages are similar, but the absolute number of trips reduced may vary greatly.

Mountain View is still using the older Level of Service analysis to assess the transportation impact of adding housing to an office park. (A VMT analysis was also done <u>and can be found here</u>). Therefore, the bulk of the transportation section of the environmental impact report is spent on analyzing the change to vehicle intersection delay in a large number of intersections on streets, roads, and highways in North Bayshore and surrounding areas.

In many cases, auto delay is expected to increase beyond the threshold level, and therefore the EIR recommends adding turn lanes and widening roads in many locations. Often, widening the roadway is

analyzed and deemed to be infeasible, because the right of way is unavailable, or because the roadway is in a jurisdiction that Mountain View does not control. Where the widening or lane addition is feasible, the presumption is that the changes will be made, with mitigations to reduce the harm to people walking and bicycling.

Even though the city's policy goals are to reduce driving and increase the use of transit, walking, and bicycling, and driving is required to become a minority activity over the time period of the plan, the lion's share of the content in the EIR is spent analyzing and proposing changes that will make driving more convenient, and will make walking and bicycling less convenient.

Finally, in a very unfortunate outcome of using the obsolescent LOS analysis, the EIR concludes that the current plans for a single-use office park with modest services would be the "environmentally preferred alternative." The alternative proposing to add a robust amount of housing and services near jobs would add delay to area intersections, and therefore is seen as environmentally "worse", even though it results in less driving, greenhouse gas emissions, and pollution.

In summary, the Mountain View North Bayshore EIR using LOS as a metric concludes that adding housing and services near jobs is environmentally less preferable, and recommends many actions that favor driving over walking and bicycling, despite the city's policies to make driving a minority travel mode.

# Recommendations: City of San Jose should use VMT as the primary metric for transportation impact, mitigation, and public disclosure

The State of California has a clear direction to change the way that the environmental impact of transportation is assessed. However, until these changes are adopted by cities, we will continue to see environmental reviews that generate results counter to the goals of cities that want to increase the use of sustainable transportation, recommending less mixed use infill development, and ignoring or downplaying mitigations and improvements that are needed for transit, walking, and bicycling to support the infill development.

We strongly urge the City of San Jose to migrate to the new metric for the Downtown Strategy Area, since the new metric is more complementary to the city's goals of urban infill development, encouraging and increasing the use of transit, walking, and bicycling.

In addition, we recommend that the City of San Jose adopt an approach similar to the City of San Francisco to assess the impacts of infill development on the downtown area's transit, bicycling, and walking facilities, and propose mitigations to lessen those impacts. Under the city's current policies, development within the Downtown is exempted from traffic mitigation requirements, with mitigation construed under the LOS regime to mean increasing vehicle capacity, which would be in tension with the city's policies to increase the share of transit and active transportation in the downtown/Diridon area. If the city does start to utilize VMT as the transportation metric, where LOS-driven roadway expansion mitigation is irrelevant, it makes sense to consider mitigations that would reduce impacts to transit and active transportation, with funding mechanisms, as in San Francisco, that are conducive to these goals.

With the updated analysis in this EIR, we would encourage the city to re-evaluate some of the mitigation projects that were proposed in the early 2000s focusing on increasing vehicle capacity into the downtown area. With VMT assessment, upcoming major investments in transit, recent focus on safety for bicycling and walking, and changes in mobility technology, it makes sense to do a current and comprehensive assessment of access and parking needs for the Downtown and Diridon areas, and update any plans that no longer serve the current and projected needs.

Finally, one of the important goals of the California Environmental Quality Act is public disclosure - making available to community members important information about the environmental impacts of projects and programs, and helping policymakers make reasoned decisions about how to handle these impacts. Unfortunately, where the city's policies favor transit and active transportation, the disclosures in a EIR utilizing the vehicle LOS metric focus on the impact on solo drivers - even where solo drivers are now, or are expected to become the minority of the service population.

From the perspective of public disclosure, the LOS-focused EIR heightens the concerns about convenience for drivers, while ignoring or downplaying concerns about the impacts on users of transit, walking, and bicycling. From the perspective of public disclosure, a LOS-focused EIR heightens concerns about impacts on mobility - it will be less easy to speed through downtown streets - and downplays the benefits of accessibility - there will be many more valuable and appealing destinations to visit by walking and bicycling, and conveniently accessible by transit. The use of the VMT metric and impact analysis on modes that reduce VMT guides the public conversation in directions complementary to the city's policies.

If the city is unable to fully migrate to the VMT metric in the time frame of the Downtown Strategy EIR, we strongly recommend that the VMT analysis, which is already required to be done for the purposes of assessing impact on GHG and other pollutants, should disclosed clearly and prominently, so that members of the public and policymakers can see the relative benefits, impacts, and tradeoffs of the scenarios studied the EIR.

Thank you for your consideration,

Adina

Adina Levin Friends of Caltrain

http://greencaltrain.com 650-646-4344

Edmund G. Brown Jr., Governor

# <u>STATE OF CALIFORNIA</u> NATIVE AMERICAN HERITAGE COMMISSION 11XA 11V E. AIVIE DICAIN 11 1550 Harbor Blvd., Suite 100 West Sacramento, CA 95691 Phone (916) 373-3710 Fax (916) 373-5471 Email: naho@nahc.ca.gov Website: http://www.nahc.ca.gov Twitter: @CA\_NAHC

April 10, 2017

Darryl Boyd City of San Jose, Dept. of Planning 200 East Santa Clara St. San Jose, CA 95113

#### SCH# 2003042127 PP15-102: Downtown Strategy 2000 Update RE:

Dear Mr. Boyd:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

**CEQA was amended significantly in 2014.** Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a <u>separate category of cultural resources</u>, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filled on or after July 1, 2015. If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). Both SB 18 and AB 52 have tribal consultation requirements. If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply. also apply.

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

### AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

  - a. A brief description of the project.
    b. The lead agency contact information.
    c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d))
  - A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact đ. list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
- Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative 2. Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub.
  - Resources Code § 21080.3.1 (b)). a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
- Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss 3. them, are mandatory topics of consultation:

APR 13 2017 CITY OF SAN JOSE PLANNING, BUILDING AND CODE ENFORCEMENT

- Alternatives to the project. a.
- b.
- Recommended mitigation measures. Significant effects. (Pub. Resources Code § 21080.3.2 (a)). C.
- Discretionary Topics of Consultation: The following topics are discretionary topics of consultation: 4.
  - Type of environmental review necessary. Significance of the tribal cultural resources. а.
  - b.
  - Significance of the project's impacts on tribal cultural resources. c.
  - If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may' recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)). d.
- Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government 5. Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
- Discussion of impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following: a. Whether the proposed project has a significant impact on an identified tribal cultural resource. 6.

  - Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to h. Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
- Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs: 7. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal a.
  - cultural resource; or
  - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. b. (Pub. Resources Code § 21080.3.2 (b)).
- <u>Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:</u> Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be 8. recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).
- <u>Required Consideration of Feasible Mitigation:</u> If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation 9. measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

  - Avoidance and preservation of the resources in place, including, but not limited to: I. Planning and construction to avoid the resources and protect the cultural and natural context.
    - II. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following: I. Protecting the cultural character and integrity of the resource. b.
    - - Protecting the traditional use of the resource. ii.

а.

- Protecting the confidentiality of the resource. III.
- Permanent conservation easements or other interests in real property, with culturally appropriate management c. criteria for the purposes of preserving or utilizing the resources or places. d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
- Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, е. archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the
- conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)). Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991). f.
- Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be 11. certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
  - The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2. а.
  - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage b. in the consultation process.
  - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section c. 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

### This process should be documented in the Cultural Resources section of your environmental document.

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\_CalEPAPDF.pdf

### SB 18

4.

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09\_14\_05\_Updated\_Guidelines\_922.pdf

### Some of SB 18's provisions include:

- Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List," If a tribe open contacted, request the local government to be added as the local government with the tribal consultation. 1.
- 2.
- designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe. (Gov. Code § 65352.3 (a)(2)). No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation. <u>Confidentiality:</u> Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)). 3.
  - - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation a. or mitigation; or
    - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual b. agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

- 1.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page\_id=1068) for an archaeological records search. The records search will determine:
  - а.
  - If part or all of the APE has been previously surveyed for cultural resources. If any known cultural resources have been already been recorded on or adjacent to the APE. b.
  - If the probability is low, moderate, or high that cultural resources are located in the APE. C.
  - If a survey is required to determine whether previously unrecorded cultural resources are present. d.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. 2.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately a. to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate b. regional CHRIS center.
- 3.
- Contact the NAHC for: a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to
  - b. assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not 4. preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the
  - b. disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.

c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Please contact me if you need any additional information at gayle.totton@nahc.ca.gov.

Sincerely, Frank Lienert

Associate Governmental Program Analyst

cc: State Clearinghouse



SAN JOSE DOWNTOWN Association

April 10, 2017

City of San Jose Department of Planning, Building and Code Enforcement Attn: Darryl Boyd 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San José, CA 95113-1905

RE: SJDA comments - Downtown Strategy 2040 Project Update (Revised)

Mr. Boyd:

The San Jose Downtown Association provides the following feedback regarding the upcoming Downtown Strategy 2040 EIR Update and related policy actions. These comments affirm and further our previous positions regarding the Downtown Strategy 2040 EIR update, which were expressed to the city in letters dated June 17, 2015 and October 30, 2015 respectively (previous letters attached for reference).

# **Development Capacity and Phasing**

We applaud city staff and Council for adding additional development capacity in the Downtown Core as stated in both the General Plan 4-Year Update process, and the proposed Downtown Strategy 2040 EIR Update. As San Jose moves forward in implementing our collective vision of a more urban future, continuing to proactively analyze impacts associated with ample amounts of development capacity within the core is critical. We also support the decision to minimize the reliance on Horizons and Phasing in regards to implementation of this plan. The market conditions to build in Downtown San Jose have never been better and we must seize this opportunity while it is available and avoid the temptation to be overly prescriptive in terms of plan implementation.

Related policy strategies should also be examined as part of this EIR update process to encourage the continued redevelopment and densification of our central business district.

These strategies could include:

**Building Height Limits:** Analyze and potentially amend current FAA and OEI policies restricting building heights in the Downtown Core and Diridon Station Planning Area. These policies work in opposition to providing the appropriate amount of density for a

28 N. FIRST STREET SUITE 1000 SAN JOSE, CA 95113 TEL: 408-279-1775 FAX: 408-279-1904 WWW.SJDOWNTOWN.COM major American downtown, and must be reformed in order for San Jose to reach its full "urban" potential.

- Publically Owned Property Redevelopment and Disposition: Examine currently
  underutilized publically-owned parcels (i.e. city owned parking garages and VTA owned
  surface parking lots) and determine strategies to encourage higher-density
  development on these parcels through public-private redevelopment partnerships.
- *Impact Fees:* Consistently re-examine and update our suite of development impact fees and related taxes to ensure that high-density development remains economically feasible and appropriately priced in relation to other, more suburban, building typologies.
- Reallocation of Development Capacity: Continue to analyze the development feasibility of far-flung Urban Villages, and where appropriate, reallocate development capacity closer to major transportation infrastructure and the traditional urban core. Reallocating 10,000 jobs from Coyote Valley was an important start. In the future, additional development capacity should also be reallocated to centralized areas from more sprawl-inducing locations.

# Analyze a Future Downtown San Jose Without Building Height Restrictions

As stated above, we must begin to analyze and envision a future Downtown San Jose that assumes changes and reform to OEI and FAA dictated building height limitations. As Downtown continues to grow into one of the most transit-rich destinations in the Western United States, and aviation safety technology continues to improve with each passing year, the time is now to begin examining these decades old practices that have held Downtown San Jose back from being the major employment center of the South Bay.

The development capacities proposed in the Downtown Strategy 2040 project description are ambitious and bold. We encourage this visionary thinking. But we must go a step further. City Council and staff should further these bold strategies by examining the major policies that inhibit their implementation.

# Align Existing Downtown Development Incentives with EIR Updates

At the close of 2016, the previous City Council approved an assortment of incentives to encourage high-density residential development in the core. As part of this incentive package, there are time-sensitive performance requirements in place to encourage the redevelopment of these projects in a reasonable time frame. However, with the increased schedule for the Downtown Strategy EIR Update, there is potential that a development project could be considerably delayed due to a lack of available units covered under the EIR. Thus, there is a disconnect between the current Downtown residential high-rise incentives timeline and the Downtown Strategy EIR 2040 update timeline. If both actions are viewed as complimentary development incentives (as stated in the Downtown Strategy EIR 2040 Project Description), then both should be aligned to ensure that the incentives run in parallel with updates to the EIR.

# Mitigation Approaches to Transportation Impacts

As stated in our previous letter, transportation impact studies and associated mitigation strategies should recognize and incorporate the significant investments (both planned and current) in public transportation, bicycle infrastructure, pedestrian improvements, etc. in the core. Costs associated with traffic mitigation strategies should not be passed along to developers in the form of Impact Fees or related fiscal burdens. If we want to continue the redevelopment of Downtown San Jose and encourage smart growth in our city, incorporating additional Traffic Impact Fees and/or related costs to the most dense, truly urban development types works starkly in opposition of these goals.

# Avoid Prescriptive "Employment Priority Area" Overlay

While we agree with the aspiration and goal of locating as many downtown jobs as possible in proximity to public transit, we do not think a highly prescriptive "Employment Priority Area Overlay" is the correct policy mechanism. Some of the most important transit adjacent redevelopment sites – the VTA-owned Mitchell Block and the parcels adjacent to Diridon Station – are all publically owned (or plan to be) and could thus be regulated through a careful and thoughtful disposition process. Instead of restricting uses through an imprecise and loosely targeted overlay, the city should instead be working with its public agency partners – VTA and a likely JPA at Diridon – to ensure that these sites are redeveloped as largely commercial projects. This would be more easily achieved through strong development and disposition agreements/requirements, not a prescription regulatory overlay that could have unintended consequences and limit flexibility/creativity when structuring future public-private partnerships.

We look forward to working with city staff, City Council and the Mayor's Office as this process unfolds. Our Downtown is the original "Urban Village," and should be treated as such. As the city struggles to implement Urban Villages throughout the city, the highest priority should be given to the urban area of town that is successfully redeveloping under current regulatory conditions, our Downtown. Let's keep this momentum going and not overcomplicate a once in a generation opportunity to reshape Downtown San Jose into the prominent urban center of the South Bay.

Sincerely,

Scott Knies Executive Director

Cc: Mayor Sam Liccardo Councilman Raul Peralez Harry Freitas Reena Brilliot Jim Ortbal Jessica Zenk Kim Walesh Stan Vuckovich Nate Echeverria



SAN JOSE DOWNTOWN ASSOCIATION 28 N. FIRST STREET SUITE 1000 SAN JOSE, CA 95113 TEL: 408-279-1775 FAX: 408-279-1904 WWW.SJDOWNTOWN.COM

October 30, 2015

David Keyon Environmental Review Planner Planning, Building and Code Enforcement City of San José 200 East Santa Clara Street, 3<sup>rd</sup> Floor Tower San José, CA 95113

RE: Downtown Strategy EIR

Dear David,

Time is of the essence.

Shifting market preferences and economic trends are encouraging growth and investment in downtown areas throughout the United States. Downtown San Jose is no different. If we do not seize on this opportunity for dense, equitable and fiscally sustainable development, it may be lost.

To that end, the San Jose Downtown Association provides the following recommendations regarding the upcoming Downtown Strategy EIR and General Plan update processes.

### DEVELOPMENT CAPACITY AND PHASING

- As currently proposed, the development capacity covered under the EIR update is insufficient. Based on current trends and analysis of the development pipeline, we would likely utilize the 10,360 residential units covered under the proposed EIR update by Q1 2017. This would require another update to facilitate future streamlined investment in the Downtown. Why would we not analyze and clear (at a project-level) the desired amount of development during this update process?
- Increase the development capacity covered at a *project-level* to include 14,360 residential units, 11.2 M SF of Office, 1.4 Million SF of Retail, and 3,600 hotel rooms.

• Eliminate proposed project-level vs. program-level phasing and clear the above recommended development capacity at a *project-level* to 2040.

1

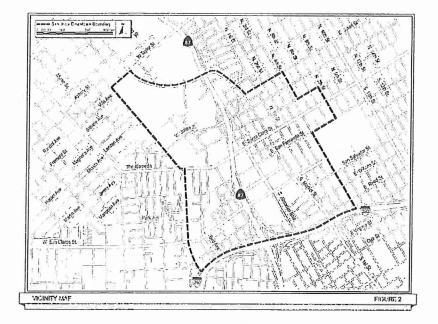
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# TRANSPORTATION IMPACTS, MITIGATION AND FUNDING

- Transportation impact studies and associated mitigation strategies should recognize and incorporate the significant investments (both current and planned) in public transportation, bicycle infrastructure, pedestrian improvements, etc.
- Traffic mitigation strategies should prioritize alternative modes of transportation, TDM management strategies and similar initiatives.
- Cost associated with traffic mitigation strategies within the downtown should not be passed along to development projects in the form of Traffic Impact Fees. There are more sustainable, equitable and cost-effective traffic mitigation strategies for downtown than building new roads and widening roads/intersections.
- If transportation impact studies no longer need to accommodate the assumed traffic impacts from a planned baseball stadium, then it is likely this will free up significantly more development capacity in the downtown.

## **DOWNTOWN BOUNDARIES**

 The Downtown boundaries as defined in the General Plan and Downtown Strategy EIR should match the boundaries presented in the EIR scoping document (see Figure 2 from Notice of Preparation below). It makes little sense to us that this area would be defined as Downtown for the purposes of the Downtown Strategy, but not the General Plan. The geographic boundaries of the General Plan and Downtown Strategy should be aligned to match the Downtown boundaries as described in the EIR Notice of Preparation.



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 Furthermore, we propose expanding the boundaries of Downtown in the General Plan and Downtown Strategy EIR to include the six block area on the northeast boundary of Downtown (See Figure 1: bounded by N. 4<sup>th</sup> Street to the West, Julian Street to the North, N. 7<sup>th</sup> Street to the East and St. John Street to the South), as well as the areas south of San Jose State (See Figure 2: bounded by S. 4<sup>th</sup> Street to West, San Salvador Street to the North, S. 10<sup>th</sup> Street to the East and Highway 280 to the South). See maps below for specific proposed boundary changes.



Figure 1: Northeast Expansion



Figure 2: Southeast Expansion

# **IDENTIFYING "JOBS PRIORITY AREAS" IN PROXIMITY TO TRANSIT**

- While we believe that it is important to encourage high-density commercial development in proximity to future BART stations, we do not feel that this should be done through restrictive zoning, overlays and similar land-use regulation.
- We support economic incentives and similar market-based approaches to encourage commercial development in proximity to regional transit networks.

Our hope is the outcome of the upcoming Downtown Strategy EIR Update process and corresponding General Plan Update process continue to help realize the aspirations of the Envision 2040 General Plan to "Focus growth within the Downtown which will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals." These goals can only be achieved by creating enough development capacity to accommodate the amount of growth envisioned.

Sincerely,

Scott Knies Executive Director

CC: Mayor Liccardo Councilman Peralez Harry Freitas Kim Walesh Darryl Boyd Paul Smith Chris Neale



San Jose Downtown Association 28 N. FIRST STREET SUITE 1000 SAN JOSE, CA 95113 TEL: 408-279-1775 FAX: 408-279-1904 WWW.SJDOWNTOWN.COM

June 17, 2015

Harry Freitas Director of Planning, Building and Code Enforcement City of San José 200 East Santa Clara Street San José, CA 95113

RE: Comments on the Downtown Strategy 2000 EIR Update

Dear Harry,

The San Jose Downtown Association provides the following feedback regarding the upcoming Downtown Strategy 2000 EIR Update. We are also providing preliminary feedback regarding the upcoming General Plan 4-Year Update, with a particular focus on how the Downtown Strategy EIR Update and General Plan Update processes interact and support one another.

We applaud the City of San Jose Planning Department, Department of Transportation, Department of Public Works, Office of Economic Development and City's Attorney's Office for taking on the Downtown Strategy EIR Update, as this district-wide environmental clearance document plays a vital role in the continued resurgence and redevelopment of Downtown.

In practical terms, the Downtown Strategy EIR removes the burden of project-specific environmental clearance by creating a mechanism for district-wide CEQA review. This streamlines the development process, provides much needed guidance and clarity to the development community, and creates a significant economic incentive to build in the downtown.

Our hope is that the outcomes of the Downtown Strategy EIR Update and corresponding General Plan Update continue to support and strengthen development in the core and help realize the aspirations of the Envision 2040 General Plan to "Focus growth within the Downtown which will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals" and create enough development capacity to accommodate the amount of growth envisioned for the area in the General Plan.

Sending clear market signals to the development community by clarifying the goals/language of the Downtown Strategy EIR, increasing the number of sites and development envelope of future opportunity sites, and creating more certainty through the entitlements process is critical to achieve these aims.

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To that end, we encourage the city and relevant stakeholders to consider three recommendations as part of the Downtown Strategy EIR and General Plan Update processes:

1) Increase the amount of downtown residential development allowed under the General Plan and covered in the Downtown Strategy EIR (ideally increasing to 14,360 residential units): Currently staff is proposing that the amount of residential development covered in the EIR increase from the current number of 8,500 units to 12,360 units (as well as increasing the amount of residential units covered in the General Plan from 10,360 to 12,360). Staff is also proposing that development horizons be removed in the downtown to allow for this amount of development to occur at any time prior to 2040. We fully support this approach and encourage the city to go further. Our recommendation is that this residential unit cap be increased to 14,360 units, provided that the 2,000 units of new residential development proposed would not trigger additional traffic mitigation studies and/or costs, or create significant delays to the overall EIR update process.

We also urge city staff to not transfer residential units from the soon to be finalized East Santa Clara Urban Village or the Alameda Urban Village, as these corridors are important "connectors" to the downtown and are showing strong interest from the development community. If possible, city staff should look to transfer residential units from Urban Villages farther from the downtown core that have seen less interest from the market.

In summary, we encourage the city to add as many additional residential units as possible covered in the EIR and General Plan (up to 14,360 units) without triggering additional traffic mitigation measures or causing delays to the EIR update process more broadly.

2) Clarify and amend any language in the Downtown Strategy EIR that conflicts with the vision for Downtown as described in the General Plan: There is currently language in the existing Downtown Strategy EIR that is in conflict with the stated goals of the General Plan to create a dense, pedestrian friendly, urban Downtown. This conflict has created some confusion in the development community, particularly in regards to density, scale of development, the role of historic districts and historic resources, and locations where the Downtown transitions to adjacent districts. It also creates a scenario where the language of the Downtown Strategy EIR directly (or indirectly) discourages density and makes the development goals envisioned in the General Plan difficult to achieve.

Examples of these opportunities for greater clarification:

Fountain Alley Development Site and Historic District Guidelines: Currently the Historic District guidelines for this area advise that new infill construction should be a "Maximum of four stories above grade, not to exceed 60 feet." This restriction on density for this site is further strengthened by language in the current Downtown Strategy EIR. We believe that this future development site in the Downtown Core, adjacent to VTA stations, planned BART, etc. should be considerably more dense and taller than this 60' limitation would allow. This desire to have a tall, dense development on this site should be clearly articulated in the new Downtown Strategy EIR to reflect the goals of the General Plan and to accommodate the amount of growth envisioned.

Remaining Development Sites Adjacent To and Within the St. James Square Historic District: The height and density restrictions via the St. James Square Historic District Guidelines also create challenges for the remaining development sites in that area. Currently the St. James Square Historic District Guidelines advise new development to be at or under 70' in height, again creating implied limitations on the density of development. To meet the goals for Downtown in the General Plan, these sites also must be dense and have tall buildings. This desire for tall buildings and density on these remaining development sites should be clearly articulated via the language of the Downtown Strategy EIR.

*Transition Zones from Downtown to Adjacent Neighborhoods*: The Downtown Strategy EIR, Downtown Design Guidelines and General Plan all call for scaled-down development in the transitional areas from Downtown to adjacent neighborhoods. While we believe this makes sense in principle, the question of how this is done in practice is of particular concern. Will this language restrict density in the rapidly redeveloping neighborhoods of SoFA, south of San Jose State or just north of City Hall? The update of the Downtown Strategy EIR provides an opportunity to clarify the position of the city on this density issue and should be worded in such a way to allow for and facilitate high-density and tall buildings within these areas classified as "transitional."

In order to create a dense downtown that can capture the amount of development envisioned in the General Plan, the city must make it clear to the development community that they can build large projects throughout the downtown core, even in transitional areas. The updates to the Downtown Strategy EIR provide an opportunity to articulate this aspiration and can provide strong supporting language to help facilitate this type of growth in all areas of the Downtown Core General Plan designation.

3) Expand the Downtown Core Boundaries as described in the General Plan Landuse Map and Zoning Map: In SPUR's report, The Future of Downtown San Jose, an analysis was conducted of available development sites downtown. In this analysis, which takes into account parking requirements and current density limitations, SPUR concludes that even with "an aggressive build-out scenario for downtown we still fail to reach the growth projections in the General Plan." A similar analysis was done by our organization and we came to the same conclusion: there are simply not enough development sites available within the area designated as "Downtown Core" in the General Plan to accommodate the amount of envisioned growth.

A logical solution to these development constraints is to increase the boundaries of the "Downtown Core" as described in the General Plan. These boundary changes could take place as part of the General Plan Update and Downtown Strategy EIR Update and should include the following areas:

"The Standard Pacific Lot" (bounded by Coleman Avenue to the North, Julian Street to the South), the Guadalupe River to West and Highway 87 to the East): This site, currently zoned "Combined Industrial/Commercial" should be designated as "Downtown Core" in the General Plan. This site has strong market potential as a mixed-use, urban neighborhood that would "close-thegap" between Downtown, Little Italy and the Coleman Market Center.



4

Extend from the West Side of 4<sup>th</sup> Street to the East Side of 7<sup>th</sup> Street, Between Julian Street to the North and E. St. John St. to the South: These six rectangular blocks to the Northeast of the Downtown Core in the General Plan (see map below) would be an ideal area to reclassify in order to meet the goals for Downtown and the City as prescribed in the General Plan. This area is in close proximity to current and planned transit infrastructure and is adjacent to the planned East Santa Clara Urban Village. Reclassifying this area as Downtown Core would again "close the land-use gap" and create a seamless connection of compatible densities and use designations between the Downtown Core and the East Santa Clara Urban Village.



In order to achieve the scale of development proposed for the downtown within the General Plan, we must encourage and incentivize the private-sector to continue building, and also provide enough development sites within the downtown core to facilitate this desired amount of growth.

We look forward to working with the various city departments and neighborhood stakeholders as part of this process. The key is to create enough development opportunities to accommodate the growth outlined for the area in the General Plan. We can only do this by expanding the boundaries, reducing current implied restrictions on density and incentivizing development through an expanded residential unit cap in the Downtown Strategy EIR. Sincerely,

Scott Knies Executive Director

Cc: Mayor Sam Liccardo Councilman Raul Peralez Rosalynn Hughey Jason Rogers Michael Brilliot Kim Walesh Chris Burton Jim Ortbal Jessica Zenk Chris Neale Nate Echeverria



April 10, 2017 Submitted Electronically

Mr. Michael Brilliot and Mr. Darry Boyd Planning, Building and Code Enforcement 200 E. Santa Clara Street San Jose, CA 95113

# Re: Notice of Preparation of a Draft Environmental Impact Report for the Downtown Strategy 2040 Project (Revised)

Dear Mr. Brilliot and Mr. Boyd,

Thank you for the opportunity to provide input on the update of the Downtown Strategy. We are glad that the city of San Jose is updating the EIR to continue facilitating growth downtown while acknowledging policy and economic changes at the city and state that have occurred in recent years.

# Transportation Mitigations and Improvements

We reiterate our recommendations written in our letter about the Downtown Strategy 2040 Update dated November 10, 2015. We are encouraged by the fact that the city is presently considering moving from Level of Service (LOS) to Vehicle Miles Traveled (VMT) for analyzing the transportation impacts of new development. To that end:

- 1. We encourage the city to use VMT in order to achieve the city's mode shift goals and goals for reducing greenhouse gas emissions, and to alleviate some of the wear and tear on the city's roads. The type of infill, transit-oriented growth that San Jose is planning to build in downtown are intended to reduce the rate of driving and increase transit use, walking, and bicycling, which will have minimal impact to the environment.
- 2. We encourage the city re-evaluate some of the auto-oriented mitigation projects that were proposed in the early 2000s as mitigation for growth in downtown. With the city's shift towards VMT-combined with the billions of dollars of transit investments and the rapid shifts in mobility technology – it is appropriate to rethink big investments in auto-oriented infrastructure such as road widenings and new parking. We encourage the city to undertake a comprehensive assessment of circulation and parking needs for downtown and Diridon as a whole.

# Employment Priority Areas

We are thrilled to see that the city is exploring ways to focus employment growth near the downtown BART station and appreciate that our comments from November 2015 were

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spur.org

incorporated into this update. Numerous studies—including of the existing BART system—show that it is critical to locate jobs closest to the station in order to make sure that there are enough people riding the trains, which in turn uses taxpayer dollars responsibly, reduces auto traffic and greenhouse gas emissions. For example, employment density is one of the top two predictors of whether or not people will use transit.<sup>1</sup> A review of forty years of TOD planning found that there is a 1% drop in transit ridership among workers for every 100 feet that they have to walk between the station and their job.<sup>2</sup>

In addition, improved transit access boosts commercial rents, which would make downtown San Jose more attractive for new commercial development compared to other locations in the south bay. We have to save room for jobs close to transit if we are to make the most of this comparative advantage.

There are two ways to create an employment priority area. First, the surest way is to reserve key unbuilt sites of more than 30,000 square feet for employment through zoning. Second, the city could establish a target share of the future percentage of total new floor area (such as 70%) for employment uses within a quarter-mile of future BART stations. This is different than using a minimum FAR requirement for commercial in urban villages insofar as housing could move forward prior to the commercial portion (for a horizontal mixed use site), but most of the site would be reserved for employment. This is the approach that was used around the Transbay Terminal in San Francisco and allows for flexibility but is performance-based.

We encourage the city to move forward with the employment priority areas overlay and look forward to working with the city to develop this approach.

Sincerely,

Jeresa alvando

Teresa Alvarado San Jose Director

cc: Councilmember Raul Peralez, Reena Brilliot, Jim Ortbal, and Kim Walesh

 <sup>&</sup>lt;sup>1</sup> Chatman, D and Cervero, R. 2014. "Making Effective Fixed-Guideway Transit Investments: Indicators of Success. "Transportation Research Board's Transit Cooperative Research Program Report 167.
 <sup>2</sup> Arrington, GB. "Getting TOD Right: Reflections from 40 Years of Doing TOD". Rail~Volution. March 2016.

Arrington, GB. "Getting TOD Right: Reflections from 40 Years of Doing TOD". Rail~Volution. March 2016. http://railvolution.org/transit-oriented-development-

**DEPARTMENT OF TRANSPORTATION** DISTRICT 4 P.O. BOX 23660 OAKLAND, CA 94623-0660 PHONE (510) 286-5528 FAX (510) 286-5559 TTY 711 www.dot.ca.gov



Serious Drought. Help save water!

April 12, 2017

04-SCL-2017-00175 SCH # 2003042127

Mr. Darryl Boyd Department of Planning City of San Jose 200 E. Santa Clara Street, Tower 3F Santa Clara, CA 95050

Dear Mr. Chen:

# Downtown Strategy 2040 Project (Revised) - Notice of Preparation

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), Caltrans new mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans Strategic Management Plan aims to reduce vehicle miles traveled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Notice of Preparation (NOP).

# **Project Understanding**

The proposed project includes substantial changes to the amount of residential and office development contemplated in the Downtown Strategy and brings the Strategy into conformance with the Envision San Jose 2040 General Plan. While the boundaries of the Downtown will be modified by the proposed project, the vast majority of the Downtown Strategy area is within the boundaries of the approved Downtown Strategy 2000 Project.

The City of San Jose (City) determined that an update to the Downtown Strategy 2000 Environmental Impact Report (EIR) is needed to facilitate additional residential and office development capacity beyond what was envisioned in the General Plan. Changes to the General Plan's project description, primarily the addition of three million square feet of office development and up to 4,000 additional residential units (proposed new total of 14.2 million square feet office and 14,360 residential units), are proposed for this project.

The project proposes to expand the Downtown area boundary by two blocks and identify "Employment Priority Areas" near the planned BART stations. These two new BART stations Mr. Darryl Boyd/City of San Jose April 12, 2017 Page 2

and improvements at the Diridon Station are also driving demand for additional development in the Downtown.

# Lead Agency

As the lead agency, the City is responsible for all project mitigation, including any needed improvements to the STN and for VMT reduction. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

# Travel Demand Analysis

It is a Project Type 1 Urban Infill (Caltrans *Smart Mobility 2010: A Call to Action for the New Decade,* Place Type 1a. Urban Core). The California Environmental Quality Act (CEQA) Guidelines Section 15206(b) requires the environmental document for this project be circulated to the Metropolitan Planning Organization because of the project's statewide, regional, and areawide significance.

Please submit a travel demand analysis that provides VMT resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. For projects reviewed under CEQA, Caltrans uses VMT as the metric for evaluating transportation impacts and mitigation. Please ensure that the travel demand analysis includes:

- 1. A VMT analysis pursuant to the City's guidelines or, if the City has no guidelines, the Office of Planning and Research's Draft Guidelines. Projects that result in automobile VMT per capita greater than 15% below existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact.
- 2. Mitigation for increasing VMT should be identified and mitigated in a manner that does not further raise VMT. Mitigation may include contributions to the Santa Clara Valley Transportation Authority's (VTA) voluntary contribution program, and should support the use of transit and active transportation modes. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.
- 3. Schematic illustrations of walking, biking and auto traffic conditions at the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics (i.e., lane configurations for AM and PM peak periods). Operational concerns for all road users that may increase the potential for future collisions should be identified and fully mitigated in a manner that does not further raise VMT.
- 4. The project's primary and secondary effects on pedestrians, bicycles, disabled travelers and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be

Mr. Darryl Boyd/City of San Jose April 12, 2017 Page 3

maintained.

# Vehicle Trip Reduction

The NOP describes the Downtown Strategy 2000 as "having established a set of guiding principles of broad goals and objectives for the future development of Downtown [San Jose]" and lists the guiding principles:

- 1. Make the Greater Downtown a Memorable Urban Place to Live, Work, Shop, and Play;
- 2. Promote the Identity of Downtown San Jose as the Capital of Silicon Valley;
- 3. Create a Walkable, Pedestrian-Friendly Greater Downtown; and
- 4. Promote and Prioritize Development that Serves the needs of the Entire City and Valley.

Reduction of project VMT will strongly promote these guiding principles. To reduce VMT, Caltrans recommends the Downtown Strategy include as Conditions of Approval for all planned and future development projects within the Downtown boundary:

- Membership in a transportation management association.
- Transit subsidies and/or EcoPasses on a permanent basis to all employees.
- Ten percent vehicle parking reduction.
- Transit and trip planning resources.
- Carpool and vanpool ride-matching support.
- Carpool and clean-fuel parking spaces.
- Secured bicycle storage facilities.
- Bicycles for employees to access nearby destinations.
- Showers, changing rooms and clothing lockers.
- Fix-it bicycle repair station(s).
- Transportation and commute information kiosk.
- Outdoor patios, outdoor areas, furniture, pedestrian pathways, picnic and recreational areas.
- Nearby walkable amenities.
- Kick-off commuter event at full occupancy.
- Employee transportation coordinator.
- Emergency Ride Home program.
- Bicycle route mapping resources and bicycle parking incentives, unbundling of residential parking, and providing transit passes and/or transit subsidies to residents.
- Decreased headway times and improved way-finding on bus lines by working with the VTA to provide a better connection between the project, the Diridon, Downtown San Jose, planned Santa Clara, and planned Alum Rock Stations, and regional destinations.

Transportation Demand Management (TDM) programs should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan. Reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on State Route (SR) 87, Interstate (I-) 280 and other nearby State facilities.

Mr. Darryl Boyd/City of San Jose April 12, 2017 Page 4

Should you have any questions regarding this letter, please contact Brian Ashurst at (510) 286-5505 or brian.ashurst@dot.ca.gov.

Sincerely,

PATRICIA MAURICE District Branch Chief Local Development - Intergovernmental Review

c: Robert Swierk, VTA – electronic copy



April 12, 2017

City of San José Department of Planning and Building 200 East Santa Clara Street, 3<sup>rd</sup> Floor San José, CA 95113

Attention: Darryl Boyd

Subject: City File No. PP15-102 / Downtown Strategy 2040

Dear Mr. Boyd:

Santa Clara Valley Transportation Authority (VTA) staff has reviewed the revised March 2017 Notice of Preparation for the Downtown Strategy 2040 which includes increasing the residential development capacity of the Downtown area by up to 4,000 residential units, and the addition of three million square feet of office development. We have the following comments.

# Land Use

VTA supports the proposal to increase the total amount of development allowed in Downtown San José by reallocating 4,000 residential units from other Urban Villages and Growth Areas, and adding three million square feet of office development, consistent with the recently approved General Plan 4-Year Review update. Downtown San José is identified as a Regional Core in VTA's Community Design & Transportation (CDT) Program Cores, Corridors and Station Areas framework, which shows VTA and local jurisdiction priorities for supporting concentrated development in the County. The CDT Program was developed through an extensive community outreach strategy in partnership with VTA Member Agencies, and was endorsed by all 15 Santa Clara County cities and the county.

# Transportation Analysis

VTA commends the City for taking a multimodal approach to the transportation analysis by using the Vehicle Miles Travelled (VMT) performance indicator. VTA notes that the Long Range Traffic Impact Analysis for the City of San José 2015 General Plan Amendments, referred to VTA in October 2015, also included multimodal performance measures, such as Vehicle Miles Traveled per Service Population, Mode Share, and Peak-Hour Vehicle Speeds in Transit Priority Corridors. VTA recommends that the City also include Peak-Hour Vehicle Speeds in Transit Priority Corridors as part of the transportation analysis in order to support City-VTA mutual goals for improved transit speed and reliability in Downtown, and systemwide.

## Potential Revisions to the Downtown Strategy 2040

The NOP states a number of potential revisions under consideration as part of the project, including "identifying Employment Priority Areas" in proximity to the future Downtown BART Station, and "revising the project phasing" (p. 7). VTA supports the creation of Employment Priority Areas at the future downtown BART station, which reinforces all-day transit use, supported by a diverse mix of uses. VTA requests clarification regarding the contemplated modifications to project phasing, such as whether the current phasing plan would be suspended, replaced with another phasing table, or something else.

City of San José April 12, 2017 Page 2

Transportation Demand Management (TDM) & Trip Reduction

The NOP states that the project will include TDM measures (p. 6). VTA supports the inclusion of such measures for new developments in the Downtown area. TDM measures for Downtown residential or commercial projects could include:

- Transit fare incentives, such as free or discounted transit passes on a continuing basis.
- Parking management measures such as shared parking and unbundled parking.
- Parking pricing and parking cash-out programs.
- Public-private partnerships or contributions to improved transit service to the area
- Bicycle lockers and bicycle racks
- Showers and clothes lockers for bicycle commuters
- Preferentially located carpool parking
- Employee carpool matching services
- Parking for car-sharing vehicles
- Local complete streets measures

# Future Land Use Policy Considerations

The project addresses the City's need to add residential and office capacity Downtown, and notes that the "future construction of two BART stations and improvements to Diridon Station are also driving demand for additional development Downtown" (p. 5). VTA concurs that new development will continue to be drawn to the area in anticipation of BART and improvements to Diridon. VTA notes that the Milpitas BART station area has experienced a mixed-use development boom in the last several years. VTA notes that an estimated 3,000 residential units are under construction in 2016, and nearly 85% of planned residential units were approved in the same year, attracted to the forthcoming BART service. VTA notes that the Warm Springs BART station area has also experienced a boom in development interest leading up to the recent opening of the station. The City of Fremont has adopted a Community Plan for the station area that accommodates up to 4,000 housing units and over 10 million square feet of non-residential space, and several major developments have recently been approved within the plan area.

VTA believes that in a few years it may be necessary to provide a further increase in residential capacity beyond the currently-proposed 4,000 units, and potentially increase Downtown's non-residential capacity as well, in response to land use market conditions (both residential and commercial) and to properly leverage regional transit investments to promote Transit Oriented Development. While VTA acknowledges the importance of balancing residential and employment-focused development in Downtown San José, VTA staff believes that further residential development will help improve the vibrancy of Downtown, strengthening the market for retail and making it more attractive for employers. VTA looks forward to working with the City of San José over the next few years, as new developments take shape under the proposed capacities, to support mutual goals for a diverse and dense mix of land uses near the BART station site in order to maximize all-day ridership demand.

## Funding for Transportation Improvements

The NOP notes that the City will be identifying sources of funding for the Downtown Strategy 2040's transportation improvements, which were to be addressed by the Redevelopment Agency (p. 4). VTA shares a mutual interest with the City in considering funding mechanisms and strategies for transportation improvements, specifically for the BART Silicon Valley Phase II Extension project, and appreciates the City's ongoing coordination with VTA.

City of San José April 12, 2017 Page 3

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-7572.

Sincerely,

Melimk

Melissa R. Cerezo, AICP Senior Transportation Planner

cc: Michael Liw, San José Development Services Patricia Maurice, Caltrans Brian Ashurst, Caltrans

SJ1519