

APPENDIX H

SECOND AMENDMENT TO THE DRAFT EIR

Second Amendment to the Draft EIR

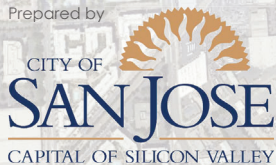
Downtown Strategy 2040

File Number PP15-102

State Clearinghouse Number 2003042127



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December 2018

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SECTION 1.0 INTRODUCTION

This document, together with the Draft Environmental Impact Report (Draft EIR) and First Amendment to the Draft EIR, constitutes the Final Environmental Impact Report (Final EIR) for the Downtown Strategy 2040 project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation and avoidance measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project. The CEQA Guidelines advise that, while the information in the Final EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the Draft EIR by making written findings for each of those significant effects.

According to the State Public Resources Code Section 21081, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines, the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at the Department of Planning, Building and Code Enforcement, 200 East Santa Clara St., 3rd Floor, San José, CA 95113 on weekdays during normal business hours. The Final EIR is also available for review on the City's website: www.sanjoseca.gov/activeeirs

1.4 PURPOSE OF THE SECOND AMENDMENT

The City released the First Amendment to the Draft EIR on November 16, 2018, and the Final EIR was considered by the Planning Commission at a public hearing held November 28, 2018. At the hearing, the Planning Commission approved a motion recommending certain text revisions and additions be made to the Final EIR prior to certification by the City Council. The Second Amendment to the Draft EIR is intended to implement the Planning Commission recommendations by incorporating the suggested text revisions and additions.

SECTION 2.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the Downtown Strategy 2040 Draft EIR dated September 2018. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 37 Section 3.1.1.2, City of San José Policies, Table 3.1-1: General Plan Policies – Aesthetics; **REMOVE** the following row from the table:

Policy CD-10.4	Prohibit billboards at Gateway locations and along freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) and Grand Boulevards within San José.
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Page 40 Section 3.1.2.2, Impacts to Scenic Vistas; the 3rd paragraph will be **REVISED** as follows:

Future development of mid-to high-rise buildings anticipated under Downtown Strategy 2040 could alter views of hillsides from areas within Downtown Strategy 2040 boundaries. Specifically, where tall structures are constructed immediately adjacent to gateways and freeways, there is the possibility that important views could be partially obscured for motorists, bicyclists, and pedestrians. The 2040 General Plan policies and actions listed in Table 3.1-1 would provide program-level mitigation for impacts to scenic views. For example, in accordance with 2040 General Plan Policies CD-10.2 and CD-10.3, new development adjacent to Gateways, Grand Boulevards, and freeways shall be designed to preserve and enhance attractive natural and man-made vistas. ~~In addition, the City will prohibit billboards along Grand Boulevards, Gateways, and freeways in the Plan area (Policy CD-10.4).~~

Page 80 Section 3.4.3.2, Impacts to Sensitive Habitats; the 3rd and 4th paragraphs will be **REVISED** as follows:

Implementation of the 2040 General Plan policies and existing regulations described in Section 3.4.2.2 above ~~would~~ will substantially reduce direct and indirect impacts to riparian habitat resulting from increased human activity. For example, prohibiting the use of species known to be invasive to riparian habitats in new landscaping throughout the Downtown area, in accordance with GP Policy ER-6.5, ~~would~~ will help maintain the quality of riparian habitat in the Los Gatos Creek and Guadalupe River corridors.

For specific projects adjacent to the riparian corridor, a setback ~~would~~ will be established in accordance with the Council-adopted Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (Habitat Plan) (Chapter 18.40 of Title 18 of the San José Municipal Code), the Zoning Code (Title 20 of the San José Municipal Code), the development guidelines in the San José City Council Policy 6-34 “Riparian Corridor Protection and Bird-safe Design” Policy and GP Policy ER-2.2. Setbacks protect riparian corridors by buffering the effects of adjacent activities. Incorporating other site planning measures set forth in the

“Riparian Corridor Protection and Bird-safe Design” Policy development guidelines ~~would~~ will further minimize human-induced disturbances such as lighting, noise, and use of toxic substances. At the time individual development projects proposed near creeks in Downtown are evaluated for project-level environmental impacts, detailed evaluation ~~would~~ will be required to determine impacts to riparian habitat and identify any necessary mitigation.

Page 108 Section 3.5.2.8, Archaeological and Paleontological Resources; the 2nd bullet will be **REVISED** as follows:

- **Stop Work.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The ~~City~~ Director of Planning or Director’s designee will be responsible for ensuring that the project sponsor implements the recommendations of the paleontological monitor regarding treatment and reporting ~~are implemented~~.

Page 137 Section 3.7.3.2, Geologic and Soil Impacts; the 3rd bullet will be **REVISED** as follows:

- Consistent with 2040 General Plan policies, future projects will be required to complete a design-level geotechnical investigation to verify compliance with applicable regulations. The reports shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including measures for site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. Subsurface exploration, laboratory testing, and engineering analyses may be required as part of the investigations. The reports shall be submitted to the City of San José ~~Public Works Department~~ Geologist for review prior to issuance of any site-specific grading or building permit.

Page 138 Section 3.7.3.2, Geologic and Soil Impacts; the last four paragraphs will be **REVISED** as follows:

Consistent with mitigation measures identified in the Downtown Strategy 2000 EIR, individual future development projects that involve dewatering will be required to implement the following measure:

- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

Implementation of ~~these~~ this measures, if included in future projects that involve dewatering, would reduce and avoid impacts related to ground settlement.

With implementation of the standard measures listed above and implementation of 2040 General Plan policies and existing regulations, future development under the Downtown Strategy 2040 would not result in a significant impact related to geologic hazards. This conclusion is consistent with the analysis in the 2040 General Plan EIR, Four-Year Review, and Downtown Strategy 2000 EIR. (**Less than Significant Impact**)

Page 168 Section 3.9.3.6, Other Hazards; the 6th paragraph will be **REVISED** as follows:

Under the proposed Downtown Strategy 2040, construction of new electrical transmission lines, if required, would increase EMF sources in the Downtown area. In accordance with the CPUC's EMF Decision (D.93-11-013) and PG&E ~~developed~~ Transmission and Substation EMF Design Guidelines, PG&E ~~is required to prepare an EMF Field Management Plan ("FMP") that specifically delineates the~~ incorporates "no cost" and "low cost" magnetic field reduction steps in the design of new transmission and substation facilities. The design guidelines include the following measures that would be available to reduce the magnetic field strength levels from electrical power facilities: increase the height of overhead lines to reduce EMF strength at ground level; reduce conductor spacing to increase cancellation of the magnetic field and decrease the resultant field strength; minimize current through energy efficiency measures (adequate load compensation will be provided by using capacitors); and optimize phase configuration by "cross-phasing" individual circuits to cancel magnetic fields.

The EMF Decision and PG&E's Guidelines require PG&E to prepare an EMF Field Management Plan ("FMP") that specifically delineates the no-cost and low-cost EMF measures that will be installed as part of the final engineering design for a project. PG&E also relies on organizations and health agencies such as the California Department of Health Services, U.S. Environmental Protection Agency and the Electric Power Research Institute to review research on EMF and provide a foundation for developing policies. Development of new electrical transmission lines in accordance with individual FMPs would not result in substantial new EMF exposures of hazards to the public.

With these cautionary measures, development of new electrical transmission lines would minimize possible hazards to the public from increased exposure to EMF.

Page 188 Section 3.10.3.4, Construction-Related Impacts; **INSERT** the following text after the first paragraph:

Additionally, consistent with current requirements, individual future development projects that have Development Permits approved by the City will be subject to standard provisions of the San Jose Municipal Code regulating stormwater runoff (Title 15 § 15.14.515 and Title 20 § 20.100.470-480) which are enforceable by the

City of San José staff including, but not limited to, staff in the Environmental Services Department, the Department of Public Works, and the Department of Planning, Building and Code Enforcement.

Page 193 Section 3.11.1.1, Existing Conditions; the 2nd paragraph will be **REVISED** as follows:

The St. James Park area is primarily developed with residential uses (single- and multi-family), commercial and public uses. St. James Park is a historically significant public open space located in the center of the area, and is surrounded by ~~privately-owned~~ buildings, some of which are privately-owned and some of which are public, such as the United State Post Office and two courthouses. Many of these buildings have historic significance. The 1st and 2nd Street light rail lines serve the St. James Park area.

Page 193 Section 3.11.1.1, Existing Conditions; the last paragraph will be **REVISED** as follows:

Civic Center Area

~~The Civic Center area is developed with commercial and public land use. A key point of interest in the area is the former City Hall.~~

Page 255 Section 3.14.1.3, Existing Conditions; the 4th paragraph will be **REVISED** as follows:

The Downtown area is served by the San José Unified School District (SJUSD), which consists of 27 elementary, six middle, and nine high schools. The SJUSD has a total capacity of 30,520 students. Enrollment with SJUSD has decreased from 32,004 during the 2016-17 school year to 31,703 during the 2017-18 school year. There is only one SJUSD school, ~~Lowell Elementary School~~ Horace Mann Elementary School, located within the boundaries of the Downtown Strategy 2040. ~~Lowell Elementary School is at 625 South 7th Street, southwest within the Downtown boundaries.~~ Horace Mann Elementary School is located at 55 North 7th Street in the northeastern portion of the Downtown area. Table 3.14-2 below shows ~~of the San José Unified School District, the SJUSD schools~~ most likely to serve residents in the Downtown area.