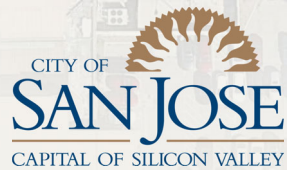


First Amendment

3896 Stevens Creek Boulevard



Prepared by the



In Consultation with



January 2021

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SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final EIR for the 3896 Stevens Creek Boulevard 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 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 of San José and any Responsible Agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The Final EIR reflects the lead agency's independent judgment and analysis.

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 (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), 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 is available for review on the City of San José's website: :

<https://www.sanjoseca.gov/active-eirs/>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the 3896 Stevens Creek Boulevard project, dated August 2020, was circulated to affected public agencies and interested parties for a 45-day review period from August 11, 2020 through September 25, 2020. The City of San José undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of Draft EIR was published on the City’s website (<https://www.sanjoseca.gov/Home/ShowDocument?id=62466>) and in the San José Mercury News;
- Notification of the availability of the Draft EIR was emailed and mailed to project-area residents and other members of the public who had indicated interest in the project;
- Hard copies of the Draft EIR was mailed to members of the public who had requested;
- The Draft EIR was delivered to the State Clearinghouse on August 11, 2020, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were made available on the City of San José’s website (<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/3896-stevens-creek-commercial-project>).

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The following agencies received a copy of the Draft EIR via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Forestry and Fire Protection
- California Department of Parks and Recreation
- California Department of Resources Recycling and Recovery
- California Department of Transportation, District 4
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Department of Toxic Substances Control
- Office of Historic Preservation
- State Water Resources Control Board, Division of Drinking Water

The Notice of Availability for the Draft EIR was sent by mail and/or email to the following organizations, businesses, and individuals who expressed interest in the project:

- *Ada Marques*
- *Alamelu Rameswamy*
- *Alan Leventhal, SJSU College of Social Sciences and Anthropology*
- *Amah Mutsun Tribal Band*
- *Amah Mutsun Tribal Band of Mission San Juan Bautista*
- *André Luthard, Preservation Action Council of San José*
- *Andrew Crabtree*
- *Andrew Galvan, The Ohlone Indian Tribe*
- *Bay Area Air Quality Management District, Josephine Fong*
- *Bibi Bahan*
- *California Historic Center and Foundation*
- *Cassidy Kohl*
- *City of Campbell, Planning Division*
- *City of Cupertino Community Development Department*

- *City of Fremont Community Development Department*
- *City of Milpitas, Ned Thomas*
- *City of Morgan Hill, Planning Division, Terry Linder*
- *City of Mountain View*
- *City of Palo Alto*
- *City of San Jose City Council Offices*
- *City of San Jose Historic Landmarks Commission*
- *City of San Jose Planning Commissioners*
- *City of San Jose Planning Staff*
- *City of Santa Clara Department of Planning and Inspection, Reena Brilliot, John Davidson,*
- *City of Saratoga Community Development Department, Christopher Riordan*
- *City of Sunnyvale, Planning Division*
- *County of Santa Clara Planning, Rob Eastwood and Mark Connolly*
- *J Gallegos*
- *Jennifer Griffin*
- *Mary Bryant*
- *Melanie Kuntz*
- *Randy Ando*

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft EIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below.

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GOVERNMENT AGENCIES

A. City of Santa Clara (dated September 25, 2020)

Comment A.1: Thank you for including the City of Santa Clara (Santa Clara) in the environmental review process for the 3896 Stevens Creek Commercial Project (Project). Santa Clara has reviewed the Environmental Impact Report (EIR) prepared for 1) a Conforming Rezoning from Commercial Neighborhood & Commercial General Zoning District to Commercial Pedestrian Zoning District; 2) a Conditional Use Permit to allow the demolition of 4 commercial buildings and to allow the construction of an approximately 308,000-square foot office building, 151,300-square foot fitness center (with late night uses), and 15,000-square feet of ground floor retail; and 3) a Tentative Map to combine 5 existing lots into 2 lots on an approximately 4.84-gross acre site.

The following comments are provided following our review of the EIR. Please note that Santa Clara previously provided a letter on January 8, 2020 related to the Notice of Preparation for the Project EIR (attached).

Vehicle Cut-Through Intrusion: In the January 8, 2020 letter, Santa Clara requested that the Project EIR include a local transportation analysis that addresses potential vehicle cut-through traffic intrusion to Santa Clara neighborhoods. Santa Clara is unable to find any documentation within the EIR that addresses this concern. Please include an analysis or explanation within the EIR that addresses this concern.

Response A.1: As stated in Section 3.16 Transportation of the DEIR, a Transportation Analysis (TA) was prepared for the project, consistent with City of San José City Council Policy 5-1 (see Appendix J of the Draft EIR). Consistent with the requirements of CEQA, the TA addressed vehicle miles traveled (VMT), pedestrian/bicycle/transit facilities, and safety. There is no CEQA threshold for cut-through traffic, nor a City of San José policy addressing it; therefore, the Draft EIR did not evaluate cut-through traffic in San José or Santa Clara neighborhoods.

The TA did, however, include an operational assessment of local intersections. While not an analysis under CEQA, the operational assessment is consistent with the City's transportation policy. Figure 11 of the TA shows the existing peak hour traffic volumes at the study intersections, including traffic traveling north/south from Saratoga Avenue and Kiely Boulevard (the only intersections which show project traffic crossing Stevens Creek Boulevard). When compared to the project trip assignment (Figure 10 of the TA), it is clear that the total percentage of peak hour trips traveling to/from Santa Clara to the project site would be minimal and cut-through traffic would not affect local roadway operations. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment A.2: Parking Reduction: The project is proposing a 43 percent parking reduction but does not include any analysis on potential spillover impacts to adjacent neighborhoods. Please revise the EIR to include an analysis and discussion regarding potential parking impacts due to the proposed 43 percent parking reduction. Additionally, the project should be required to conduct regular parking surveys as part of TDM monitoring to identify parking issues. Correspondingly, the project should be required to mitigate parking issues if they occur.

Response A.2: The discussion of parking in the Draft EIR and the TA is to address potential operational issues and to provide relevant information to the decision makers. As discussed on page 156 of the Draft EIR and consistent with City's requirements for reduction of parking proposal, the project's Transportation Demand Management (TDM) plan will include measures to address the parking reduction (i.e. annual vehicle trip generation counts, vehicle parking counts and employee mode share surveys). Furthermore, the TDM plan includes a monitoring component. Consistency with the City's parking standards is not an issue considered under CEQA and lack of sufficient parking does not result in a CEQA transportation impact.¹ Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment A.3: VMT Analysis (Page 24 of the Transportation Analysis prepared by Hexagon Transportation Consultants): The retail portion of the project exceeds San José's adopted threshold for regional retail; therefore, the City's transportation model was used to estimate the regional VMT. Based on the size, 304 jobs were identified for the 166,258 square foot fitness center. The analysis assumes all 304 employees of this use will transfer from existing Bay Club facilities in Santa Clara and Los Gatos. This appears to be an overstated assumption and consequently results in a VMT reduction. Please provide a more thorough justification of this assumption or provide a more reasonable assumption about the number of new jobs, etc. that this new fitness center may generate.

Response A.3: The Bay Clubs in Santa Clara and Los Gatos are the only two facilities in the area that provide similar amenities as the proposed project, therefore it is reasonable draw trips from just those fitness centers. It should be noted that the 304 jobs used in the model does not reflect the actual number of employees that would be working at the fitness center. For the purpose of generating daily trips and calculating daily VMT's for the fitness center, the number of jobs used in the model is a surrogate for estimating not only the work trips of the employees but, more importantly, daily trips generated by the visitors of the fitness center. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment A.4: Santana West Settlement Agreement: The EIR does not directly address the need for the project to comply with the Santana West Settlement Agreement (Settlement Agreement). However, during recent conversations with staff from the City of San José, Santa Clara was informed

¹ California Court of Appeal in Covina Residents for Responsible Development v. City of Covina (B279590, certified for publication March 22, 2018)

that the project will add 97 PM peak hour trips to the intersection of Winchester Boulevard and Stevens Creek Boulevard. When the 97 PM peak hour trips are multiplied against a 2020 Protected Intersection Fee of \$3,351, the resulting Protected Intersection fees or budget to be funded by the Project equals \$325,047 in order to comply with the Settlement Agreement. In lieu of providing fees, the project is proposing to provide pedestrian-related improvements (i.e. removal of a free running right turn and porkchop island at the northwest corner of the intersection of Stevens Creek Boulevard and Saratoga Avenue) that exceed the \$325,047 Protected Intersection fee. Santa Clara supports this proposal but requests that the EIR be updated to include a Level of Service analysis for this intersection with the improvement implemented. Additionally, Santa Clara requests that the EIR include a discussion of the Santana West Settlement Agreement and how the proposed improvement at Stevens Creek Boulevard and Saratoga Avenue addresses Settlement Agreement requirements for the project.

Please note that Santa Clara's willingness to accept the proposed pedestrian related improvements at the northwest corner of the Stevens Creek and Saratoga Avenue intersection in lieu of payment of Protected Intersection fees otherwise required by the Settlement Agreement should not be construed as a waiver of any of Santa Clara's rights under the Settlement Agreement. Nor should it be construed as a willingness to accept future proposals for improvements in lieu of payment of fees, which will be considered by Santa Clara on a case-by-case basis in coordination with San José staff.

Further, Santa Clara appreciates the coordination regarding this proposed improvement but remains concerned regarding San Jose's continued lack of formal response to Santa Clara's requests for confirmation of compliance with the Santana West Settlement Agreement. Santa Clara has sent three letters dated, February 14, 2018, March 1, 2018, and November 17, 2018, requesting information as to how San José will comply with the terms of the Santana West Settlement Agreement. Santa Clara has still received no response to these three letters.

Response A.4: As previously mentioned in Response A.1, a TA was prepared for the project, consistent with City of San José City Council Policy 5-1 (see Appendix J of the Draft EIR). Consistent with the requirements of CEQA and City Council Policy 5-1, the TA addressed vehicle miles traveled (VMT), pedestrian/bicycle/transit facilities, and safety. As part of the analysis, Level of Service (LOS) analysis for traffic conditions after removal of the pork-chop island is not required since LOS is no longer the metric for analyzing transportation under CEQA.

Furthermore, per the City's Local Transportation Handbook, intersection adverse effects should be addressed by prioritizing improvements related to alternative transportation modes. The removal of the pork-chop island is consistent with supporting alternative transportation modes, because it enhances pedestrian connectivity by shortening crossing distances across the intersection and slowing vehicular turning traffic.

In addition, the Santana West Settlement Agreement is an agreement between the City of San José and City of Santa Clara. The Settlement Agreement is not an "ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian paths" under the

significance threshold and, therefore, is not required to be discussed in the project's EIR. The City of San José is committed to addressing the Santana West Settlement Agreement and will continue to coordinate with the City of Santa Clara to fulfill needed requirements.

Comment A.5: Bird Strike Analysis and Shade/Shadow Impacts: The January 8, 2020 City of Santa Clara comment letter on the Notice of Preparation also raised requests for Bird Strike and Shade and Shadow analyses. Those topics were not addressed in the Environmental Impact Report. Please provide the following information in the First Amendment/Response to Comments on the Draft EIR:

1. **Bird Strike Analysis:** It appears as if the building design utilizes clear glass. Please include analysis and any measures to reduce the risk of bird strike.

Response A.5(1): The City of San José adopted City Council Policy 6-34 (Riparian Corridor Protection and Bird-Safe Design) in 2016 to establish bird-safe building designs. Projects are required to meet the bird-safe design guidance in the policy if they are located north of State Route (SR) 237 in north San José. This area is in close proximity to San Francisco Bay and wetland habitat, which are major bird migration corridors. In addition to North San José, the City will also require bird-safe design for projects within 300 feet of riparian corridors or in proximity to large parks and within the downtown core.

The proposed project is located in an urban environment, approximately six miles south of SR 237 and 1.5 miles from the nearest riparian corridor; therefore, it is not located in a major bird migration corridor and less likely for bird strikes to occur. In addition, the site is not in proximity to any large open space areas where birds may nest. Therefore, the project would not be subject to City Council Policy 6-34 and bird strikes would be less than significant. The project this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

2. **Shade and Shadow Impacts:** Given the potential heights of the proposed buildings and their proximity to the City of Santa Clara, please include an analysis of the potential for shade and shadow impacts on Santa Clara businesses.

Response A.5(2): Based on the proposed project's design, the project would mainly shade Stevens Creek Boulevard and a handful of commercial businesses along the north side of the Stevens Creek Boulevard frontage. No existing public open space would be shaded as a result of the project. However, the City has no established CEQA thresholds for shade and shadow impacts, particularly on commercial buildings. As discussed in Section 3.1 Aesthetics of the Draft EIR, with adoption of Senate Bill (SB) 743 a project's aesthetics impacts will no longer be considered significant if 1) the project is a residential, mixed-use residential, or employment-center

project, and 2) the project is located on an infill site within a transit priority area.² As stated in Section 3.1.3 of the DEIR, the proposed project qualifies under SB 743; therefore, all aesthetic impacts (including shade and shadow) are considered less than significant. The project this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

B. County of Santa Clara, Roads and Airports Department (dated September 25, 2020)

Comment B.1: The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project (C19-020/CP19-031/T19-038/ER20-020), and is submitting the following comments:

The proposed project identified a fair share contribution to a Tier 3 San Tomas widening project, which is not funded on the County projects horizon. As a mitigation measure to project impacts at San Tomas and Stevens Creek intersection; it is recommended that the proposed project look into near term mitigations such as extending left turn pockets at impacted left turns identified in the Queuing Analysis shown on Page 49, Table 7 of the Local Transportation Analysis (LTA).

Response B.1: Consistent with other approved development projects within the Stevens Creek/Winchester Urban Villages such as The Reserve, Fort Bay, and Santana West, the project is conditioned to provide a fair share contribution towards funding of the future widening of San Tomas Expressway as a result of adverse effects at San Tomas Expressway and Stevens Creek. If the widening of San Tomas Expressway is no longer a planned improvement by the County since it is not funded, and the County is seeking alternative improvements, the City and the County should meet to discuss near term improvements for all development projects that result in adverse effects to San Tomas Expressway. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

It should be noted that since the submission of this comment letter, the County has withdrawn its comment about the San Tomas widening project (see [Appendix A](#)).

² An “infill site” is defined as “a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.” A “transit priority area” is defined as “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.” A “major transit stop” means “a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.” Source: Office of Planning and Research. “Changes to CEQA for Transit Oriented Development – FAQ.” October 14, 2014. Accessed January 22, 2020. <http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html>.

Comment B.2: Please provide queuing analysis for San Tomas/Stevens Creek EBL & EBR.

Response B.2: The Transportation Analysis prepared for the project provided northbound left-turn queuing for the San Tomas/Stevens Creek intersection (see page 49 in Appendix J of the Draft EIR). Based on the project's traffic data, city staff determined that no significant increase in queuing for eastbound left- and right-turn lanes would occur; therefore, it was not included in the Transportation Analysis. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment B.3: The project proposed TDM program should also include monitoring of San Tomas/Stevens Creek and San Tomas/Saratoga intersections traffic to make sure there would be no additional project trips at these intersections besides what was stated and used in LOS analysis. County recommends that the project identify how the TDM is monitored and penalties for violations.

Response B.3: The proposed TDM program was proposed as part of the project for the purpose of meeting the City's parking reduction requirements. As this is part of the proposed project, the TDM was taken into the CEQA analysis of VMT, and in the non-CEQA analysis of the TA.

Per Section 20.90.220 of the San José Code of Ordinances and Council Policy 5-1, monitoring as proposed in Exhibit K to the Draft EIR will be conducted to ensure that the TDM measures are effective. Therefore, the comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment B.4: There is a heavy reliance on rideshare services in the TDM. All projected rideshare trips must be accountable in the trip distribution model. To reduce reliance on rideshare, please provide some mitigation from transit related measures.

Response B.4: The TDM plan would include other TDM measures including bicycle parking facilities, on-site showers and lockers, preferential parking for carpools, commute trip reduction marketing and education, telecommuting and alternative work schedule programs, building designs to support telecommute/flexible work schedules, employee parking cash-out, alternative mode reward programs for fitness center customers, and discounted fitness center memberships for off-peak commute periods. Therefore, the comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Comment B.5: The County wants to remind that all passenger loading zone including rideshare must be away from the curb, especially on Saratoga and Stevens Creek.

Response B.5: Passenger loading zones, including those for the rideshares, will be placed along the southern portion of the site to the west of the entry/exit driveway of the parking garage. This loading zone would

allow access to both the office and fitness buildings. This comment does not raise any concerns with the Draft EIR or its analysis of the project; therefore, no further response is required.

Comment B.6: Passenger Loading: The site plan does not indicate passenger loading zones along the project frontages or within the site, which would be inconvenient for people accessing the site using Uber/Lyft or other rideshare apps (e.g., Scoop, Waze Carpool).

Response B.6: Please refer to Response B.5.

Comment B.7: Recommendation: The project should designate curbside passenger loading zones on Stevens Creek Boulevard near the office building entrance and on Saratoga Avenue near the fitness center entrance, based on the City’s evaluation of these zones at the implementation stage.

Response B.7: Please refer to Response B.5.

Comment B.8: The TDM proposes bicycle parking facilities, but the project site is not bike friendly, see the statement below for surrounding bike lanes. North of Stevens Creek is deemed not safe.

Response B.8: As noted in the Draft EIR and below in Comment B.10, Class II bike lanes exist on Saratoga Avenue south of Stevens Creek Boulevard, and Northlake Drive and Kiely Boulevard are local streets that are conducive to bicyclists. The comment does not specify or describe how the project site is unsafe for bicyclists, nor does it raise any concerns with the Draft EIR or its analysis of the project; therefore, no further response or changes to the Draft EIR are required.

Comment B.9: City of San Jose’s San José Bike Plan 2020 Action 2.1.5 states “Include Bikeways for bicyclists of different skills. Not all bicyclists feel comfortable riding on busy streets with higher traffic speeds and volumes. Bikeways on calmer side streets must be part of the Bikeway Network.”. The County would like to know if the City has any plans to extend the Class II Bike lane past Stevens Creek on Saratoga or improve the bike network in the project area?

Response B.9: The San José Better Bike Plan 2025 includes protected bike lanes along Stevens Creek Boulevard west to Lawrence Expressway and east to downtown. Along Kiely Boulevard, protected bike lanes are proposed between Kiely Boulevard and Albany Drive. Beyond Albany Drive, bike lanes or protected bike lanes are planned along Kiely Boulevard to Boynton Avenue. Protected bike lanes are also planned along Saratoga Avenue extending north to San Tomas Expressway and south to Quito Road. This comment does not identify new or more significant impacts under CEQA than what were disclosed in the Draft EIR nor does it raise any concerns with the analysis of the project; therefore, no further response or change to the Draft EIR is required.

Comment B.10: “Class II striped bike lanes are present on Saratoga Avenue south of Stevens Creek Boulevard. There are no other designated bike lanes or bike routes on streets in the immediate vicinity of the project site. Northlake Drive and Kiely Boulevard east of Saratoga Avenue are local streets that carry low traffic volumes and are conducive to bicyclists. Stevens Creek Boulevard, Kiely Boulevard, and Saratoga Avenue are arterial streets with high traffic volumes and vehicle speed. Bicyclists need to ride with caution on these streets. Bicycles are also permitted on San Tomas Expressway. However, due to high speeds and traffic volumes, it is recommended for use only by bicyclists with advanced skills.”

Response B.10: This comment is quoting a section of the Draft EIR. The quoted language reflects bicycle facilities consistent with Response B.9 above. The comment does not identify new or more significant impacts under CEQA than what were disclosed in the Draft EIR nor does it raise any concerns with the analysis of the project; therefore, no further response or change to the Draft EIR is required.

Comment B.11: Annual Monitoring Report Section - Include Bike and transit passenger counts.

Response B.11: Please refer to Response B.4.

C. Santa Clara Valley Transportation Authority (dated September 25, 2020)

Thank you for the opportunity to provide comments on the DEIR for the 3896 Stevens Creek Commercial Project in the City of San José. VTA has provided comments on previous proposals for the site and has the following comments, some of which may be repeated:

Comment C.1: Pedestrian and Bicycle Accommodations: New curb ramps at the Saratoga/Stevens Creek and Stevens Creek/Northlake intersections should be directional. For security reasons, VTA recommends adjusting the access into the bicycle room to be provided through the main lobby. This provides a higher level of security with a lower risk of bicycles being stolen from the garage. VTA recommends the door for the room and the lobby use ADA-compliant kick plates on both sides to allow riders to easily open the door and maneuver their bikes into and out of the rooms.

Response C.1: The Draft EIR, in Section 3.16.5, discusses bicycle parking and access to the project site, as required by CEQA and City of San José City Council Policy 5-1. This comment does not raise any concerns with the Draft EIR and its analysis; therefore, no further response is required. The comment’s non-CEQA concerns about project design, however, are being considered by City staff and the applicant.

Comment C.2: Congestion Impacts on Transit Travel Times: The transportation analyses in the Transportation Impact Analysis (TIA) and DEIR does not address any potential impacts that increased motor vehicle traffic and congestion associated with the project may have on transit travel times on the Stevens Creek Boulevard corridor. While VTA is supportive of increasing development densities along this corridor, increased congestion could degrade the schedule reliability of transit and increase travel times, making transit a less attractive option for travelers in the corridor. VTA

requests a meeting to discuss the City of San José’s comprehensive approach to address transit delay if it will not be studied and included in project TIAs.

Response C.2: Page 148 in Section 3.16.3 of the Draft EIR discusses access to transit facilities near the project site. However, neither CEQA nor the City of San José have established a threshold for transit delay; therefore, it was not discussed in the Draft EIR. VTA’s comment to meet with the City of San José to discuss transit delay, however, is being considered by City staff..

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

D. Preservation Action Council of San José (dated September 25, 2020)

Comment D.1: Thank you for the opportunity to provide comments on the 3896 Stevens Creek Commercial Project Draft EIR. As the EIR correctly states, the project area includes a structure that has been determined eligible for listing on the City of San José’s Historic Resources Inventory as a Structure of Merit: noted local artist Harry Power’s 1963 glass mosaic entitled “Vibrant Galaxy,” an original exterior feature of the former First National Bank building at 346 Saratoga Avenue. PAC* SJ has long been concerned about the fate of this artwork, and offer our support in helping to identify an appropriate receiver site to avoid its unnecessary destruction.

However, we do not believe that the cursory discussion of the artist or artwork included in the EIR justifies the claim that “the mural by Harry Powers is not a significant example of his work” (p. 61). On what evidence is this claim based? What comparable surviving works are more significant, and how does this artwork not meet that threshold? Without providing this evidence, the EIR fails to demonstrate that the structure is not a potentially eligible Candidate City Landmark and therefore a CEQA-recognized historic resource.

Response D.1: As noted in the artist comment, Santa Clara County artist Harry Powers designed the mural attached to the front of the building. Harry Powers earned an undergraduate degree from San Jose State College (now San Jose State University), where he later taught for thirty years. He earned a graduate degree in painting and art history with a focus on the relationship of art and architecture from Stanford University. Powers was a mixed media artist who began working with mosaic, concrete and stained glass in architectural settings, such as the subject site. He was concerned with the expression of light and shadow. Powers was then introduced to acrylic plastic and fabricated sculpture with the material. He also made sculpture with other material, such as metal, and created paintings, photographs and drawings throughout his career. The 2016 DPR series forms prepared by Carey & Company discuss that Powers also designed the interior of the building located at 3896 Stevens Creek Boulevard. The interior was redesigned in the 1990s and no longer maintains historic integrity. The mural situated at the front of the building was part of Power’s overall artistic contribution to both the interior and exterior of the building. Because the building as a whole, including the attached mural, was determined not to be a historical resource under the California Environmental Quality Act, the mural would not be individually eligible.

As part of the Carey & Company 2016 historic assessment, a City of San José Historic Evaluation Rating Sheet was prepared for the building, including the mural. The numerical rating system was developed by the Historic Landmarks Commission in 1989 (amended in 1998 and 2010) and based on the Canadian model developed by Harold Kalman in 1980 (see [Appendix B](#) of this First Amendment). The rating system is a tool to gain an objective framework of comparison of dissimilar resources with a wide

range attributes and characteristics that may have a varying levels of alteration and deterioration. The quantitative system is not intended to completely supplant determinations of significance based on methods that are more empirical. Nor is a numerical rating used to determine thresholds for historical significance under the California Environmental Quality Act.

The City of San Jose Historic Evaluation Rating system established that a numerical rating of at least 33 points could qualify a building for inclusion in the Historic Resources Inventory as a resource such as a Structure of Merit, and a numerical rating of at least 67 points could qualify a resource as a City Landmark (in conjunction with an empirical assessment against the codified landmark criteria). The historic resource evaluation conducted by Carey & Company concluded that the building and the mural does not qualify for listing in the California Register of Historical Resources as supported in the evaluation of significance in the DPR 523 series forms. Historic Evaluation Rating Sheet prepared by Carey & Company in conjunction with the DPR 523 series forms, assigned a numerical rating to the property of 26.28 points, which does not qualify the building for listing in the Historic Resources Inventory either. However, a peer review by the City of San José determined the mural itself could be individually considered a Structure of Merit because that element of Power’s building design remains intact. Powers worked on several mosaics and wall reliefs in the 1950s and 1960s. The mural at the project site is one of his earlier works and Powers is mentioned in the *San José Modernism Historic Context Statement* as a public artist active in the City during the Modernism period. For these reasons, the City of San José has determined that the mural is an eligible Structure of Merit.

The applicant has clarified that the project includes incorporating the Harry Powers mural into the project by relocating it on-site.

Comment D.2: We also note an apparently missing word in the sentence on p. 61: “The mural by Harry Powers is not a significant example of his work, but would [???] an eligible Structure of Merit Under the City’s Historic Preservation Ordinance.”

Response D.2: This sentence was a typo and has been corrected in Section 5.0 Draft EIR Text Revisions below to state that the mural “would qualify as an eligible Structure of Merit”. The correction of this typo does not change the conclusions disclosed in the Draft EIR.

Comment D.3: While we agree that its advertisement for donation/relocation is a necessary and appropriate precondition prior to the approval of any demolition permit (see EIR Section 3.5.3, p. 61), we also believe the project applicant should explore its preservation and reinstallation within the project site itself, and that this be investigated as a formal mitigation measure in the project EIR. If retention on site is found to be infeasible, we would also urge the City and the applicant to help facilitate the potential donation and relocation of the artwork by providing a relocation plan and budget estimate to prospective donees. PAC*SJ has identified numerous interested parties and stands ready to assist in these efforts.

Response D.3: As the Harry Powers mural was not determined to be a historic resource under CEQA, there is no significant impact that would require mitigation. However, the historic preservation goals and policies in section LU-14 of the General Plan encourage the retention of historic resources of lesser significance that remain as a representation of San José's past and contribute to a positive identity for the City's future. Specifically, General Plan Policy LU-14.2 gives high priority to the preservation of structures that have a special value in the community and a compelling design and/or an important designer. As the City of San José has determined that the Harry Powers mural is an eligible Structure of Merit, the Draft EIR includes a Condition of Approval to preserve the mural. Since the DEIR analysis was publicly circulated, the project plan has been revised to relocate and incorporate the mural on-site as part of the project.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the 3896 Stevens Creek Boulevard Project Draft EIR dated August 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page vi Summary Table; the text of the Impact NOI-1.1 will be **REVISED** as follows:

Construction of the project would increase ambient noise levels at nearby sensitive receptors by five dBA Leq or more at various times throughout construction, would result in construction occurring over a period of more than one year, and would include pile driving. (**Less than Significant Impact with Mitigation Incorporated**)

Page 11 Section 2.2.5 Trees, Landscaping, and Open Space; the following text will be **ADDED** at the end of the paragraph as follows:

Open space would be provided at the corner of Stevens Creek Boulevard and Saratoga Avenue in the form of a publicly accessible plaza with seating and landscaping. The project would also preserve an existing mural (currently on the outside of the building located at 346 Saratoga Avenue, see Section 3.5 Cultural Resources for detailed information) that would be displayed within the public plaza.

Page 61 Section 3.5.1.2 Existing Conditions, 346 Saratoga Avenue; the text in the last paragraph under the discussion of 346 Saratoga Avenue will be **REVISED** as follows:

The building is not, however, associated with historic events in the City in an individually significant way. The building features modern design elements, but is not a distinctive example of style or architecture. The mural by Harry Powers is not a significant example of his work, but would qualify as an eligible Structure of Merit Under the City's Historic Preservation Ordinance. The building is unlikely to yield information significant to history or prehistory. As a result, the building is not eligible for the CRHR or as a City of San José Landmark and is not considered a significant historic resource under CEQA.

Page 62 Section 3.5.3 Project Impacts, Checklist Question a); the first paragraph and condition of approval shall be **REVISED** as follows:

The proposed project would demolish the existing buildings on the site, as well as pavement, a number of trees, utilities, and other improvements. As stated in Section 3.5.1.2 above, the existing buildings were evaluated and determined not to be eligible for listing on the federal or state registers and are not eligible to be candidate city landmarks. The mural at 346 Saratoga Avenue, however, could qualify as a Structure of Merit. The project proposes to preserve the mural on the project site as part of the project.

Conditions of Approval

- ~~Consistent with General Plan Policies LU 14.2 and LU 14.4, prior to issuance of any demolition permit for the wall mural structure at 346 Saratoga Avenue which is eligible as a Structure of Merit, the project applicant shall offer the mural for preservation to an entity/individual at an off-site location within the City of San José. The advertisement shall include a photograph of the structure, contact information for the project applicant, and contact information for the City's Historic Preservation Officer. The project applicant shall provide evidence to the City's Historic Preservation Officer that the mural has been advertised for relocation in a newspaper of general circulation, posted on a website, and posted on the sites for a period between 30 and 60 days. If an entity or individual is interested in relocating the mural to a new site, the costs and liability of the relocation will be borne entirely by that entity/individual. The purchasing entity/individual is required to coordinate with the City's Historic Preservation Officer to prepare an approved preservation plan and receive appropriate City permits.~~

~~If an entity/individual is not identified for relocation, the applicant is required to offer the mural for donation with preference to a local organization within the County of Santa Clara. If relocation entity/individual or donation organization is not identified, the conditions of salvage and documentation shall be coordinated with the City's Historic Preservation Officer.~~

- ~~Prior to issuance of any demolition permit for the mural, a qualifying Structure of Merit, photo documented to consisting of selected views of the building and mural for research and archival use shall be taken under the following standards:~~
 - ~~Cover sheet~~—The documentation shall include a cover sheet identifying the photographer, providing the address of building, significance statement, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
 - ~~Camera~~—A 35mm camera or comparable.
 - ~~Lenses~~—No soft focus lenses. Lenses may include normal focal length, wide angle and telephoto.
 - ~~Film~~—Color film is recommended.
 - ~~View~~—Perspective view front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure. Detailed photographs of character defining features shall be included.
 - ~~Lighting~~—Sunlight is preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
 - ~~Technical~~—All areas of the photograph must be in sharp focus.
 - ~~Digital Form~~—All photographs shall be provided in print and digital form

~~The project applicant shall coordinate the submission of the photo documentation, including the original prints and negatives, to History San José. Digital photos shall be provided as a supplement to the above photo documentation, but not in place of it. Digital photography shall be recorded on a CD and submitted with the above documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted as a standard measure to address the loss of the Structure of Merit, which shall be named and the address stated, in coordination with the City's Historic Preservation Officer.~~

Page 148 Section 3.16.3 Project Impacts; the text under subheading Congestion Management Program – Freeways will be **REVISED** as follows:

Since the project would add more than 100 net new peak-hour vehicle trips to the roadway network, a CMP freeway analysis was completed. The following freeway segments were evaluated for LOS:

- I-280, between Lawrence Expressway and Saratoga Avenue,
- I-280, between Saratoga Avenue and Stevens Creek Boulevard, and
- I-280, between Stevens Creek Boulevard and I-880,

The CMP defines an acceptable level of service for freeway segments as LOS E or better; however, per SB 743, LOS is no longer considered a CEQA impact. The project is required to comply with CMP policy as a non-CEQA issue, but in lieu of LOS, a project is considered to have a significant impact if, in the pursuit of achieving acceptable LOS and policy compliance, it causes physical changes to the environment (i.e., widening freeways, adding exits, etc.) that could result in other significant environmental impacts. The project would not cause substantial increases in traffic volumes (one percent or more of freeway capacity) on any of the study freeway segments currently operating at an unacceptable LOS F, as described in Appendix J. Therefore, there is no policy conflict, and the project would not require any physical improvements to the freeway segments that could result in significant environmental impacts and the impact would be less than significant. (Less than Significant Impact)

Appendix A: Draft EIR Comment Letters



September 25, 2020

City of San Jose, Department of Planning, Building, and Code Enforcement
Attn: Thai-Chau Le, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San Jose CA 95113-1905

Via UPSP and email: Thai-Chau.Le@sanjoseca.gov

Re: Comments on Draft Environmental Impact Report for the 3896 Stevens Creek
Commercial Project

Dear Ms. Le:

Thank you for including the City of Santa Clara (Santa Clara) in the environmental review process for the 3896 Stevens Creek Commercial Project (Project). Santa Clara has reviewed the Environmental Impact Report (EIR) prepared for 1) a Conforming Rezoning from Commercial Neighborhood & Commercial General Zoning District to Commercial Pedestrian Zoning District; 2) a Conditional Use Permit to allow the demolition of 4 commercial buildings and to allow the construction of an approximately 308,000-square foot office building, 151,300-square foot fitness center (with late night uses), and 15,000-square feet of ground floor retail; and 3) a Tentative Map to combine 5 existing lots into 2 lots on an approximately 4.84-gross acre site.

The following comments are provided following our review of the EIR. Please note that Santa Clara previously provided a letter on January 8, 2020 related to the Notice of Preparation for the Project EIR (attached).

A. Transportation/Traffic:

1. Vehicle Cut-Thru Intrusion: In the January 8, 2020 letter, Santa Clara requested that the Project EIR include a local transportation analysis that addresses potential vehicle cut-through traffic intrusion to Santa Clara neighborhoods. Santa Clara is unable to find any documentation within the EIR that addresses this concern. Please include an analysis or explanation within the EIR that addresses this concern.
2. Parking Reduction: The project is proposing a 43% parking reduction but does not include any analysis on potential spillover impacts to adjacent neighborhoods. Please revise the EIR to include an analysis and discussion regarding potential parking impacts due to the proposed 43% parking reduction. Additionally, the Project should be required to conduct regular parking surveys as part of TDM monitoring to identify parking issues. Correspondingly, the Project should be required to mitigate parking issues if they occur.

3. VMT Analysis (Page 24 of the Transportation Analysis prepared by Hexagon Transportation Consultants): The retail portion of the Project exceeds San Jose's adopted threshold for regional retail; therefore, the City's transportation model was used to estimate the regional VMT. Based on the size, 304 jobs were identified for the 166,258 square foot fitness center. The analysis assumes all 304 employees of this use will transfer from existing Bay Club facilities in Santa Clara and Los Gatos. This appears to be an overstated assumption and consequently results in a VMT reduction. Please provide a more thorough justification of this assumption or provide a more reasonable assumption about the number of new jobs, etc. that this new fitness center may generate.

4. Santana West Settlement Agreement: The EIR does not directly address the need for the Project to comply with the Santana West Settlement Agreement (Settlement Agreement). However, during recent conversations with staff from the City of San Jose, Santa Clara was informed that the Project will add 97 PM peak hour trips to the intersection of Winchester Boulevard and Stevens Creek Boulevard. When the 97 PM peak hour trips are multiplied against a 2020 Protected Intersection Fee of \$3,351, the resulting Protected Intersection fees or budget to be funded by the Project equals \$325,047 in order to comply with the Settlement Agreement. In lieu of providing fees, the Project is proposing to provide pedestrian-related improvements (i.e. removal of a free running right turn and porkchop island at the northwest corner of the intersection of Stevens Creek Boulevard and Saratoga Avenue) that exceed the \$325,047 Protected Intersection fee. Santa Clara supports this proposal but requests that the EIR be updated to include a Level of Service analysis for this intersection with the improvement implemented. Additionally, Santa Clara requests that the EIR include a discussion of the Santana West Settlement Agreement and how the proposed improvement at Stevens Creek Boulevard and Saratoga Avenue addresses Settlement Agreement requirements for the Project.

Please note that Santa Clara's willingness to accept the proposed pedestrian related improvements at the northwest corner of the Stevens Creek and Saratoga Avenue intersection in lieu of payment of Protected Intersection fees otherwise required by the Settlement Agreement should not be construed as a waiver of any of Santa Clara's rights under the Settlement Agreement. Nor should it be construed as a willingness to accept future proposals for improvements in lieu of payment of fees, which will be considered by Santa Clara on a case-by-case basis in coordination with San Jose staff.

Further, Santa Clara appreciates the coordination regarding this proposed improvement but remains concerned regarding San Jose's continued lack of formal response to Santa Clara's requests for confirmation of compliance with the Santana West Settlement Agreement. Santa Clara has sent three letters dated, February 14, 2018, March 1, 2018, and November 17, 2018, requesting information as to how San Jose will comply

with the terms of the Santana West Settlement Agreement. Santa Clara has still received no response to these three letters.

B. Bird Strike Analysis and Shade/Shadow Impacts:

The January 8, 2020 City of Santa Clara comment letter on the Notice of Preparation also raised requests for Bird Strike and Shade and Shadow analyses. Those topics were not addressed in the Environmental Impact Report. Please provide the following information in the First Amendment/Response to Comments on the Draft EIR:

1. Bird Strike Analysis: It appears as if the building design utilizes clear glass. Please include analysis and any measures to reduce the risk of bird strike.
2. Shade and Shadow Impacts: Given the potential heights of the proposed buildings and their proximity to the City of Santa Clara, please include an analysis of the potential for shade and shadow impacts on Santa Clara businesses.

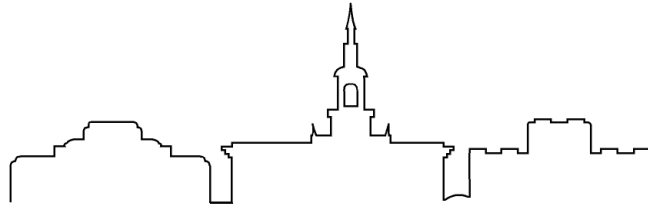
Should you have any questions regarding this letter, please contact Michael Liw, Assistant Director/City Engineer via email at mliw@santaclaraca.gov or phone 408-615-3002.

Best Regards,



Andrew Crabtree
Director of Community Development

cc: Rosalynn Hughey, Director of Planning, Building and Code Enforcement, City of San Jose
Matt Cano, Director of Public Works, City of San Jose
Ryan Do, Division Manager, Department of Public Works, City of San Jose
John Ristow, Director of Transportation, City of San Jose
Manuel Pineda, Assistant City Manager, City of Santa Clara
Brian Doyle, City Attorney, City of Santa Clara
Craig Mobeck, Director of Public Works, City of Santa Clara



PRESERVATION ACTION COUNCIL OF SAN JOSE

Dedicated to Preserving San Jose's Architectural Heritage

September 25, 2020

VIA EMAIL (Thai-Chau.Le@sanjoseca.gov)

Thai-Chau Le
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St, Third Floor Tower
San José, CA 95113

RE: DRAFT EIR, 3896 Stevens Creek Commercial Project (C19-020, CP19-031, T19-038)

Dear Ms. Le,

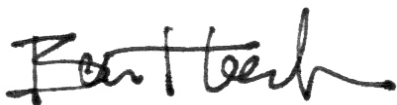
Thank you for the opportunity to provide comments on the 3896 Stevens Creek Commercial Project Draft EIR. As the EIR correctly states, the project area includes a structure that has been determined eligible for listing on the City of San Jose's Historic Resources Inventory as a Structure of Merit: noted local artist Harry Power's 1963 glass mosaic entitled "Vibrant Galaxy," an original exterior feature of the former First National Bank building at 346 Saratoga Avenue. PAC* SJ has long been concerned about the fate of this artwork, and offer our support in helping to identify an appropriate receiver site to avoid its unnecessary destruction.

However, we do not believe that the cursory discussion of the artist or artwork included in the EIR justifies the claim that "the mural by Harry Powers is not a significant example of his work" (p. 61). On what evidence is this claim based? What comparable surviving works are more significant, and

how does this artwork not meet that threshold? Without providing this evidence, the EIR fails to demonstrate that the structure is not a potentially eligible Candidate City Landmark and therefore a CEQA-recognized historic resource. We also note an apparently missing word in the sentence on p. 61: "The mural by Harry Powers is not a significant example of his work, but would [???] an eligible Structure of Merit Under the City's Historic Preservation Ordinance."

While we agree that its advertisement for donation/relocation is a necessary and appropriate precondition prior to the approval of any demolition permit (see EIR Section 3.5.3, p. 61), we also believe the project applicant should explore its preservation and reinstallation within the project site itself, and that this be investigated as a formal mitigation measure in the project EIR. If retention on site is found to be infeasible, we would also urge the City and the applicant to help facilitate the potential donation and relocation of the artwork by providing a relocation plan and budget estimate to prospective donees. PAC*sj has identified numerous interested parties and stands ready to assist in these efforts.

Sincerely,

A handwritten signature in black ink that reads "Ben Leech". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ben Leech
Executive Director
Preservation Action Council of San Jose

Tyler Rogers

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Sent: Monday, October 19, 2020 11:29 AM
To: Tyler Rogers
Subject: FW: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project and Public Comment Period (C19-020/CP19-031/T19-038/ER20-020)

This is late, but if we are still preparing the RTC, we should consider just adding this comment into the record. Most are about height and there's no env impact mentioned so I do not think we need to address it in the RTC.

From: AR [mailto:sralamelu@gmail.com]
Sent: Monday, October 19, 2020 11:26 AM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: Re: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project and Public Comment Period (C19-020/CP19-031/T19-038/ER20-020)

[External Email]

Hi Thai-Chau, I would like to record my concern about the height of the office building at 164ft.

Currently, there aren't any buildings on Stevens Creek Blvd at that height or even near that height. I understand if this was on an expressway or on a freeway, which Stevens Creek Blvd is not. In fact, Northlake Drive is a residential road. This building, once constructed can be seen from miles away. Also, this is on the border with Santa Clara which does not allow such tall buildings. So height of 164 ft is too high for this neighborhood and needs to be reconsidered.

Thank you
Alamelu Ramaswamy

On Fri, Aug 14, 2020 at 12:13 PM Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov> wrote:

**NOTICE OF AVAILABILITY (NOA) OF
A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE 3896 STEVENS CREEK
COMMERCIAL PROJECT AND PUBLIC COMMENT PERIOD**

Project Description: Conforming Rezoning from Commercial Neighborhood & Commercial General Zoning District to Commercial Pedestrian Zoning District; a Conditional Use Permit to allow the demolition of 4 commercial buildings and to allow the construction of an approximately 308,000-square foot office building, 151,300-square foot fitness center, and 15,000-square foot of ground floor retail; and a Tentative map to combine 5 existing lots into 2 on an approximately 6.30-gross acre site on an approximately 4.84-gross acre site. The project also proposes late night use of the fitness facility.

Location: The approximately 4.8-acre project site is located at the southeast corner of Saratoga Avenue and Stevens Creek Boulevard and includes five parcels (APNs 303-25-012 [350 Saratoga Avenue], -013 [3888 Stevens Creek

Boulevard], -022 [3830 Stevens Creek Boulevard], -023 [3896 Stevens Creek Boulevard], -016 [3806 Stevens Creek Boulevard]) in the City of San José.

Council District: 1

File Nos.: C19-020/CP19-031/T19-038/ER20-020

The proposed project will have potentially significant environmental effects on Air Quality, Biological Resources, Hazards and Hazardous Materials, Noise, and Transportation resource areas. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project site is not listed on any toxic sites databases.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José's "Active EIRs" website at www.sanjoseca.gov/activeeirs.

Usually hard copies would be available at City Hall and Dr. Martin Luther King Jr. Main Library in Downtown San Jose. **However, in response to the COVID-19 and Shelter-in-Place policy, hard copies are no longer available at the typical locations, such as those listed above. Therefore, if requested, a hard copy will be mailed to you. Please allow time for printing and delivery.**

The public review period for this Public Review Draft EIR begins on **August 11, 2020 and ends on September 25, 2020**. Written comments must be received at the Planning Department by 5:00 p.m. on September 25, 2020 to be addressed as part of the formal EIR review process. Written comments and questions should be referred to Thai-Chau Le in the Department of Planning, Building and Code Enforcement via e-mail: Thai-Chau.Le@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement, above (send to the attention of Thai-Chau Le). For the official record, please your written comment letter and reference **File No. C19-020/CP19-031/T19-038/ER20-020**.

Following the close of the public review period, the Director of Planning, Building, and Code Enforcement will prepare a Final Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the EIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the EIR during the public review period.

Best regards,
Thai

Thai-Chau Le
Supervising Planner | Planning, Building & Code Enforcement
City of San Jose | 200 East Santa Clara Street
Thai-Chau.Le@sanjoseca.gov | (408) 535 - 5658

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County of Santa Clara

Roads and Airports Department
Planning, Land Development and Survey



101 Skyport Drive
San Jose, CA 95110-1302
(408) 573-2460 FAX 441-0276

September 25, 2020

Thai-Chau Le

Supervising Planner | Planning, Building & Code Enforcement

City of San Jose|200 East Santa Clara Street

Thai-Chau.Le@sanjoseca.gov | (408) 535 – 5658

San Jose, CA 95113

SUBJECT: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project (C19-020/CP19-031/T19-038/ER20-020)

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project(C19-020/CP19-031/T19-038/ER20-020), and is submitting the following comments:

DEIR:

1. The proposed project identified a fair share contribution to a Tier 3 San Tomas widening project, which is not funded on the County projects horizon. As a mitigation measure to project impacts at San Tomas and Stevens Creek intersection; it is recommended that the proposed project look into near term mitigations such as extending left turn pockets at impacted left turns identified in the Queuing Analysis shown on Page 49, Table 7 of the Local Transportation Analysis (LTA).
2. Please provide queueing analysis for San Tomas/Stevens Creek EBL & EBR.

Transportation Demand Management (TDM):

3. The project proposed TDM program should also include monitoring of San Tomas/Stevens Creek and San Tomas/Saratoga intersections traffic to make sure there would be no additional project trips at these intersections besides what was stated and used in LOS analysis. County recommends that the project identify how the TDM is monitored and penalties for violations.
4. There is a heavy reliance on rideshare services in the TDM. All projected rideshare trips must be accountable in the trip distribution model. To reduce reliance on rideshare, please provide some mitigation from transit related measures.
5. The County wants to remind that all passenger loading zone including rideshare must be away from the curb, especially on Saratoga and Stevens Creek.
6. Passenger Loading: The site plan does not indicate passenger loading zones along the project frontages or within the site, which would be inconvenient for people accessing the site using Uber/Lyft or other rideshare apps (e.g., Scoop, Waze Carpool).
7. Recommendation: The project should designate curbside passenger loading zones on Stevens Creek Boulevard near the office building entrance and on Saratoga Avenue near the fitness center entrance, based on the City's evaluation of these zones at the implementation stage.
8. The TDM proposes bicycle parking facilities, but the project site is not bike friendly, see the statement below for surrounding bike lanes. North of Stevens Creek is deemed not safe.



9. City of San Jose's San Jose Bike Plan 2020 Action 2.1.5 states "Include Bikeways for bicyclists of different skills. Not all bicyclists feel comfortable riding on busy streets with higher traffic speeds and volumes. Bikeways on calmer side streets must be part of the Bikeway Network." The County would like to know if the city has any plans to extend the Class II Bike lane past Stevens Creek on Saratoga or improve the bike network in the project area?
10. "Class II striped bike lanes are present on Saratoga Avenue south of Stevens Creek Boulevard. There are no other designated bike lanes or bike routes on streets in the immediate vicinity of the project site. Northlake Drive and Kiely Boulevard east of Saratoga Avenue are local streets that carry low traffic volumes and are conducive to bicyclists. Stevens Creek Boulevard, Kiely Boulevard, and Saratoga Avenue are arterial streets with high traffic volumes and vehicle speed. Bicyclists need to ride with caution on these streets. Bicycles are also permitted on San Tomas Expressway. However, due to high speeds and traffic volumes, it is recommended for use only by bicyclists with advanced skills."
11. Annual Monitoring Report Section - Include Bike and transit passenger counts.

If you have any questions or concerns about these comments, please contact me at 408-573-2462 or ben.aghegnehu@rda.sccgov.org

Thank you.

Tyler Rogers

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Sent: Thursday, September 24, 2020 6:25 PM
To: Tyler Rogers
Subject: Fwd: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project and Public Comment Period (C19-020/CP19-031/T19-038/ER20-020)

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From: Colleen Haggerty <CHaggerty@valleywater.org>
Sent: Thursday, September 24, 2020 6:19:47 PM
To: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: RE: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project and Public Comment Period (C19-020/CP19-031/T19-038/ER20-020)

[External Email]

Hi Thai-Chau,
Valley Water has reviewed the DEIR and has no comments.

Colleen Haggerty, PE
Associate Civil Engineer
Community Projects Review Unit
Santa Clara Valley Water District
5750 Almaden Expressway, San Jose, CA 95118
(408) 630-2322 direct | (408)265-2600 main | chaggerty@valleywater.org | www.valleywater.org
* Mailing address for FedEx, UPS, Golden State, etc.
Winfield Warehouse-5905 Winfield Blvd. San Jose, CA 95123-2428

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Sent: Tuesday, August 11, 2020 8:10 AM
Subject: Notice of Availability of a Draft EIR for 3896 Stevens Creek Commercial Project and Public Comment Period (C19-020/CP19-031/T19-038/ER20-020)

NOTICE OF AVAILABILITY (NOA) OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE 3896 STEVENS CREEK COMMERCIAL PROJECT AND PUBLIC COMMENT PERIOD

Project Description: Conforming Rezoning from Commercial Neighborhood & Commercial General Zoning District to Commercial Pedestrian Zoning District; a Conditional Use Permit to allow the demolition of 4 commercial buildings and to allow the construction of an approximately 308,000-square foot office building, 151,300-square foot fitness center, and 15,000-square foot of ground floor retail; and a Tentative map to combine 5 existing lots into 2 on an approximately

6.30-gross acre site on an approximately 4.84-gross acre site. The project also proposes late night use of the fitness facility.

Location: The approximately 4.8-acre project site is located at the southeast corner of Saratoga Avenue and Stevens Creek Boulevard and includes five parcels (APNs 303-25-012 [350 Saratoga Avenue], -013 [3888 Stevens Creek Boulevard], -022 [3830 Stevens Creek Boulevard], -023 [3896 Stevens Creek Boulevard], -016 [3806 Stevens Creek Boulevard]) in the City of San José.

Council District: 1

File Nos.: C19-020/CP19-031/T19-038/ER20-020

The proposed project will have potentially significant environmental effects on Air Quality, Biological Resources, Hazards and Hazardous Materials, Noise, and Transportation resource areas. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project site is not listed on any toxic sites databases.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José's "Active EIRs" website at www.sanjoseca.gov/activeeirs.

Usually hard copies would be available at City Hall and Dr. Martin Luther King Jr. Main Library in Downtown San Jose. **However, in response to the COVID-19 and Shelter-in-Place policy, hard copies are no longer available at the typical locations, such as those listed above. Therefore, if requested, a hard copy will be mailed to you. Please allow time for printing and delivery.**

The public review period for this Public Review Draft EIR begins on **August 11, 2020 and ends on September 25, 2020**. Written comments must be received at the Planning Department by 5:00 p.m. on September 25, 2020 to be addressed as part of the formal EIR review process. Written comments and questions should be referred to Thai-Chau Le in the Department of Planning, Building and Code Enforcement via e-mail: Thai-Chau.Le@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement, above (send to the attention of Thai-Chau Le). For the official record, please your written comment letter and reference **File No. C19-020/CP19-031/T19-038/ER20-020**.

Following the close of the public review period, the Director of Planning, Building, and Code Enforcement will prepare a Final Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the EIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the EIR during the public review period.

Best regards,
Thai

Thai-Chau Le
Supervising Planner | Planning, Building & Code Enforcement
City of San Jose | 200 East Santa Clara Street
Thai-Chau.Le@sanjoseca.gov | (408) 535 - 5658

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September 25, 2020

City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113

Attn: Thai-Chau Le
By Email: Thai-Chau.Le@sanjoseca.gov

Subject: City File CI9-020, CP 19-03I, T19-038 at 3896 Stevens Creek Commercial Project

Dear Thai-Chau,

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the 3896 Stevens Creek Commercial Project in the City of San José. VTA has provided comments on previous proposals for the site and has the following comments, some of which may be repeated:

Pedestrian and Bicycle Accommodations

New curb ramps at the Saratoga/Stevens Creek and Stevens Creek/Northlake intersections should be directional. For security reasons, VTA recommends adjusting the access into the bicycle room to be provided through the main lobby. This provides a higher level of security with a lower risk of bicycles being stolen from the garage. VTA recommends the door for the room and the lobby use ADA-compliant kick plates on both sides to allow riders to easily open the door and maneuver their bikes into and out of the rooms.

Congestion Impacts on Transit Travel Times

The transportation analyses in the Transportation Impact Analysis (TIA) and DEIR does not address any potential impacts that increased motor vehicle traffic and congestion associated with the project may have on transit travel times on the Stevens Creek Boulevard corridor. While VTA is supportive of increasing development densities along this corridor, increased congestion could degrade the schedule reliability of transit and increase travel times, making transit a less attractive option for travelers in the corridor. VTA requests a meeting to discuss the City San José's comprehensive approach to address transit delay if it will not be studied and included in project TIAs.

City of San José
January 10, 2020
Page 2 of 2

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-546-7985.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Pearse". The signature is written in a cursive, flowing style.

Brent Pearse
Transportation Planner III

SJ1607

From: [Aghegnehu, Ben](#)
To: [Banwait, Manjit](#); [Talbo, Ellen](#)
Cc: [Le, Thai-Chau](#)
Subject: RE: Garden City Development - San Tomas Expressway Widening Fair Share Contribution Discussion
Date: Monday, November 16, 2020 4:53:37 PM
Importance: High

[External Email]

Dear -

Manjit K. Banwait

Senior Transportation Specialist
Development Services Division
Department of Public Works
City of San Jose
200 East Santa Clara Street
San Jose CA 95112

The County appreciates the opportunity to revise its comments and disregard the previous comments made on this project.

Therefore, the County supports and accepts the City in conditioning projects within the Stevens Creek and Winchester Urban Villages that have adverse effects along San Tomas Expressway to contribute Fair Share to San Tomas Expressway's widening.

Thank you,

Ben Aghegnehu

Associate Transportation Planner
County of Santa Clara | [Roads & Airports](#)
101 Skyport Rd | San Jose, CA, 95110
408-573-2462 (o)

From: Banwait, Manjit <Manjit.Banwait@sanjoseca.gov>
Sent: Friday, November 13, 2020 3:36 PM
To: Talbo, Ellen <Ellen.Talbo@rda.sccgov.org>; Aghegnehu, Ben <ben.aghegnehu@rda.sccgov.org>
Cc: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: [EXTERNAL] RE: Garden City Development - San Tomas Expressway Widening Fair Share Contribution Discussion

Hi Ellen and Ben,

Would you be able to send us a formal email to disregard the comment below? Our Environmental Team (Thai – cc'd on this email) needs it for record.

Thanks!
Manjit

From: Banwait, Manjit <Manjit.Banwait@sanjoseca.gov>
Sent: Friday, November 6, 2020 9:28 AM
To: Aghegnehu, Ben <ben.aghegnehu@rda.sccgov.org>
Cc: Talbo, Ellen <Ellen.Talbo@rda.sccgov.org>; Ng, Barry <barry.ng@rda.sccgov.org>; Do, Ryan <ryan.do@sanjoseca.gov>; Cheung, Christy <Christy.Cheung@sanjoseca.gov>
Subject: [EXTERNAL] Garden City Development - San Tomas Expressway Widening Fair Share Contribution Discussion

Hi Ben,

Thank you for submitting comments to the EIR for Garden City located at Stevens Creek and Saratoga. I would like to meet with the County team to discuss the following comment:

- The proposed project identified a fair share contribution to a Tier 3 San Tomas widening project, which is not funded on the County projects horizon. As a mitigation measure to project impacts at San Tomas and Stevens Creek intersection; it is recommended that the proposed project look into near term mitigations such as extending left turn pockets at impacted left turns identified in the Queuing Analysis shown on Page 49, Table 7 of the Local Transportation Analysis (LTA).

In general, we have conditioned several projects within the Stevens Creek and Winchester Urban Villages that had adverse affects along San Tomas Expressway to provide contributions towards the widening of San Tomas Expressway. If the County is open to other near term improvements in lieu of the contributions we should discuss.

Please let me know if any of the following times will work for your team to meet and I will set up a quick zoom meeting. We would like to meet as soon as possible since we are wrapping up the final project conditions for the project within the next week.

1. Monday, November 9th between 10-11 am, 11:30-noon or 3:30-4 pm
2. Tuesday, November 10th from 1-1:30 or 2:30-3

Thanks!

Manjit K. Banwait
Senior Transportation Specialist
Development Services Division
Department of Public Works

City of San Jose
200 East Santa Clara Street
San Jose CA 95112

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Appendix B: City of San José Historic Evaluation Sheet

CITY OF SAN JOSE HISTORIC EVALUATION SHEET

Historic Resource Name: 346 Saratoga Avenue / 3888 Stevens Creek / Bank of the West

Note: Complete all blanks. Use spaces to justify ratings. For example, a rating of "E" on No. 9, Age, would be justified by "Built in 1850".

	RATING	VALUE
A. VISUAL QUALITY/DESIGN		
1. EXTERIOR: Quality of composition, detailing and artistic merit	G	6
2. STYLE: Modern	G	4
3. DESIGNER: Unknown	FP	0
4. CONSTRUCTION: use of modern building materials (concrete block)	G	4
5. SUPPORTIVE ELEMENTS: multi-color, stone and glass mural	G	3
SUBTOTAL A:		17

B. HISTORY/ASSOCIATION		
6. PERSON/ORGANIZATION: First National Bank	FP	0
7. EVENT: none	FP	0
8. PATTERNS: suburban expansion and shopping centers	G	5
9. AGE: Built 1962	FP	0
SUBTOTAL B:		5

C. ENVIRONMENTAL/CONTEXT		
10. CONTINUITY: not in API or ASI	FP	0
11. SETTING: compatible with surroundings	G	2
12. FAMILIARITY: not particularly conspicuous or familiar	FP	0
SUBTOTAL C:		2

SUBTOTAL A + SUBTOTAL C:	19
SUBTOTAL B:	5
PRELIMINARY TOTAL (A+B+C):	24

D. INTEGRITY	RATING	PERCENT	FACTOR	DEDUCTION
13. CONDITION: minor surface wear	VG	0.03	24	0.72
14. EXTERIOR ALTERATIONS: minor alterations	VG	0.00	19	0
15. STRUCTURAL REMOVALS: no structural	E	0.00	19	0
elements have been removed	E	0.00	5	0
16. SITE: not moved	E	0.00	5	0
INTEGRITY DEDUCTIONS SUBTOTAL:				0.72

ADJUSTED TOTAL:	23.28
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	RATING	VALUE
E. REVERSIBILITY		
17. EXTERIOR: minor alterations appear to be reversible	VG	3

F. ADDITIONAL CONSIDERATIONS/BONUS POINTS		
18. INTERIOR/VISUAL QUALITY: not applicable	FP	0
19. HISTORY/ASSOCIATION OF INTERIOR: interior use remained the same	FP	0
20. INTERIOR ALTERATIONS: not applicable	FP	0
21. REVERSIBILITY/INTERIOR: not applicable	FP	0
22 NATIONAL OR CALIFORNIA REGISTER: doesn't appear eligible	FP	0

REVERSIBILITY + BONUS POINTS SUBTOTAL:	3
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ADJUSTED TOTAL (Plus Bonus Points):	26.28
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REVIEWED BY: A. Kilinc, Carey & Co.

DATE: 4/29/16