

Final Supplemental Environmental Impact Report (SEIR)

Woz Way Project

GP19-008 and H20-004
SCH# 2003042127

May 2021



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SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Supplemental Environmental Impact Report (Draft SEIR), technical appendices, and other written documentation prepared during the EIR process, as those documents may be modified by the City Council at the time of certification, constitutes the Final SEIR, as defined in the State CEQA Guidelines, Section 15132 for the Woz Way Project.

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, the Final SEIR provides objective information regarding the environmental consequences of the proposed project. The Final SEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final SEIR is intended to be used by the City of San José in making decisions regarding the project.

As described in 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.

The Final SEIR for the Woz Way Project meets the requirements of CEQA Guidelines Section 15090(a).

1.2 CONTENTS OF THE FINAL SEIR

Pursuant to CEQA Guidelines Section 15132, the the Woz Way Project Final SEIR consists of the following contents:

- a) The Draft SEIR 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 SEIR;
- 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 SEIR. The Final SEIR and all documents referenced in the Final SEIR are available for public review on the City's website: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/woz-way-project>

SECTION 2.0 DRAFT SEIR PUBLIC REVIEW SUMMARY

The Draft SEIR for the Woz Way Project, dated March 2021, was circulated to affected public agencies and interested parties for a 45-day review period from March 1, 2021 through April 15, 2021. The City of San José undertook the following actions to inform the public of the availability of the Draft SEIR:

- A Notice of Availability of the Draft SEIR was published on the City's website (www.sanjoseca.gov/activeeirs) and in the San José Mercury News and the Post Record;
- The Draft SEIR was delivered to the State Clearinghouse on March 1, 2021, 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 SEIR); and
- Copies of the Draft EIR were made available on the City's website at www.sanjoseca.gov/activeeirs and the State Office of Planning and Research website at <https://ceqanet.opr.ca.gov/2003042127/23>.

SECTION 3.0 DRAFT SEIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft SEIR 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 SEIR via the State Clearinghouse:

- California Air Resources Board (ARB)
- California Department of Conservation (DOC)
- California Department of Fish and Wildlife, Bay Delta Region 3 (CDFW)
- California Department of Forestry and Fire Protection (CAL FIRE)
- California Department of Parks and Recreation
- California Department of Resources Recycling and Recovery
- California Department of Transportation, District 4 (DOT)
- California Department of Transportation, Division of Aeronautics (DOT)
- California Department of Transportation, Division of Transportation Planning (DOT)
- California Department of Water Resources (DWR)
- California Governor's Office of Emergency Services (OES)
- California Highway Patrol (CHP)
- California Native American Heritage Commission (NAHC)
- California Natural Resources Agency California Public Utilities Commission (CPUC)
- California Regional Water Quality Control Board, San Francisco Bay Region 2 (RWQCB)
- California State Lands Commission (SLC)
- Office of Historic Preservation San Francisco Bay Conservation and Development Commission (BCDC)
- State Water Resources Control Board, Division of Drinking Water
- State Water Resources Control Board, Division of Water Quality

The Notice of Availability (NOA) for the Draft SEIR was emailed with delivery and read receipts to adjacent jurisdictions, including members of the public who had indicated interest in the project. The following agencies received a copy of the Draft SEIR or NOA from the City or via the State Clearinghouse:

- San Jose City Council
- San Jose Planning Commission

- San Jose Historic Landmark Commission
- United States Fish and Wildlife Service
- California Department of Fish and Wildlife
- California Energy Commission
- California Air Resources Board
- County of Santa Clara Planning Department
- Santa Clara Valley Transportation Authority Airports (VTA)
- Santa Clara Valley Water District (Valley Water)
- Santa Clara County Roads and Airports Department (SCCRDA)
- Bay Area Air Quality Management District (BAAQMD)
- Association of Bay Area Governments (ABAG)
- Caltrans District 4
- Pacific Gas and Electric (PG&E)
- California Environmental Protection Agency (CALEPA)
- Bay Area Metro
- San Jose Water Company
- San Jose Downtown Association
- City of Campbell
- City of Cupertino
- City of Fremont
- City of Milpitas
- City of Santa Clara
- City of Saratoga
- City of Sunnyvale
- City of Morgan Hill
- City of Mountain View
- Town of Los Gatos
- Open Space Authority
- Green Belt Alliance
- Santa Clara Valley Audubon Society
- Sierra Club – Loma Prieta Chapter

- Preservation Action Council of San Jose
- SPUR
- PAC SJ
- Friends of Caltrain
- Cal History
- CNPS Santa Clara Valley Chapter
- Erik Schoennauer
- Alan Leventhal
- Amahmutsun Tribe
- Muwekma Tibe
- Indian Canyon
- Lozeau Drury
- Adams Broadwell
- Kathy Sutherland
- Andrew Galvan
- Ada Marquez
- Edward Saum

SECTION 4.0 RESPONSE TO DRAFT SEIR 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 SEIR. 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 SEIR are listed below.

<u>Comment Letter and Commentor</u>	<u>Page of Response</u>
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GOVERNMENT AGENCIES

A. California Department of Transportation (dated April 14, 2021)

Comment A.1: Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the February 2021 Draft SEIR.

The project includes a General Plan Amendment to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit to demolish 16 existing single family homes and construct two, 20-story, 297-foot tall office towers, totaling approximately 1.8 million square feet (s.f.). The office towers are comprised of approximately 10,100 s.f. of retail space and 1.22 million s.f. of office space.

This 3.08-acre project site is located at the south corner of South Almaden Boulevard and Woz Way, immediately adjacent to the Interstate (I)-280 on-ramp at Almaden Blvd. It is located within the Priority Development Area identified in Plan Bay Area 2040 and within the Transit Priority Area defined in the California Public Resources Code, Section 21099. Also, this project is located within the city's Downtown Growth Area Boundary, for which the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) has been completed and approved.

Response A.1: The comment is a summary of the Project. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment A.2: Caltrans commends the project applicant in preparing and implementing a TDM program to reduce overall trip generation, reduce single occupancy vehicle (SOV) trips to and from the project and encourage alternative transportation modes. The proposed TDM measures should be documented with annual monitoring reports to demonstrate effectiveness.

Response A.2: A TDM Plan has been prepared for the Project, which includes annual monitoring and reporting to ensure effectiveness. This TDM Plan is included in the FEIR as Appendix B.

Comment A.3: Regarding vehicle queues, project added traffic shall be accommodated within the ramps and freeway traffic shall not be impacted. The Local Transportation Analysis (LTA) indicates a project impact on the Almaden/I-280 North Bound (NB) Ramp during AM Peak Hour. Traffic impacts generated from the project that impact ramp operations shall be mitigated or allocate a fair share fee for the mitigation. The project applicant shall coordinate with the City of San Jose and Caltrans for the proposed mitigation measures to mitigate any potential impacts.

Response A.3: As noted on page 167 of Appendix B of the Draft SEIR, "As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development under CEQA, as

suggested by SB 743.” Further, page 76 of the LTA (Appendix J of the Draft SEIR) explained, “It should be noted that the evaluation of metered freeway on-ramps is not required based on the City’s transportation analysis guidelines. The evaluation of the metered freeway on-ramps that would be utilized by project-generated traffic is provided for informational purposes only.” As such, any Project-related effects to the Almaden/I-280 North Bound (NB) Ramp are not considered impacts under CEQA and would therefore not require mitigation.

Further, the commenter incorrectly summarizes the findings of the LTA. Page 77 of the LTA (Appendix J of the Draft SEIR) states, “Field observations show that the ramp operations are congested during the AM peak hour with little to no congestion during the PM peak hour. The project is expected to add approximately 25 AM and 169 PM trips to the I-280 NB on-ramp which is anticipated to create minimal increase in delay to existing ramp operations.” Table 19 and Table 21 of the LTA (Appendix J of the Draft SEIR) show that the segment of NB I-280 containing the Almaden/I-280 North Bound (NB) Ramp operates at a level of service (LOS) F under existing conditions and that the Project would result in a 0.07% capacity increase to this segment of the freeway, which would be negligible.

Comment A.4: A potential fair share allocation could go towards improvements to bicycle and pedestrian mobility. Caltrans recommends removing the slip lane at the I-280/Almaden Blvd and squaring up the intersection, and upgrading the Class II Bike Lane to Class IV along the project boundary, which is also identified in the San Jose better Bike Plan 2025.

Response A.4: As noted in Response A.3, LOS effects are not considered impacts for the purposes of CEQA and would not require mitigation. Regardless, this commenter’s recommendation to remove the slip lane at the I-280/Almaden Blvd, to square up the intersection, and upgrade the Class II Bike Lane to Class IV along the project boundary, is acknowledged. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment A.5: This project is within Zone X, 0.2-percent-annual-chance flood hazard, according to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map 06085C0234H, effective on May 18, 2009. However, the report states that the project site is within Zone X, an area of minimal flood hazard. Please revise the report and ensure this to be reflected in the analysis.

Response A.5: Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments.

Comment A.6: Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).

Response A.6: The applicant would obtain any necessary permits from Caltrans. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment A.7: Please be advised that any permanent work or temporary traffic control that encroaches onto the Right-of-Way (ROW) requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating the State ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to D4Permits@dot.ca.gov.

To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Response A.7: The Project applicant and City will coordinate with Caltrans, as appropriate, should any encroachment permit be required for construction. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

B. Santa Clara Valley Transportation Authority (dated April 15, 2021)

Comment B.1: VTA applauds the proposed design for the Woz Way intersections directly adjacent to the site. We support signaling the proposed driveway access along Woz Way as we understand the proposed Almaden Boulevard office project (labeled as "Boston Properties Development") will also place its driveway at this location. Signaling this location will also help facilitate the anticipated increase in pedestrians and bicyclists that will use this intersection to access the Guadalupe River Trail, Discovery Meadow, and Children's Discovery Museum Light Rail Station.

Response B.1: The comment expresses support for the project. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment B.2: We also support the proposed design for Woz Way and Almaden Boulevard as shown on Page 51 of Appendix J - Local Transportation Analysis VTA worked with the City to secure funding for upgrades to this trailhead and crossing through the Affordable Housing and Sustainable Communities grant program and appreciates this thoughtful design, especially the curb extensions and directional curb ramps. Special attention will need to be made for the people exiting their vehicles from the on-street parking stalls to be able to access the sidewalks on Woz Way and Almaden Boulevard as the current designs do not include any pathways within the landscape areas.

Response B.2: The comment expresses support for the project design. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment B.3: Additionally, VTA would support these treatments shown on Page 51 of Appendix J - Local Transportation Analysis along Almaden Boulevard if they extend north to the San Carlos Avenue intersection. The San Carlos Avenue and Almaden Boulevard intersection is a Congestion Management Program (CMP) intersection that is monitored by VTA as the Congestion Management Agency. If the San Carlos Avenue and Almaden Boulevard intersection will be upgraded like what is shown for the Woz Way and Almaden Boulevard intersection, VTA should be involved in the design and planning of those treatments especially as our light rail system also travels through that intersection.

Response B.3: The comment is a recommendation for future San Carlos Avenue and Almaden Boulevard intersection improvements and VTA coordination. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment B.4: VTA supports the increase in bicycle parking recommended in Appendix J - Local Transportation Analysis This project is located 0.4 miles from the Children's Discovery Museum Light Rail Station and one mile from Diridon Station. Diridon Station currently serves Caltrain, Amtrak, VTA Light Rail, along with several bus providers and, in the future, will also serve BART and California High Speed Rail. Additionally, the project is located directly next to the Guadalupe River Trail, a high-quality trail categorized by VTA as a bicycle superhighway that will extend close to 20 miles upon full

implementation. The city should require the project to provide more bicycle parking spaces than currently noted and encourage the project to take advantage of the allowed decrease in vehicle parking to encourage its workers to utilize the incredible public and active transportation options offered by this downtown location.

Response B.4: The comment is a recommendation for additional bicycle parking. As noted on page 176 of Appendix B of the Draft SEIR, “the project site proposes a total parking supply of 1,251 vehicle spaces and 264 bicycle spaces which results in a vehicle and bicycle parking shortfall per the City’s off-street parking requirements. To address the parking deficit, the project would need to implement a transportation demand management (TDM) program.” The TDM Plan is attached as Appendix B to this Final SEIR, and details specific measures the Project would implement to encourage transit and bicycle use. In a published opinion issued February 28, 2018, *Covina Residents for Responsible Development v. City of Covina*, Case No. B279590, the Court of Appeal affirmed that parking impacts, in and of themselves, are exempt from CEQA review. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment B.5: As noted above, this project and the Boston Properties Development are located near to the Children's Discovery Museum and the Children's Discovery Museum Light Rail Station. Woz Way is an important corridor that should have excellent bicycle and pedestrian infrastructure to allow for safe travel of families wishing to visit and workers traveling to and from these sites. VTA requests this project, along with the Boston Properties Development, contribute to safety enhancements at the Woz Way and Auzerai Avenue intersection. We would be happy to discuss options for improvements at this intersection.

Response B.5: The comment is a recommendation for safety enhancements at the Woz Way and Auzerai Avenue intersection. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

C. Santa Clara Valley Water District (dated April 15, 2021)

Comment C.1: Dewatering is required during construction because shallow groundwater occurs in the project location and the depth of the parking garage. Valley Water recommends that the construction dewatering system be designed such that the volume and duration of dewatering are minimized to the greatest extent possible. Valley Water also recommends that a more detailed analysis of construction dewatering be conducted, including estimating dewatering volumes/durations and evaluating related impacts if volumes are expected to be significant. We also recommend that the geotechnical investigation identify the foundation design and waterproofing that will avoid the need for permanent dewatering after construction is complete. Impacts on water temperature in the Guadalupe River due to discharge from dewatering operations should also be considered.

Response C.1: As noted on page 90 of Appendix B of the Draft SEIR, the Project would be required to submit a design-level geotechnical investigation which would evaluate the underlying sediments and determine the potential for settlements to occur as a result of dewatering. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required. Further, as noted on page 134 of Appendix B of the Draft SEIR, the Project would be required to prepare a Stormwater Pollution Prevention Plan (SWPPP) that includes “provisions for the proper management of dewatering effluent. At a minimum, all dewatering effluent will be contained prior to discharge to allow the sediment to settle out, and filtered, if necessary, to ensure that only clear water is discharged to the storm or sanitary sewer system. In areas of suspected groundwater contamination (i.e., underlain by fill or near sites where chemical releases are known or suspected to have occurred), groundwater will be analyzed by a State-certified laboratory for the suspected pollutants prior to discharge. Based on the results of the analytical testing, the applicant will work with the RWQCB and/or the local wastewater treatment plant to determine appropriate disposal options.” All dewatering effluent would be discharged to the sanitary sewer system, and no effluent would be discharged to the Guadalupe River. As such, the dewatering activities would not affect, nor impact, the temperature in the Guadalupe River.

Comment C.2: The 35-foot setback should be increased to meet the City’s Riparian Policy. This will have ecological, recreational, and creek maintenance benefits. Also, the Downtown Strategy 2040 EIR found that cumulative shading and increased disturbance in riparian habitats and special status fish habitat would be minimized through adherence to building setbacks requirements.

Response C.2: As noted on Page 84 of the Draft SEIR, “To receive an exception to the 100-foot setback in Council Policy 6-34, the Project is required to submit a report by a qualified biologist, stream hydrologist, or other appropriate professional that certifies that five conditions listed in in Council Policy 6-34 are met. Each condition is therefore discussed below and in Appendix C-1.” Pages 84-85 of the Draft SEIR describes in detail why the Project meets the criteria for a setback exception as outlined in Council Policy 6-34. Further, as noted on page 74 of the Draft SEIR, the Santa Clara Valley Habitat Agency (Habitat Agency) recommended approval of the 35-foot setback for the Project on April 7, 2020 and the Habitat Agency’s letter was included as Appendix C-2 of the Draft SEIR.

Section 3.1 of the Draft SEIR evaluates the Project’s potential to impact riparian habitats and special status species. As summarized on pages 4-9 of the Draft SEIR, implementation of Mitigation Measures BIO-1 through BIO-3 would reduce any potential Project effects to a less than significant level. In particular, page 73 of the Draft SEIR discusses the Project’s potential to result in biological effects as a result of increased shading on the Guadalupe River. It concludes that the Project would not result in a

significant impact from increased shading because direct sunlight would be available for photosynthesis for approximately nine (9) hours per day, and the Project would only shade vegetation for four (4) hours in the morning. As such, shading by the Project would not result in significant biological effects.

Comment C.3: Page 6, BIO-2 and Biological Technical Report (Appendix C), page 63, plants used at the site should not be on the Cal-IPC list or Valley Water’s Invasive Plant Management Plan list. Use of native plants, in conformance with the Guidelines and Standards for Land Use Near Streams, particularly those valuable to wildlife and pollinators, in a diversity of layers (e.g., trees, shrubs, grasses/herbs) and that provide food sources for native wildlife and/or pollinators throughout the year are encouraged.

Response C.3: Page 71 of the Draft SEIR and page 63 of the Biological Technical Report (Appendix C of the Draft SEIR) note that plants on the Cal-IPC inventory should not be planted and if plants that could have high ecological impact, as identified by the inventory, occur during the mitigation establishment period, such plants should be removed. Additionally, Mitigation Measure BIO-2 references the Guidelines and Standards for Land Use Near Streams. The planting recommendations outlined in Appendix C of the Draft SEIR are based on habitat considerations for native wildlife in the urban setting of the project.

Comment C.4: Page 6, BIO-2, adverse impacts on the adjacent riparian corridor would also result in potential loss of riparian habitat for bats. Additionally, to minimize the spread of invasive nonnative plant species and plant pathogens the following measures should be considered for inclusion to BIO-2: construction equipment is clean and free of soil, seed, and plant parts; fill, soil amendments, etc., placed within the upper 12 inches of the ground surface is free of vegetation and plant material; and use of certified weed-free erosion control materials.

Response C.4: As recognized on page 72 of the Draft SEIR, “Construction disturbances could result in a minor reduction of use of the riparian corridor by species for foraging, breeding, and roosting habitat. This could include migratory birds, bats, and other species. Given the low quality of the adjacent reach of the Guadalupe River (refer to Section 2.1.2), the fact that higher quality riparian habitat occurs upstream and downstream for these species, and that this effect would be temporary (i.e., only during construction), such an impact would be considered less-than significant.” Bat habitat is considered low quality along the adjacent reach of the riparian corridor because it is mostly hardscaped, has high levels of human disturbance and a lack of natural community characteristics, and bat protection measures for individual bats are included in Mitigation Measure BIO-1. Further, bats are likely to benefit from implementation of Mitigation Measure BIO-2 as native plants support a higher diversity of native prey species for bats than non-native species.

The comment provides a recommendation for measures to minimize the spread of invasive nonnative plant species and plant pathogens. Mitigation Measures BIO-1 through BIO-3 adequately reduce the Project’s potential effects to habitats and special species to a less than significant level. Specifically, as noted on page 74 of the Draft SEIR, “landscaping near the riparian corridors that could include invasive species (e.g. English ivy (*Hedera helix*) or tree-of-heaven) could result in such plants moving into the riparian corridors and causing adverse impacts to the plant communities up or downstream of the site. Landscaping could also include irrigation and chemical inputs (e.g. pesticides and fertilizers) that could negatively impact the riparian environment. Implementation of Mitigation Measures BIO-1 and BIO-2,

described above, would reduce these potential indirect impacts on the riparian habitat to a less-than-significant level”.

Comment C.5: On page 9, Impact BIO-3, Mitigation Measure BIO-1 does not address impacts on habitat in the riparian corridor.

Response C.5: As noted on page 70 of the Draft SEIR, the Project would not have any direct impacts on the adjacent riparian corridor. Mitigation Measure BIO-1 is designed to lessen potential impacts to bat species, while Mitigation Measure BIO-2 is designed to reduce indirect effects to the adjacent riparian corridor habitat by ensuring non-native invasive plants do not move into the riparian corridor. Mitigation Measure BIO-2 is also designed to reduce the potential indirect impact of the buildings’ presence on wildlife in the riparian corridor. Mitigation Measure BIO-2 alone sufficiently reduces Impact BIO-3 to a less than significant level. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments.

Comment C.6: Page 9, BIO-4, tree removals may also impact roosting bats.

- a. Bullet point 1 states the nesting season is Feb 1 – Aug 31, but bullet point 2 indicates it is Feb 1 – Aug 15. Migratory bird and raptor nesting season for Santa Clara County is typically considered to be January 15 - August 31.
- b. Last line in bullet point 2 has a typo “ iit,i~fi6n,” change to “initiation.”
- c. Under “Reporting” surveys should also be conducted during building demolition (any time there could be impacts to nesting birds). BLPH and swallows, in particular, may nest on buildings, as well as raptors or other birds.

Response C.6: Page 68 of the Draft SEIR states that, “despite the lack of unique or important on-site habitat, bats could forage within the Project site, and the existing buildings on the Project site provide potentially suitable roosting habitat for the Townsend’s big-eared bat and pallid bat, as well as more common bat species likewise protected by CDFW code. While there was no evidence of bats (i.e., individuals, guano and/or staining) observed during reconnaissance surveys, bats may use the existing buildings on-site for roosting habitat. The demolition of the on-site buildings could result in the mortality to individual bats. Any mortality of individual bats would constitute a significant impact of the Project. As such, to avoid any mortality of individual bats, the Project shall be required to implement Mitigation Measure BIO-1, described below, which would reduce potential impacts to special status bats to a less than significant level.” Mitigation Measure BIO-1 would protect bat species from possible direct mortality from future ground disturbances by requiring a bat survey be conducted within 14 days of building demolition to determine if bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. If no bats are roosting or breeding in these structures within 14 days of site demolition, then a letter report shall be prepared by the biologist. If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from demolition area during the appropriate time period (e.g., not when flightless young are present).

The comment provides a recommendation for on-going surveys during construction. However, implementation of Mitigation Measure BIO-1 would adequately ensure no mortality of individual bats, thereby reducing the impact to a less than significant level. This mitigation strategy is consistent with the Downtown Strategy 2040 Integrated Final EIR (2018).

Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments to correct the typographical errors.

Comment C.7: On page 33 the discussion of the riparian setback should clearly discuss the riparian setbacks required as per the City's Riparian Corridor Policy and the Santa Clara Valley Habitat Plan. The discussion notes setbacks as related to the category of the stream, but doesn't clearly describe where these categories and associated setbacks are defined.

Response C.7: Page 33 of the Draft SEIR states, "Stream setbacks measured from the top of the stream bank are required to be 35 to 100 feet, depending on the category of the stream. The Guadalupe River is a Category 1 stream. Setbacks for Category 1 streams are at least 100 feet. The 100-foot setback boundary is shown in Figure 12. As discussed above, the Project proposes a 35-foot setback from the top of bank of the Guadalupe River (in this case the retaining wall above the Guadalupe River Trail). The SCVHP provides a framework for allowable exceptions to these setbacks. The Project proposes an exception request from the Habitat Agency for approval of a reduced setback. This approval would be required for the Project to be allowed to develop within 100-feet of the riparian edge. The SCVHP recommended approval of the 35-foot setback for the Project on April 7, 2020 (See Appendix C)."

Page 83 of the Draft SEIR defines the setback requirements of the SCVHP. Page 84 of the Draft SEIR defines the requirements of Council Policy 6-34.

Comment C.8: On page 34 the document should note if any new outfalls or upgrades to existing outfalls are required as part of the project.

Response C.8: Mitigation Measure BIO-2, as noted on page 6 of the Draft SEIR, requires that "the Project applicant shall ensure that all irrigation systems installed within 100 feet of the riparian corridor habitat shall be designed so that there is no impact to riparian habitat (i.e., no erosion or over-spray into the riparian habitat). Specifically, irrigation systems within 100 feet of the riparian corridor, as defined in this SEIR, shall be designed to result in no erosion or over-spray into the riparian habitat. These irrigation systems shall be detailed in a site-specific habitat mitigation and monitoring plan (HMMP), which must be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, for approval prior to issuance of grading permits." This would ensure any future outfalls or improvements to existing outfalls would not result in any adverse effects to the riparian corridor.

Comment C.9: Pages 35, 71, 74, 81 and BIO-2, discuss use of California natives at the site including as a mitigation measure for areas adjacent to the river. To preserve the genetic integrity of the existing locally native riparian species, landscaping at the site should be in conformance with the Guidelines and Standards for Land Use Near Streams Design Guides.

The discussions regarding the use of local natives in conformance with the Guidelines and Standards for Land Use Near Streams, i.e. use of plants grown from seed or propagules collected in the Guadalupe River watershed, are not consistent with the use of box sized trees of local native riparian species such as oaks. Use of Design Guide 2 is most appropriate for areas of riparian mitigation or enhancement as plants that conform with this guide will be very small and must typically be contract grown by a native plant nursery at least a year in advance of planting. Design Guide 3 is most appropriate for areas where aesthetics are most important and plantings that conform with this guide can be found at commercial nurseries in larger sized container.

Please revise the SEIR for consistency in regard to use of the native plants and conformance with Design Guides 2 and 3.

Response C.9: Page 7 of the Draft SEIR, Mitigation Measure BIO-2 states, “Species to be used shall be consistent with the City’s Riparian Corridor Policy Study and the Santa Clara Valley Water District’s (SCVWD’s) Guidelines and Standards for Land Use Near Streams, which includes but is not limited to using seeds and propagules collected from within the Guadalupe River watershed.” Mitigation Measure BIO-2 does not prescribe specific species that must be planted, but rather requires that a site-specific habitat mitigation and monitoring plan (HMMP) prepared by a qualified biologist and submitted to the Director of Planning, Building and Code Enforcement, or Director’s designee, for approval prior to issuance of grading permits to ensure that a suitable native habitat enhancement planting is achieved. Implementation of Mitigation Measure BIO-2 would result in an HMMP that identifies the appropriate plantings, consistent with the City’s Riparian Corridor Policy Study and the Santa Clara Valley Water District’s (SCVWD’s) Guidelines and Standards for Land Use Near Streams.

Comment C.10: On page 37 the first paragraph under “Demolition” states “Six of these 52 on-site trees to be removed are located along the riparian corridor boundary.” If the canopy is continuous from the existing riparian area to the six trees to be removed, the trees should be considered part of the riparian corridor. If these trees are part of the riparian corridor the last sentence “No mature riparian vegetation is present” on page 58 should be changed as appropriate.

Response C.10: A number of on-site trees were identified within backyards of existing single-family residences that are along the outboard side of the backyard fencing. The on-site trees in question lack ecological continuity from the extant, off-site riparian habitat and are therefore not riparian trees. These on-site trees, planted in residential backyards, are not part of the riparian corridor as these trees are on the outboard side of a Valley Water maintenance road, a floodwall that run along the backyards, and a paved trail, all of which separate these on-site trees from the off-site trees within the adjacent riparian corridor. The off-site, adjacent riparian corridor trees occur within a cement planter that falls between the maintenance road and Guadalupe pedestrian trail on the bank. The inboard side of the Guadalupe River Park pedestrian trail supports riparian vegetation. The floodwall, maintenance road, and trail are three significant barriers to free ecological exchanges between the off-site riparian habitat and the on-site upland habitat. As such, the on-site trees are not a continuous canopy with the off-site, adjacent riparian corridor.

Page 33 of the Draft SEIR states, “The boundary of the riparian corridor was defined as the top of a flood wall at the top edge of the hardscaped bank of the Guadalupe River, hereinto referred to as the top of bank. The Guadalupe River Park includes a hardscaped path and cement siding, along the boundary of the Project site. The vegetation of the riparian corridor does not extend beyond the hardscaped

Guadalupe River Park. As such, the boundary of the riparian corridor was defined as the top of the hardscaped Guadalupe River Park, which serves as the top of bank for the Guadalupe River.”

This setback delineation is consistent with the guidance provided in Council Policy 6-34, which states that a “Setback is measured from the outside dripline of the Riparian Corridor vegetation or top-of-bank, whichever is greater”.¹ This delineation is also consistent with the Santa Clara Valley Habitat Plan Conditions Implementation Guide (2015), which clarifies that “the riparian setback distance is measured from top of the stream bank, or edge of verified vegetation, whichever is greater”.²

Comment C.11: The site layout as shown on Figure 7 doesn’t appear to address the loss of access to Valley Water properties along Locust Street, which is to be vacated as part of the project, as noted in our NOP letter and other project correspondence.

Response C.11: Page 33 of the Draft SEIR states the Project would require vacating the existing Locust Street and connections to existing utility infrastructure. The process of vacation or abandonment of public service easements or rights-of-way is governed by State and municipal codes. The Development Services Division of Public Works is responsible for administering the vacation process. The final street vacation is subject to approval by the Development Services Division of Public Works. Access to Valley Water Properties will be maintained via the existing maintenance roadway immediately adjacent to the Guadalupe River Park trail. The existing maintenance roadway is currently accessible from Woz Way through a pedestrian gate, which would be replaced with a gate large enough for vehicular access. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.12: On page 57, it appears not all trees have been identified; coast live oak, California bay laurel, coast redwood, evergreen huckleberry, California incense cedar, Yucca spp., and many Salix and Juniperus spp. are native to CA.

Response C.12: Page 57 of the Draft SEIR states that five tree species were detected that were native to California (i.e., coast live oak, California bay laurel, coast redwood, evergreen huckleberry, and yucca) but only two of these trees are native to the site (i.e., coast live oak and bay laurel). This is an important distinction as it identifies trees that would occur within the site naturally, due to the native habitat of the Santa Clara Valley region. The other California native species would only occur within the site only if brought to the site and maintained as part of landscaping. For this reason, The Draft SEIR reflects only trees native to the Project site in Table 2 (page 78) of the Draft SEIR.

¹ <https://www.sanjoseca.gov/home/showpublisheddocument/12815/636669915138100000>

² <https://scv-habitatagency.org/DocumentCenter/View/547/Conditions-Implementation-Guide->

Comment C.13: On page 59, first paragraph notes that there “are pockets of mature riparian vegetation upstream and downstream of the site,” there are trees in the project area, that are also mature and would also constitute a pocket of mature vegetation, either in or adjacent to the riparian area (depending on whether the canopy is continuous).

Response C.13: See Response C.10.

Comment C.14: On page 59 second paragraph and also page 163 of the Biological Technical Report (Appendix C), please change “rifle” to “riffle.” Riffle sculpin tend to occur higher in the watershed than the project area.

- Change “California roach (*Hesperoleucus symmetricus*)” to “Central California roach (*Lavinia symmetricus symmetricus*);” this is consistent with CDFW’s most recent Fish Species of Special Concern list.
- Sacramento sucker adults also occur in the Guadalupe River. Chinook salmon (*Oncorhynchus tshawytscha*), mosquitofish (*Gambusia affinis*), common carp (*Cyprinus carpio*), and other sunfish (Centrarchidae family) also occur in the downtown area of the Guadalupe River. Bats may use the river/riparian area as a movement corridor.
- Ducks (mallards, mergansers, etc.), geese, egrets, herons, and other squirrels (western gray and fox squirrel) frequently occur along the Guadalupe River as foragers. Swallows and phoebes commonly nest on structures over or near the river. Migratory songbirds may nest in trees.

Response C.14: Page 59 of the Draft SEIR recognizes that, “The Guadalupe River is known to provide habitat for several species of fish including the Sacramento sucker juveniles (*Catostomus occidentalis occidentalis*), prickly sculpin (*Cottus asper*), rifle sculpin (*Cottus gulosus*), Pacific lamprey (*Entosphenus tridentatus*), California roach (*Hesperoleucus symmetricus*), and Central California Coast steelhead (*Oncorhynchus mykiss*)... The adjacent reach of the river itself offers low habitat value to regional wildlife in the form of forage, cover, and breeding/roosting habitat, but the Guadalupe River is an important regional habitat linkage for many species. Many fish species may use the Guadalupe River including the steelhead and the chinook salmon (*Oncorhynchus tshawytscha*). Many bird species use the Guadalupe River for movement and foraging habitat. In general, the Guadalupe River is expected to act as a movement corridor for many common local species.”

Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments to correct the typographical errors.

Comment C.15: On page 59, the third paragraph notes that while the riparian corridor is not high-quality habitat and primarily a movement corridor, the area can and does support breeding/rearing for urban wildlife such as native fish including O. mykiss, migratory birds (including phoebes and swallows), and foraging for these species as well as ducks, herons, and egrets. Bats could use trees or crevices for roosting.

Response C.15: As the commenter notes, the Draft SEIR acknowledges these facts on page 59 of the Draft SEIR. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.16: On page 60, tree hollows/bark, bridges, or crevices could also provide roosting habitat for bats. Pallid and Townsend's bat are probably unlikely to occur in a downtown urban area as they are very sensitive to disturbance; however, may use the river as a movement corridor, and could occur as a transient (day/night roost, nighttime movement). Other bat species which may be more tolerant of disturbance such as hoary, western red, big brown, Mexican free-tailed, and *Myotis* spp. have potential to occur. Yuma myotis and Mexican free-tailed bats have been observed foraging along the mainstem of the Guadalupe River. Western red bat is a species of special concern and should be addressed in the biological analysis. Common bats are protected under CDFG Code Section 4150.

Response C.16: As the commenter notes, page 60 of the Draft SEIR acknowledges that, "No evidence of bats was observed during reconnaissance surveys, but potentially suitable roosting habitat was observed within the residential structures of the Project site." Further, page 67 notes, "Additionally, although special status bats species (i.e., Western red bat, Pallid bat, and Townsend's big-eared bat) are not likely to occur in the Downtown area, impacts to trees or structures such as bridges, overpasses, building attics, or abandoned buildings with large enclosed spaces could adversely affect bats, if present. Implementation of the 2040 General Plan policies and mitigations would ensure a less than significant impact to protected birds and bats." The Draft SEIR (page 67) does address the noted species of special concern (Western red bat), and Mitigation Measure BIO-1 would protect bat species from possible direct mortality and ensure less than significant impacts related to special status bats.

Comment C.17: On page 67 western red bat have been detected on Coyote Creek at East Santa Clara St (approximately 1.5 mile northeast); and therefore, it may not be accurate to say is it unlikely they would occur in the project area. However, if present, they would probably occur in low numbers on a transient basis.

Response C.17: As the commenter notes, page 67 of the Draft SEIR recognizes the potential for Western red bat to occur. Mitigation Measure BIO-1 would protect bat species from possible direct mortality during ground disturbance by requiring pre-demolition bat surveys be performed to ensure no bats are roosting or breeding in the buildings or trees of the disturbance footprint of the project. If bats are found roosting outside of the nursery season (March 1 through August 31, inclusive), the qualified bat biologist shall create a bat eviction plan that ensures the safety of roosting bats and safely evicts the bats from the demolition area during the appropriate time period (e.g., not when flightless young are present). Mitigation Measure BIO-1 would ensure less than significant impacts related to special status bats.

Comment C.18: On page 68, in addition to steelhead, western pond turtle, bats, and peregrine falcon – Pacific lamprey, Chinook, Central California roach, and western red bat have potential to occur in the biological study area. If there are significant and unavoidable impacts to bat roosting habitat due to Project activities, a qualified biologist experienced in successful bat mitigation techniques should be engaged to advise on appropriate, site-specific mitigation measures. In addition to buildings – trees (peeling bark, hollows, foliage), other vegetation, bridges, and crevices provide potential bat habitat.

Response C.18: As detailed on pages 4-10 of the Draft SEIR, the Project would not result in significant and unavoidable impacts to bats because implementation of Measure BIO-1 would protect bat species from possible direct mortality and ensure less than significant impacts related to special status bats by requiring pre-demolition bat surveys be performed. Further, Mitigation Measure BIO-2 would reduce indirect effects to the adjacent riparian habitat by requiring a habitat mitigation and monitoring plan (HMMP) that outlines the native plantings allowed on-site and creates a framework for annual monitoring to focus on the health and development of the plantings. Finally, as noted on page 4 of the Draft SEIR, Mitigation Measure BIO-1 requires that “a qualified bat biologist” perform detailed bat surveys and submit evidence of completion of habitat assessment and results to the Director of Planning, Building and Code Enforcement or Director’s designee prior to issuance of a grading permit.

Comment C.19: The discussion on page 70 (also see discussion on page 76 of Appendix C, Biological Technical Report) and page 152 do not address temporary construction impacts on the riparian habitat if the Almaden Office Project and this project occur at the same time as is noted page 152.

Response C.19: As noted on page 70 of the Draft SEIR, the Project would not result in any direct impacts to the riparian habitat. Page 72 of the Draft SEIR recognizes, “The proposed Project could, however, result in potential indirect effects to the Guadalupe River riparian corridor and the special status species that utilize it, as a result of: construction disturbances, bird collisions with the new buildings, night lighting, shading effects, a lack of vegetative buffer between the river and Project causing altered movement of wildlife, or any invasive on-site landscaping moving into the riparian corridor”. Page 72 also says, “Initial construction disturbances, such as loud noises from vegetation removal, excavation, and grading, implemented during the nesting bird season (i.e., February – August, inclusive) could result in nest abandonment within the adjacent reach of the riparian corridor. Potential impacts to on-site nesting migratory birds are addressed in Impact BIO-4, below, and would be reduced to a less-than-significant level with standard permit conditions. Construction disturbances could result in a minor reduction of use of the riparian corridor by species for foraging, breeding, and roosting habitat. This could include migratory birds, bats, and other species. Given the low quality of the adjacent reach of the Guadalupe River, the fact that higher quality riparian habitat occurs upstream and downstream for these species, and that this effect would be temporary (i.e., only during construction), such an impact would be considered less-than significant. Mitigation Measure BIO -1 would reduce potential impacts to individual nesting birds and bats to a less-than-significant level.”

As acknowledged on page 154 of the Draft SEIR, the “Almaden Office project would have a new cumulatively significant Unavoidable Impact to the Guadalupe River riparian habitat. The Almaden Office project encroachment within the standard 100-foot riparian setback, specifically the project’s 0-foot setback, would result in a considerable contribution to significant cumulative impacts without mitigation. Even with implementation of Mitigation Measures from the Almaden Office project, encroachment of new buildings within 35 feet of the riparian corridor would still result in a cumulatively considerable contribution on the riparian corridor.”

When considered cumulatively with the Almaden Office project, the Project would not considerably contribute to a cumulative impact on the Guadalupe River riparian habitat for the following reasons: (1) the Project will observe a 35-foot setback from the riparian corridor, which will provide sufficient space within this highly urbanized context to provide an appropriate riparian buffer between the development and the Guadalupe River, (2) the Project would implement Mitigation Measure BIO-2 to ensure appropriate plantings are implemented in the development-free 35-foot setback area, which would ensure the riparian habitat adjacent to the Project site is not adversely affected, and (3) the Project

would include several design features, including a 35-foot setback, bird-safe building materials, and lighting strategies, to minimize and avoid any potential impacts to bird species as a result of collision with the proposed buildings.” As such, while the Almaden Office Project does identify a cumulatively significant impact to the Guadalupe River riparian habitat, the Project would not result in a cumulatively considerable contribution to that impact. Because the Project would not have any potential direct effects on the adjacent riparian corridor, regardless of whether the Almaden Office Project were constructed at the same time, there would be no cumulative direct impact on the Guadalupe River riparian corridor.

As noted above, the potential for indirect effects on the Guadalupe River riparian corridor during construction includes: loud noises from vegetation removal, excavation, and grading implemented during the nesting bird season (i.e., February – August, inclusive) that could result in nest abandonment within the adjacent reach of the riparian corridor. Regardless if construction were to occur simultaneously for these two projects, due to the low quality of the Guadalupe River adjacent to the Woz Way Project site, the fact that higher quality riparian habitat occurs upstream and downstream of both these projects for these species, and that these effects would be temporary (i.e., only during construction), such an impact would be considered less-than significant.

Comment C.20: Page 70 we recommend considering design alternatives that would allow for the implementation of a larger setback as the Guadalupe River is one of the few systems that supports endangered CCC steelhead in the county, and a wider (planted) buffer between the river the development area could contribute to improved water quality.

Response C.20: As summarized on page 24 of the Draft SEIR, the Draft SEIR evaluated the potential for an alternative that observes a 100-foot setback from the riparian corridor. As detailed on page 175 of the Draft SEIR, this alternative would not meet several of the Project objectives, nor would it avoid any significant and unavoidable biological impacts because the Project, as designed and conditioned, would not result in any significant and unavoidable biological impacts.

Comment C.21: On page 77 also page 53 of the Biological Technical Report (Appendix C), the nesting season is defined as Feb 1 – Aug 31 under “avoidance,” but under “nesting bird surveys” it implies the season is from Feb 1 – Aug 15. Jan 15 – Aug 31 is typically considered the nesting season for Santa Clara County.

Response C.21: See Response C.6.

Comment C.22: Page 84 states “There is no reasonable alternative for the proposed project that avoids or reduces the encroachment into the setback area. This biological report is not considering project alternatives. It is our understanding that the project has considered the proposed project with a setback of less than 35 feet, but that those options were viable.” The SEIR should show that there are no reasonable alternatives (e.g., building configurations).

Response C.22: See Response C.20. Further, additional building configurations were considered as part of the “Full Preservation In Place Alternative” (page 166 of Draft SEIR) and the “Partial

Preservation In Place Alternative” (page 169 of Draft SEIR). As detailed on pages 166-173 of the Draft SEIR, reconfiguration of the Project buildings within the 35-foot setback footprint would not be feasible for vehicular circulation and safety reasons, nor would these building configuration alternatives meet many of the Project objectives.

Comment C.23: On page 85, second paragraph, regarding compatibility of the project with the riparian appears to state the project is compatible since it includes “potentially deleterious qualities, similar to what might be the case with a chemical manufacturing plant...” though that appears to not be a compatible use.

Response C.23: The commenter’s interpretation of the Draft SEIR text on page 85 is incorrect. Page 85 of the Draft states, “In addition, the proposed use is not inconsistent with the riparian habitat in the sense that the Project includes potentially deleterious qualities, similar to what might be the case with a chemical manufacturing plant, animal feed lot, or power generation facility. There is expected to be no potential direct harm to the Guadalupe River from this Project.” To be clear, this text is intended to communicate that uses such as a chemical manufacturing plant, animal feed lot, or power generation facility are examples of uses that would be considered inconsistent with the riparian habitat, and that the project does *not* have these qualities.

Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments.

Comment C.24: Page 137 of Appendix B, Initial Study, incorrectly notes the site is located in an “unstudied area of undetermined flood hazard (Flood Zone X)...” The site is located in a shaded zone X as per FEMA’s Flood Insurance Rate Maps which is an area that has been studied and for this site represents a 0.2 percent annual chance flood hazard.

Response C.24: Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments.

Comment C.25: On page 11, Appendix C- Biological Technical Report, the discussion of lighting should consider using light colors shown to have reduced impacts on wildlife.

Response C.25: As noted on page 35 of the Draft SEIR, “The Project will comply with the lighting guidelines of the Riparian Policy. On-site lighting will be designed and located to avoid light and glare impacts to wildlife within the riparian corridor. No lighting is proposed within the 35-foot setback area, and lighting directly adjacent to the setback area will be as low as practical (bollard lighting) while providing for safety considerations. Lighting will be directed downward and light sources will not be visible from the riparian area.” The City of San Jose’s lighting guidelines in the Riparian Policy are sufficient to ensure less than significant effects from lighting.

Comment C.26: On page 18, Appendix C- Biological Technical Report, while it is not high-quality habitat and primarily a movement corridor, the area can and does support breeding/rearing for urban wildlife

such as native fish including *O. mykiss*, phoebes, and swallows, and foraging for these species as well as ducks, herons, egrets, and other migratory songbirds. Bats could use trees or crevices for roosting.

Response C.26: As noted by the commenter, the Draft SEIR recognized the potential for breeding, foraging, and nesting to occur in the Project area and Mitigation Measures BIO-1 through BIO-3 would ensure less than significant impacts related to all riparian habitat and special species. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.27: On page 20, Appendix C- Biological Technical Report, please note *Calocedrus decurrens*, *Yucca* spp., and many *Salix* and *Juniperus* spp. are native to California.

Response C.27: See Response C.12.

Comment C.28: Appendix C, Biological Technical Report, page 21, Table 1 please clarify if the diameter is DBH or another specific measurement.

Response C.28: As noted on page 20 of the Biological Technical Report (Appendix C of the Draft SEIR), “A summary of tree data is provided in Table 2. This summary provides a total number of ordinance sized trees—those trees that are 38 inches in circumference (12” or greater in diameter) measured at 4.5 feet above grade—broken down by species”.

Comment C.29: Appendix C, Biological Technical Report, Table 3 starting on page 28,

- *Bombus occidentalis*, there was apparently a verified observation from Santa Teresa County Park on 3/25/2019 (<https://www.bumblebeewatch.org/app/#/bees/view/39538>). There is potential for the two *Bombus* spp. listed in Table 3, as well as *Bombus caliginosus*, to occur in Santa Clara County.
- Change “crotch” bumble bee to “Crotch’s” throughout.
- Steelhead – although they are absent from the development area, they are not absent from the study area. Urban runoff, such as fertilizers, has potential to impact habitat.
- CRLF (California red legged frog) – may occur outside of the Sierra foothills and coast range. Species habitat descriptions throughout refer to the Sierras; more important is habitat use in the county.
- WPT (western pond turtle), an observation was made by Valley Water biologists on April 8, 2019 just downstream of Coleman Ave, approximately 2 miles downstream from Woz Way.
- PEFA – breeds in areas other than the Sierra or coastal habitats; nests on buildings in addition to cliffs. Known to nest regularly on City Hall, approximately 1 mile away. We recommend using the terms “likely” and “unlikely,” throughout; the definitions provided in this document for “possible” and “unlikely” are very similar.

- YEWA are a common migrant and do occur along the Guadalupe River; they were confirmed to have nested in this general area along the Guadalupe River between 1987 and 2005 (see Breeding Bird Atlas of Santa Clara County).
- Pallid bat and Townsend's bat, though unlikely to occur in a downtown urban area as the species is very sensitive to disturbance; it may use the river as a movement corridor, and could occur as a transient. Other bat species which may be more tolerant of disturbance such as hoary, western red, big brown, Mexican free-tailed, and Myotis spp. have potential to occur as well. Western red bat is a SSC. Common bats are protected under CDFG Code Section 4150.
- Pacific lamprey, Chinook, Central California roach, and western red bat should be included in the analysis/Table 3.

Response C.29: The state court ruled in December 2020 that the Fish and Game Commission lacked the authority to designate four bumblebees for candidate status. Therefore, discussions and issues associated with the Crotch bumblebee or any of the others is now moot. Page 60 of the Draft SEIR recognizes the potential for steelhead, California red-legged frog, western pond turtle, peregrine falcon, California yellow warbler, Pallid bat, Townsend's bat, Pacific lamprey, Chinook, Central California roach, and western red bat (among others) to occur in the Project area. As the commentor did not raise any new issues with respect to the disposition of significant environmental impacts evaluated in the Draft SEIR, no further response, other than the clarification to bumblebees noted above, is required.

Comment C.30: Appendix C, Biological Technical Report, page 47, under "Species" it is stated that "eagles are likely to occur on or forage over the site:" however, page 31 states golden eagles are absent. PEFA are probably more likely to occur in the project area than ringtail.

Response C.30: The commenter misquotes Page 47 of the Biological Technical Report (Appendix C of the Draft SEIR), as it states, "Condition 1 [of the SCVHP] instructs developers to avoid direct impacts on legally protected plant and wildlife species, including federally endangered Contra Costa goldfields and fully protected wildlife species including the golden eagle, bald eagle, American peregrine falcon, southern bald eagle, white-tailed kite, California condor, and ring-tailed cat. Several of these species are likely to occur on or forage over the site (golden eagle, bald eagle, white-tailed kite, and ringtail). Condition 1 also protects bird species and their nests that are protected under the Migratory Bird Treaty Act (MBTA); additionally, golden eagles and bald eagles are protected under the Bald and Golden Eagle Protection Act. Additionally, page 6-94 and Table 6-8 identify required surveys for breeding habitat of select covered wildlife species." Table 3 of the Biological Technical Report (Appendix C of the Draft SEIR) states, "Suitable breeding and foraging habitats [for golden eagle] are absent from the development site and study area. Furthermore, the study area would not attract golden eagles. The nearest recorded observations of nesting habitat is more than 3 miles away". Lastly, page 60 the Draft SEIR recognizes the potential for peregrine falcon to occur in the Project area. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.31: Appendix C, Biological Technical Report, page 52 the last paragraph states “no mature riparian vegetation is present;” however, many of the trees along the west side of the development area appear to be mature, and likely contribute to the riparian habitat. If those trees were removed, it appears there could be a significant reduction of habitat in that area (apparently the majority of habitat) compared to existing conditions.

Response C.31: See Response C.10.

Comment C.32: Appendix C, Biological Technical Report, page 53 given the high level of development in the surrounding area, one could argue that wildlife (such as migratory birds or raptors) would use those trees, especially those adjacent to the riparian area, for movement, breeding, and foraging. Wildlife habitat in the area is already limited, so likely that is the best available habitat in that area.

Response C.32: The Draft SEIR recognizes on page 59 that, “However, the Project site is immediately adjacent to the highly degraded reach of riparian corridor of the Guadalupe River. The adjacent reach of the river itself offers low habitat value to regional wildlife in the form of forage, cover, and breeding/roosting habitat, but the Guadalupe River is an important regional habitat linkage for many species. Many fish species may use the Guadalupe River including the steelhead and the chinook salmon (*Oncorhynchus tshawytscha*). Many bird species use the Guadalupe River for movement and foraging habitat. In general, the Guadalupe River is expected to act as a movement corridor for many common local species.” The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.33: On page 54, Appendix C-Biological Technical Report, the discussion should note that in addition to ground disturbance, nesting bird surveys should be conducted prior to any project-related activity with potential to impact nesting birds (tree removal, vegetation pruning, demolition, *etc.*).

Response C.33: As detailed on page 77 of the Draft SEIR, Mitigation Measure BIO-3 requires that nesting bird surveys be completed by a qualified ornithologist, if demolition and construction activities are unable to be scheduled outside the nesting season, to ensure that no nests shall be disturbed during project implementation. This mitigation is consistent with the mitigation measures identified in the Downtown Strategy 2040 Integrated Final EIR, and would ensure any potential effects to nesting birds are less than significant.

Comment C.34: Appendix C, Biological Technical Report, page 56, under “Direct Impacts to Riparian Habitats,” if the canopy of trees to be removed is continuous with riparian trees, it should be considered part of the riparian habitat.

Response C.34: See Response C.10.

Comment C.35: Appendix C, Biological Technical Report, page 61, in the discussion of indirect effects please clarify whether these potential impacts due to project activities have been deemed significant without the implementation of the proposed avoidance, minimization, and mitigation measures.

- a. Vegetation removal and building demolition has potential to impact bats as well as birds.
- b. Ground disturbance could impact roots of established trees not targeted for removal.
- c. Recommend including a map of habitat types in this document including developed/hardscape, barren, upland, riparian, and wetland pre- and post-project to give a better idea of how developed the area is now vs. how developed it would be post-project.
- d. Recommend including analysis of impacts to waters lacking vegetative buffers.
- e. Reduced photosynthesis due to building shading could impact native riparian vegetation.

Response C.35: As noted on pages 68 and 76 of the Draft SEIR, the potential to impact bats and nesting birds is a potentially significant impact, without the consideration of mitigation. However, implementation of Mitigation Measures BIO-1 and BIO-3 would reduce any direct impacts to bats and nesting birds, respectively, to a level considered less than significant. As noted on page 82 of the Draft SEIR, due to required implementation of the City's Standard Permit Conditions, General Plan policies, and the Municipal Code, development under the proposed Project would result in a less than significant impact on community trees. An aerial map of the Project site, demonstrating the developed and riparian conditions in the general Project area is shown in Figure 2 of the Draft SEIR. Renderings of the proposed conditions are shown in Figures 6A-C of the Draft SEIR. The Project proposes a 35-foot setback from the riparian corridor and requires a vegetative buffer to be implemented as part of Mitigation Measure BIO-2. As such, the analysis contained within the Draft SEIR is adequate to address the Project's potential effects to all relevant waters. Lastly, on Page 73 of the Draft SEIR, a detailed evaluation of the Project's potential for shading effects concluded that, "plant losses are not anticipated due to shading and vegetation processes would persist."

Comment C.36: Appendix C, Biological Technical Report, page 64, under "Invasive Species Removal Targets" please note that London plane tree hybridizes with the native western sycamore, ultimately eroding the gene pool over time.

Response C.36: The commenter's suggestion is acknowledged. London plane trees are not proposed for inclusion in the landscaping of the Project. No further response is required.

Comment C.37: Appendix C, Biological Technical Report, on page 64 the discussion regarding the San Jose 2040 plan states that "a 100' setback should be used on riparian areas in all but a limited number of instances." If the goal of the 2040 plan and the City's Riparian Corridor Policy is to have the majority of the Guadalupe River have a 100 foot setback, the argument that it is appropriate to reduce the setback from 100 foot setback to 35 feet since the area is already developed would not be in keeping the City's goal of a 100 foot setback "in all but a limited number of instances" to the Guadalupe River since so much of the City is already developed.

Response C.37: See Response C.2. The Council Policy 6-34 and SCVHP both allow for exceptions to the standard 100-foot setback to allow for appropriate, site-specific design if findings can be made to support the exception, such as the reduced setback will not significantly reduce or adversely impact the

Riparian Corridor (See Response C.40 below). For the Project to be allowed to develop within 100-feet of the riparian edge, the Habitat Agency requires an exception request that addresses each of the four exceptional factors be submitted to the Habitat Agency for approval of a reduced setback. A preliminary review request for a Condition 11 exception was submitted to the Habitat Agency and on April 7, 2020 the Habitat Agency recommended that the Project be granted an exception to allow a 35-foot setback (Appendix C-2 of the Draft SEIR). The Habitat Agency's findings of the stream setback exception request are summarized on pages 83-86 of the Draft SEIR.

Comment C.38: Appendix C, Biological Technical Report, page 65, "Potential Constraints" (also applies to the discussion on page 82 of the SEIR) it is not clear if other building configurations have been considered that might be implemented to increase the riparian setback while still allowing development to proceed. For example, could the area north of the drop-off zone be better utilized? Or east of the building at the north end of the parcel? Would it be possible to reroute the driveway closer to the south end of the building at the north end of the parcel, to better utilize the area north of the building at the south end of the parcel (on the west side of the parcel)? Or could the driveway be removed so the building at the north end of the parcel could be moved west, then reroute the driveway to the east side of the building at the north end directly back to the drop-off zone/residential building (which would reduce the amount of hardscape needed for the driveway), and free up more space to expand the building at the south end of the property north (on the west side of the parcel)?

It is not sufficient for the qualified biologist to assume other design alternatives have been considered without analyzing those alternatives; it is the responsibility of the biologist to provide oversight and advise on the least biologically impactful alternative.

Response C.38: See Response C.22.

Comment C.39: Appendix C, Biological Technical Report, page 67 it is not reasonable to state that a new development should not be required to meet the 100' setback because "there currently exists development within 100-feet of the bank of the river." The San Jose Plan 2040 is designed to improve existing conditions in San Jose for the future.

- a. First line of the bullet point: change "used" to "uses."

Response C.39: See Response C.37. Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments to correct the typographical errors.

Comment C.40: Appendix C, Biological Technical Report, page 68, comparing compatibility with the riparian corridor by comparing the project to other developments that are not being proposed that could be worse than the one that is being proposed are not relevant to supporting whether this specific project meets the condition for a reduced setback.

- Bullet point 1, line 3 change "patters" to "patterns."
- Bullet point 1 states "commenting on the potential of the project to negatively affect the existing riverbank infrastructure is an engineering concern that falls outside of the scope of this analysis." The beginning of this section states that "to receive an exception to the 100-foot

setback, the project is required to submit a report by a qualified biologist, stream hydrologist, or other appropriate professional that certifies that five conditions listed in Council Policy 6-34 are met.” It is appropriate for the biologist to review and attach reports certifying these conditions are met to the Biological Resources Report to support their conclusion.

- Last paragraph before “Mitigation” states “While additional professional expertise may be required to fully address these conditions (e.g., civil engineer, economist, etc.), it is expected that the project will comply with the conditions for an exception of Council Policy 6-34. Therefore, there is no identified conflict with or constraint to development from Council Policy 6-34.” If the necessary information to make a determination is not available, recommend changing the wording along the lines of “based on the available information, at this time no conflict with or constraint to development from Council Policy 6-34 has been identified; however, additional professional expertise (e.g., civil engineer, economist, etc.) is required to ensure each of these conditions is fully met.”

Response C.40: See Response C.23 and Response C.37. The proposed Project, which includes office uses, would not be fundamentally incompatible with the adjacent riparian habitat. The commenter is correct that the Council Policy 6-34 requires the Project to submit a report by a qualified biologist, stream hydrologist, or other appropriate professional that certifies that the five criteria listed in Council Policy 6-34 are met in order to receive an exception to the 100-foot setback. Those five conditions are as follows:

1. There is no reasonable alternative for the proposed Riparian Project that avoids or reduces the encroachment into the Setback Area.
2. The reduced setback will not significantly reduce or adversely impact the Riparian Corridor.
3. The proposed uses are not fundamentally incompatible with riparian habitats (see Chapter 3, Section IB Incompatible Land Uses of the Policy Study).
4. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the Setback Area.
5. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Pages 83-85 of the Draft SEIR, and pages 65-68 of the Biological Technical Report (Appendix C of the SEIR) detail why the Project would qualify for the setback exception based on each of the five criteria. Notably, regarding criteria #4, page 85 of the Draft SEIR states, “There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the setback area. The adjacent reach of the Guadalupe River is highly engineered, in part for flood protection, such that stream banks are hardscaped and soil erosion is highly unlikely. In addition, the Project will be engineered to ensure drainage patterns from the development do not adversely impact the river.” Page 85 of the Draft SEIR also concludes, “For the reasons outlined above, it is expected that the Project will comply with the conditions for an exception of Council Policy 6-34. Therefore, there is no identified conflict with or constraint to development from Council Policy 6-34”.

Refer to Section 5.0 Draft SEIR Text Revisions in this Final SEIR for the proposed text amendments to correct the typographical errors.

Comment C.41: Appendix C, Biological Technical Report, page 70 states “...and other mitigation measures described in this analysis, the proposed project would be consistent with #4.” Recommend describing the relevant goals of the SCVHP and the specific mitigation measures that ensure consistency. Also, the Guadalupe River does support western pond turtle, a covered species under the SCVHP.

Response C.41: For a project to be considered for a setback exception, the SCVHP provides a framework for allowable exceptions, should all of the following factors be met:

1. The existence of legal uses within the setback.
2. The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.
3. The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
4. The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies,” (pp. 6-54, ICF International 2012).

Page 70 of the Biological Technical Report (Appendix C of the Draft SEIR) says, “with the incorporation of bird-safe design and installation of a native habitat enhancement planting within the riparian setback (Section 3.3.11), and other mitigation measures described in this analysis, the proposed project would be consistent with #4”. The biological goals and objectives of the SCVHP are outlined in Table 5-1a, 5-1b, and 5-1c of the SCVHP.³ As stated on page 5-4 of the SCVHP, biological objectives are expressed as conservation targets or desired conditions. The SCVHP objectives are measurable and quantitative when possible; they clearly state a desired result and will collectively achieve the biological goals. Relevant goals of the SCVHP are as follows:

- Goal 1a. Protect and maintain natural and semi-natural landscapes.
- Goal 1b. Protect and maintain ecological (natural) processes.
- Goal 2. Maintain or improve opportunities for movement and genetic exchange of native organisms within and between natural communities inside and connecting to areas outside the study area.
- Goal 3. Enhance or restore representative natural and semi-natural landscapes to maintain or increase native biological diversity.
- Goal 8. Improve the quality of streams and the hydrologic and geomorphic processes that support them to maintain a functional aquatic and riparian community to benefit covered species and promote native biodiversity.
- Goal 9. Maintain a functional riparian forest and scrub community at a variety of successional stages and improve these communities to benefit covered species and promote native biodiversity.
- Goal 17. Conserve existing populations of California red-legged frog, California tiger salamander,

³ <https://scv-habitatagency.org/DocumentCenter/View/127/Chapter-5-Conservation-Strategy>

and western pond turtle where possible, and increase the number of individuals and expand the overall distribution of populations of these species in biologically appropriate locations within the study area to maintain viable populations and contribute to the regional recovery of these species.

The Project would observe a 35-foot development setback from the riparian corridor, and with implementation of Mitigation Measure BIO-2, would include a vegetated buffer between the riparian corridor and the Project development. The vegetated buffer would include native plantings that improve the natural condition of the site, as compared to the existing landscaped vegetation that includes non-native species. Additionally, implementation of Mitigation Measure BIO-1 would ensure the Project does not significantly impact bats, and implementation of Mitigation Measure BIO-3 would ensure the Project does not significantly impact nesting birds. As such, the Project would not preclude achieving the biological goals and objectives of the Habitat Plan, and would in fact advance the goals identified above by providing a native, vegetated buffer along the riparian corridor.

Page 59 of the Draft SEIR recognizes that, “species expected to occur in the riparian habitat include ...western pond turtle (*Actinemys marmorata*)...”.

The commenter’s recommendations are noted. However, because the comment does not raise any new issues with respect to the disposition of significant environmental impacts evaluated in the Draft SEIR, nor does the addition of the recommendation affect the analysis, impact conclusions, or mitigation measures identified, no further response is required.

Comment C.42: Appendix C, Biological Technical Report, page 76, last paragraph the statement “the reduced impacts from these projects in the forms of observing a minimum riparian setback” is not appropriate if a minimum 35 feet riparian setback is legally required and in the case of the Almaden Office Project/Boston Properties project there are areas with no setback as noted on page 152 of the SEIR.

Response C.42: As described on page 33 of the Draft SEIR, the Project would observe a 35-foot setback from the riparian corridor, and would be set back even further at some portions of the site. This is consistent the Condition 11 Exception allowed by the Habitat Agency. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment C.43: Page 9 of Appendix L, Geotechnical Investigation, notes that if excessive settlement or groundwater drawdown occurs recharge of the groundwater should occur through recharge wells and the contractor should submit a recharge plan as part of dewatering plan. The recharge plan should be reviewed by Valley Water and any wells construction must be permitted by Valley Water.

Response C.43: The commenter’s statement that Valley Water should review any necessary recharge plans is acknowledged. The Project is required to obtain all necessary construction permits, including permits for well construction should excessive settlement or groundwater drawdown occur. No well construction is currently proposed. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

D. Preservation Action Council of San José (dated April 7, 2021)

Comment D.1: Thank you for the opportunity to provide comments on the Draft SEIR for the Woz Way Office Project, a proposed 297-foot-tall, two-tower office and retail development on a 2.93-acre site in Downtown San Jose. As proposed, the project calls for the demolition of 16 existing single-family houses, seven of which are listed on the San Jose Historic Resources Inventory (HRI). PAC* SJ strongly concurs with the DSEIR findings, based on the City of San José Historic Preservation Officer's Memoranda of December 2019 and March 2020, that five of these resources contribute to a Candidate City Landmark District, and should therefore be considered as qualified historic resources under CEQA. While we recognize that a dissenting opinion on this question has been provided in the DSEIR's Historical Resource Technical Report by MacRostie Historic Advisors (January 2020), we did not find this dissenting opinion to be persuasive or consistent with the evaluation of comparable historic resources elsewhere in San Jose. We therefore support the DSEIR conclusion that demolition of these resources would constitute a significant and unavoidable impact.

Response D.1: As recognized on page 109 of the Draft SEIR, "This analysis assumes that 515 Vine Street, 527 Vine Street, 533 Vine Street, 541 Vine Street, 547 Vine Street and 553 Vine Street are all contributors to a Candidate City Landmark District as determined by the City of San José. As such, they are collectively considered a historical resource for the purposes of CEQA." The comment does not raise any new issues with respect to the significant environmental impacts identified or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment D.2: We also acknowledge that no feasible project alternatives have been identified that would fully avoid significant impacts to these and other properties on the project site, including Structures of Merit not included in the Candidate City Landmark District. A robust mitigation strategy consistent with Envision San José 2040 General Plan policies should therefore be a condition of any project approval. This mitigation strategy should include, but not be limited to, a good-faith effort on the part of the City of San José, the project developer, and interested third parties to explore the relocation of some or all of these impacted resources to an appropriate new receiver site or sites.

Response D.2: The Project was subject to a public review process with the Historic Landmarks Commission in conformance with the City Council Policy on the Preservation of Historic Landmarks. As noted on page 112 of the Draft SEIR, Mitigation Measure CUL-1 states that the Project applicant, or an interested third party, shall be required to advertise the availability of the structures for relocation for a period of no less than 60 days. Any interested party, including the Preservation Action Council San Jose, may explore relocation options for the houses and also consult the City of San Jose's Housing Element, which includes a database inventory of land potentially suitable for residential development, including vacant sites and sites having potential for redevelopment (Adequate Sites Inventory).

The Draft SEIR concludes on page 11 that despite the implementation of Mitigation Measure CUL-1, the Project would have a significant and unavoidable impact on the Candidate City Landmark District. This mitigation strategy is consistent with the findings of the Downtown Strategy 2040 Integrated Final EIR. The identified mitigation measures would be adopted into a Mitigation Monitoring and Reporting Program (MMRP) and their implementation would be required if the Project were approved.

CEQA requires public agencies to balance the benefits of a project against its unavoidable environmental risks (CEQA Guidelines, §15093). Envision San Jose 2040 centers on twelve major strategies that reflect the community's desire to see San Jose grow and contains numerous goals and policies with competing interests. Any project approved by the City must be consistent with the Envision San José 2040 General Plan. In accordance with Public Resources Code Section 21081(b) and CEQA Guidelines Section 15093, the City Council will need to weigh the economic, social, technological, and other benefits of the Project against the significant adverse environmental effects that are not mitigated to less-than-significant levels for the reasons set forth in the Draft SEIR.

Comment D.3: PAC* SJ appreciates the inclusion of a Relocation Analysis (Appendix G-3) and a Historic District Relocation Alternative (Project Alternative C) in the DSEIR, and believes that both of these components represent useful starting-points for an appropriate mitigation strategy. To be clear, we understand that the specific relocation alternative studied in the DSEIR is likely not feasible or viable, and would not ultimately reduce the project impacts to "less-than-significant" for the purposes of CEQA review. Nevertheless, we strongly encourage the continued exploration of other potential receiver sites that may or may not accommodate the entirety of the Candidate City Landmark District, as this approach remains entirely consistent with *General Plan* policies LU-13.1, LU-13.2, LU-14.3, and LU-14.6.

Response D.3: See Response D.2. The comment is acknowledged and does not raise any new issues with respect to the significant environmental impacts or issues evaluated in the Draft SEIR. Therefore, no response is required.

Comment D.4: We further suggest that a Relocation Analysis should be a required component of any future EIR that includes relocation as a proposed mitigation measure. While the analysis included in Appendix G-3 is a welcome foundation, we believe that an appropriate scope for such analysis should also include physical dimensions (heights and widths) of the subject resources, limiting clearances (bridges, underpasses, street widths, overhead utilities, etc.) of potential relocation routes, and other basic parameters to help identify feasible receiver sites.

Response D.4: Should the Project applicant or an interested third party elect to move the house/s, Mitigation Measure CUL-1 requires a detailed analysis to determine that a receiver site is suitable for the building(s) and the retention of a building mover experienced in moving similar historic structures. Partial relocation was rejected as an alternative because it does not avoid the significant impact to the Candidate City Landmark District since the structures that comprise the district would be separated from one another and would no longer form a cohesive grouping (page 169 of Draft SEIR). In addition, as detailed on page 176-178 of the Draft SEIR, a Relocation Analysis was prepared by MacRostie and Associates in October 2020 (Appendix G-3) to identify any potential receiver sites with the following criteria: (1) located within 0.5 miles of the Project site so as to maintain a similar setting as the Project site; and, (2) the receiver parcel(s) would have to be large enough to accommodate the houses in a placement that would allow for the retention of orientation, setback, and historic relationship to one another. To this end, it was determined that a receiver site must be at least 0.9 acres in size. Only one potential receiver site was identified that fit these parameters: 201-279 Delmas Avenue. The Relocation Analysis found that the receiver site would have sufficient area to allow the relocated structures to retain their historic orientation, with primary elevations facing east. Further, the immediate setting, that is their relationship to the street and each other, could be reestablished at the

proposed receiver site through the retention of the setback, the elevated porches with steps from the sidewalks, and the spatial relationships between each of the buildings. However, the relocation of the Candidate City Landmark District would be cost prohibitive because the costs of this alternative when compared to the cost of the proposed Project, would be too great. As such, this alternative would be economically infeasible. Additionally, this alternative would not avoid the significant and unavoidable impact to the Candidate City Landmark District. While relocating the district as a whole would minimize the effects of the Project, by allowing the relocated district to retain some historic significance, it would still result in the removal of the historical resource from the Project site which would still be considered a significant and unavoidable impact. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment D.5: As Lead Agency, the City of San José could also maintain a list of vacant public lands and/or interested private landowners. PAC* SJ stands ready and willing to help facilitate a more comprehensive and collaborative strategy for exploring relocation as a mitigation strategy for this and future development projects impacting both CEQA-eligible historic resources and Structures of Merit.

Response D.5: The comment is noted and does not raise any new issues with respect to significant environmental impacts or issues evaluated in the Draft SEIR. Therefore, no further response is required.

Comment D.6: We also strongly concur with the DSEIR finding that the Woz Way Office Project would further contribute to a significant and unavoidable *cumulative* impact to the stock of historic resources in Downtown San Jose. However, the proposed Mitigation Measure CUL-1 does little to address this recognized cumulative impact. We believe a more appropriate mitigation scope and project nexus would include resources to support the future preservation of comparable resources in Downtown and Downtown-adjacent neighborhoods facing significant development pressure.

Response D.6: Page 155 of the Draft SEIR recognizes that, “Despite implementation of Mitigation Measure CUL-1, the Project’s contribution to the cumulative cultural resources impact would be significant and unavoidable.” As noted in Response D.2, Mitigation Measure CUL-1 is consistent with the measures identified in the Downtown Strategy 2040 Integrated Final EIR, and the finding of a cumulatively significant impact is also consistent with the findings of the Downtown Strategy 2040 Integrated Final EIR.

The comment is noted and speaks to larger historic preservation issues that are outside the scope of the proposed Project. The City of San Jose maintains a strong working relationship and open communication with PAC* SJ and will continue to work together to develop effective historic preservation program tools and incentives. The comment does not raise any new issues with respect to significant environmental impacts or issues evaluated in the Draft SEIR. Therefore, no further response is required.

Comment D.7: Finally, we feel it necessary to question the DSEIR’s repeated use of the term “infill” in describing the project site and project objectives (see specifically Project Objectives 1 and 3, DSEIR p. 37). Our understanding of the term “infill” more accurately applies to development on vacant or

undeveloped parcels within otherwise developed areas, such as vacant lots, surface parking areas, or developed parcels containing large open areas, and *not* a development that requires the wholesale demolition of a long-established, fully-built-out residential block. We suggest providing a clear definition of the term and an explanation for how this project both meets this definition and is consistent with the term's general usage in the *Envision San José 2040 General Plan* and other relevant planning documents.

Response D.7: The term “infill” is used in a general sense in the Draft SEIR, as opposed to a specifically defined set of conditions. The Project does not rely on any regulatory streamlining provisions requiring the Project to meet a certain definition of “infill”. The Envision San José 2040 General Plan does not specifically define the term “infill”. A major strategy of the Envision General Plan is to focus new growth capacity in specifically identified “Growth Areas,” while the majority of the City is not planned for additional growth or intensification. The Downtown is one such Growth Area, and the Project site is located within Downtown San Jose. Page 339 of the Downtown Strategy 2040 Integrated Final EIR says, “This long-range strategy program for development focuses on revitalizing the traditional Downtown center by allowing higher density infill development in areas with significant unbuilt and underutilized parcels of land and replacement of underutilized uses”. Additionally, the CEQA Guidelines (§ 21061.3) published by the Office of Planning and Research (OPR) provide the following definition of “infill site”: “Infill site” means a site in an urbanized area that meets either of the following criteria: (a) The site has not been previously developed for urban uses and both of the following apply: (1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses. (2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency, Or (b) The site has been previously developed for qualified urban uses. While § 21061.3 of the CEQA Guidelines provides this definition for use by specific legislative processes such as the Low Income Housing Exemption (§ 21159.23), and the Project does not rely on this definition for any procedural purposes, this definition provides a helpful context for discussing the Project. The comment does not raise any new issues with respect to significant environmental impacts or issues evaluated in the Draft SEIR.

E. San José Downtown Association (dated April 14, 2021)

Comment E.1: This site is kitty corner from the 488 Almaden Blvd. tower and is an appropriate extension of the Downtown Core for more intensive use. We are proponents of the request the project is seeking: a General Plan Amendment (GP19-008) to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit (H20-004) to allow the demolition of 16 existing single-family homes. The proposed project with approximately 1.8-million square feet of office towers and retail space has great potential to positively activate this south gateway.

Response E.1: The commenter's support for the project is acknowledged. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment E.2: This is the epitome of an anchor of an entry point of a Downtown, specifically for a crucial site adjacent to I-280. This project proposes high density by constructing two, 20-story, 297-foot tall office towers. The retail component will complement the 1.22 million square feet of office space with approximately 9,000 square feet of open office space, including several amenity deck spaces. Moreover, the skybridge adds a nice aesthetic appeal with a pragmatic use of connecting the buildings.

Response E.2: The commenter's support for the project is acknowledged. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

Comment E.3: The Project also includes two loading areas for trucks and waste management. The north tower loading area would have three loading spaces, and the south tower would have ten loading spaces. The parking is handled sufficiently with four levels of underground parking and four levels of above ground parking. Minor concerns of backing up traffic per the ingress and egress (single one way lanes) to all parking areas (Levels B1 to B4, and Levels 1 to 4) via the internal driveway may slow traffic on Almaden Boulevard but seems to be ameliorated by the extensive internal driveway area (Figure 7, page 51).

In conclusion, the re-use of this 3.08-acre site will be a great asset for the city. We do not have any strong concerns regarding the biological, historic resources, and noise and vibration of this SEIR. SJDA thanks staff for their leadership in this project and we appreciate the opportunity to comment on this SEIR.

Response E.3: The commenter's support for the project is acknowledged. The comment did not raise any new issues with respect to the disposition of significant environmental impacts or issues evaluated in the Draft SEIR and therefore, no further response is required.

F. Katja Irvin (dated April 15, 2021)

Comment F.1: I may have missed this but I see no discussion in the Woz Way Project Final Draft SEIR documents about possible temperature impacts on the Guadalupe River from dewatering. Please make sure such impacts are analyzed and discussed. Steelhead and Chinook Salmon migrate in this river and are sensitive to water temperature.

Response F.1: See Response C.1.

SECTION 5.0 DRAFT SEIR TEXT REVISIONS

This section contains revisions to the text of the Woz Way Draft SEIR dated March 2021. Revised or new language is underlined. All deletions are shown with a line through the text.

Draft SEIR Section	Text Revisions		
Draft SEIR, Table 1, Page 9	Significant Impacts	Mitigation Measures	Significance After Mitigation
	Impact BIO-3: Project impacts on habitat in the riparian corridor [Same Impact as Approved Project (Less Than Significant with Mitigation)]	Mitigation Measure BIO-1 and 2 (see above)	Less than Significant
Draft SEIR, Table 1, Page 9	Significant Impacts	Mitigation Measures	Significance After Mitigation
	Impact BIO-4: The Project would impact nesting birds through tree removals. [New Less Than Significant Impact with Mitigation Incorporated (Less Than Significant)]	Mitigation Measure BIO-3: <ul style="list-style-type: none"> Avoidance: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended. 	Less than Significant

Draft SEIR Section	Text Revisions		
		<ul style="list-style-type: none"> • Nesting Bird Surveys: If it is not possible to schedule demolition and construction between August 16th <u>31st</u> and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the <u>initiation</u> initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of breeding season (May 1st through August 15th inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. 	

Draft SEIR Section	Text Revisions		
		<ul style="list-style-type: none"> • Buffer Zones: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be <u>present</u>. • Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project 	

Draft SEIR Section	Text Revisions		
		applicant shall submit the ornithologist’s report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director’s designee, prior to issuance of any grading or building permits.	
Draft SEIR, Section 3.1, Biological Resources, Page 59	The Guadalupe River is known to provide habitat for several species of fish including the Sacramento sucker juveniles (<i>Catostomus occidentalis occidentalis</i>), prickly sculpin (<i>Cottus asper</i>), riffle sculpin (<i>Cottus gulosus</i>), Pacific lamprey (<i>Entosphenus tridentatus</i>), California roach (<i>Hesperoleucus symmetricus</i>), and Central California Coast steelhead (<i>Oncorhynchus mykiss</i>)		
Draft SEIR, Section 3.1, Biological Resources, Page 74	Implementation of Mitigation Measures BIO 1-2, described above, would reduce these potential indirect impacts on the riparian habitat to a less-than-significant level.		
Draft SEIR, Section 3.1, Biological Resources, Page 77	Mitigation Measure BIO-3: <ul style="list-style-type: none">Avoidance: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.Nesting Bird Surveys: If it is not possible to schedule demolition and construction between August 16th 31st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of breeding season (May 1st through August 15th inclusive).		

Draft SEIR Section	Text Revisions
	<p>During this survey the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.</p> <ul style="list-style-type: none"> • Buffer Zones: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be <u>present</u>. • Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.
Draft SEIR, Section 3.1, Biological Resources, Page 85	In addition, the proposed use is not inconsistent with the riparian habitat. <u>Examples of project types that might be considered inconsistent in the sense that the Project includes those with</u> potentially deleterious qualities, similar to what might be the case with a chemical manufacturing plant, animal feed lot, or power generation facility. There is expected to be no potential direct harm to the Guadalupe River from this Project.
Draft SEIR, Section 4.8, Greenhouse Gas Emissions, Page 102	<p>The following text revisions shall be made:</p> <p>Although BAAQMD has not published a quantified threshold for 2030 yet, the <u>"Substantial Progress" efficiency metric of 2.6 MT CO₂e/year/service population was used for this assessment. The "Substantial Progress" efficiency metric is based on the GHG reduction goals of SB 32/EO B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels. the City of San José has established a 2030 GHG emissions intensity target of 2.94 metric tons (MT) of CO₂ equivalent per service population per year (MTCO₂e/sp/yr) in their 2030 Greenhouse Gas Reduction Strategy (August 2020).</u></p>

Draft SEIR Section	Text Revisions																										
Draft SEIR, Section 4.8, Greenhouse Gas Emissions, Page 107	<p>The following text revisions shall be made:</p> <table border="1" data-bbox="609 354 1848 1003"> <thead> <tr> <th>Category</th><th>MTCO₂e¹</th></tr> </thead> <tbody> <tr> <td>Area Source</td><td>0.05</td></tr> <tr> <td>Energy</td><td>2,609.30</td></tr> <tr> <td>Mobile</td><td>5,009.35</td></tr> <tr> <td>Waste</td><td>301.33</td></tr> <tr> <td>Water and Wastewater</td><td>362.50</td></tr> <tr> <td>Total Project²</td><td>8,282.53</td></tr> <tr> <td>Population³</td><td>4,176</td></tr> <tr> <td>Project MTCO₂e/ SP/year</td><td>1.99</td></tr> <tr> <td>Threshold <u>City Target</u></td><td>2.94 MTCO₂e/SP/YR</td></tr> <tr> <td>Exceeds <u>City Target</u> Threshold?</td><td>No</td></tr> <tr> <td><u>BAAQMD Substantial Progress Efficiency Metric</u></td><td><u>2.6 MTCO₂e/SP/YR</u></td></tr> <tr> <td>Exceeds <u>BAAQMD Metric</u>?</td><td><u>No</u></td></tr> </tbody> </table>	Category	MTCO ₂ e ¹	Area Source	0.05	Energy	2,609.30	Mobile	5,009.35	Waste	301.33	Water and Wastewater	362.50	Total Project²	8,282.53	Population ³	4,176	Project MTCO₂e/ SP/year	1.99	Threshold <u>City Target</u>	2.94 MTCO₂e/SP/YR	Exceeds <u>City Target</u> Threshold ?	No	<u>BAAQMD Substantial Progress Efficiency Metric</u>	<u>2.6 MTCO₂e/SP/YR</u>	Exceeds <u>BAAQMD Metric</u> ?	<u>No</u>
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Draft SEIR, Section 4.8, Greenhouse Gas Emissions, Page 109	<p>However, the City of San José threshold target for operational GHG emissions is 2.94 MTCO₂e/sp/yr for 2030. The Project would result in 1.99 MTCO₂e/sp/yr and therefore is below the 2030 threshold target. <u>Additionally, the Project would be below BAAQMD's substantial progress efficiency metric of 2.6 MTCO₂e/sp/yr for 2030.</u></p>																										

Draft SEIR Section	Text Revisions
Appendix B of Draft SEIR, Initial Study, Page 132	The Flood Insurance Rate Map shows the Project site to be in Zone X <u>(Shaded)</u> , which is <u>designated as areas of 0.2 percent annual chance flood, areas of one percent annual chance flood with average depths of less than one foot or with drainage areas of less than one square mile, and areas protected by levees from one percent annual chance floods.</u> an area of moderate minimal flood hazard. Zone X <u>(Shaded)</u> , is an area outside the 100-year flood plain. There are no City floodplain requirements for Flood Zone X <u>(Shaded)</u> .
Appendix B of Draft SEIR, Initial Study, Page 137	d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? Same Impact as Approved Project, Less Than Significant. The Project site is located in an unstudied area of undetermined flood hazard (Flood Zone X) <u>Flood Zone X (Shaded)</u> according to the FEMA Flood Insurance Rate Map (FIRM) for Santa Clara County, California and Incorporated Areas. Flood Zone X <u>(Shaded)</u> is designated as an area of minimal moderate flood hazard. Therefore, the Project site is not within a designated FEMA 100-year floodplain, and there are not City floodplain requirements for Zone X (Shaded) and there are no city flood plain requirements for Zone X.
Appendix C of Draft SEIR, Biological Technical Report, Page 67	The proposed used <u>uses</u> are not fundamentally incompatible with riparian habitats.
Appendix C of Draft SEIR, Biological Technical Report, Page 68	In addition, the project will be engineered to ensure drainage <u>patterns</u> from the development do not adversely impact the river.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

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a California Way of Life.*

April 14, 2021

SCH #: 2003042127

GTS #: 04-SCL-2020-00868

GTS ID: 19779

Co/Rt/Pm: SCL/280/2.36

Adam Petersen, Environmental Project Manager
City of San Jose, Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, T-3
San Jose, CA 95113

Re: Woz Way Project – Draft Supplemental Environmental Impact Report (SEIR)

Dear Adam Petersen,

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the February 2021 Draft SEIR.

Project Understanding

The project includes a General Plan Amendment to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit to demolish 16 existing single family homes and construct two, 20-story, 297-foot tall office towers, totaling approximately 1.8 million square feet (s.f.). The office towers are comprised of approximately 10,100 s.f. of retail space and 1.22 million s.f. of office space.

This 3.08-acre project site is located at the south corner of South Almaden Boulevard and Woz Way, immediately adjacent to the Interstate (I)-280 on-ramp at Almaden Blvd. It is located within the Priority Development Area identified in Plan Bay Area 2040 and within the Transit Priority Area defined in the California Public Resources Code, Section 21099. Also, this project is located within the city's Downtown Growth Area Boundary, for which the Downtown Strategy 2040 Final Environmental Impact Report (FEIR) has been completed and approved.

Travel Demand Analysis

Caltrans commends the project applicant in preparing and implementing a TDM program to reduce overall trip generation, reduce single occupancy vehicle (SOV) trips to and from the project and encourage alternative transportation modes. The proposed TDM measures should be documented with annual monitoring reports to demonstrate effectiveness.

Regarding vehicle queues, project added traffic shall be accommodated within the ramps and freeway traffic shall not be impacted. The Local Transportation Analysis indicates a project impact on the Almaden/I-280 North Bound (NB) Ramp during AM Peak Hour. Traffic impacts generated from the project that impact ramp operations shall be mitigated or allocate a fair share fee for the mitigation. The project applicant shall coordinate with the City of San Jose and Caltrans for the proposed mitigation measures to mitigate any potential impacts.

A potential fair share allocation could go towards improvements to bicycle and pedestrian mobility. Caltrans recommends removing the slip lane at the I-280/Almaden Blvd and squaring up the intersection, and upgrading the Class II Bike Lane to Class IV along the project boundary, which is also identified in the San Jose better Bike Plan 2025.

Hydraulics

This project is within Zone X, 0.2-percent-annual-chance flood hazard, according to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map 06085C0234H, effective on May 18, 2009. However, the report states that the project site is within Zone X, an area of minimal flood hazard. Please revise the report and ensure this to be reflected in the analysis.

Construction-Related Impacts

Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto the Right-of-Way (ROW) requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating the State ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to D4Permits@dot.ca.gov.

To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov.

Sincerely,

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

MARK LEONG
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse



April 15, 2021

City of San Jose Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St, 3rd Floor
San Jose, CA 95113

Attn: Adam Petersen

By Email: Adam.Petersen@sanioseca.gov

Dear Adam,

VTA appreciates the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the Woz Way Office Project. VTA has reviewed the document and has the following comments:

Bicycle and Pedestrian Access

VTA applauds the proposed design for the Woz Way intersections directly adjacent to the site. We support signalizing the proposed driveway access along Woz Way as we understand the proposed Almaden Boulevard office project (labeled as "Boston Properties Development") will also place its driveway at this location. Signalizing this location will also help facilitate the anticipated increase in pedestrians and bicyclists that will use this intersection to access the Guadalupe River Trail, Discovery Meadow, and Children's Discovery Museum Light Rail Station.

We also support the proposed design for Woz Way and Almaden Boulevard as shown on Page 51 of Appendix J - Local Transportation Analysis. VTA worked with the City to secure funding for upgrades to this trailhead and crossing through the Affordable Housing and Sustainable Communities grant program and appreciates this thoughtful design, especially the curb extensions and directional curb ramps. Special attention will need to be made for the people exiting their vehicles from the on-street parking stalls to be able to access the sidewalks on Woz Way and Almaden Boulevard as the current designs do not include any pathways within the landscape areas.

Additionally, VTA would support these treatments shown on Page 51 of Appendix J - Local Transportation Analysis along Almaden Boulevard if they extend north to the San Carlos Avenue intersection. The San Carlos Avenue and Almaden Boulevard intersection is a Congestion Management Program (CMP) intersection that is monitored by VTA as the Congestion Management Agency. If the San Carlos Avenue and Almaden Boulevard intersection will be upgraded like what is shown for the Woz Way and Almaden Boulevard intersection, VTA should be involved in the design and planning of those treatments especially as our light rail system also travels through that intersection.

Bicycle and Vehicle Parking

VTA supports the increase in bicycle parking recommended in Appendix J - Local Transportation Analysis. This project is located 0.4 miles from the Children's Discovery Museum Light Rail Station and

one mile from Diridon Station. Diridon Station currently serves Caltrain, Amtrak, VTA Light Rail, along with several bus providers and, in the future, will also serve BART and California High Speed Rail. Additionally, the project is located directly next to the Guadalupe River Trail, a high-quality trail categorized by VTA as a bicycle superhighway that will extend close to 20 miles upon full implementation. The city should require the project to provide more bicycle parking spaces than currently noted and encourage the project to take advantage of the allowed decrease in vehicle parking to encourage its workers to utilize the incredible public and active transportation options offered by this downtown location.

Proposed Safety Enhancements

As noted above, this project and the Boston Properties Development are located near to the Children's Discovery Museum and the Children's Discovery Museum Light Rail Station. Woz Way is an important corridor that should have excellent bicycle and pedestrian infrastructure to allow for safe travel of families wishing to visit and workers traveling to and from these sites. VTA requests this project, along with the Boston Properties Development, contribute to safety enhancements at the Woz Way and Auzerais Avenue intersection. We would be happy to discuss options for improvements at this intersection.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-321-5830 or lola.torney@vta.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lola Torney', with a long horizontal flourish extending to the right.

Lola Torney
Transportation Planner III

SJ2012

Petersen, Adam

From: Colleen Haggerty <CHaggerty@valleywater.org>
Sent: Thursday, April 15, 2021 4:18 PM
To: Petersen, Adam
Cc: Michael Martin; Jennifer Watson; Usha Chatwani
Subject: RE: Notice of Availability of Supplement EIR for the Woz Way Project, San Jose (GP19-008 & H20-004)

[External Email]

Hi Adam,

Valley Water has reviewed the SEIR for the Woz Way Project and has the following comments:

1. Dewatering is required during construction because shallow groundwater occurs in the project location and the depth of the parking garage. Valley Water recommends that the construction dewatering system be designed such that the volume and duration of dewatering are minimized to the greatest extent possible. Valley Water also recommends that a more detailed analysis of construction dewatering be conducted, including estimating dewatering volumes/durations and evaluating related impacts if volumes are expected to be significant. We also recommend that the geotechnical investigation identify the foundation design and waterproofing that will avoid the need for permanent dewatering after construction is complete. Impacts on water temperature in the Guadalupe River due to discharge from dewatering operations should also be considered.
2. The 35-foot setback should be increased to meet the City's Riparian Policy. This will have ecological, recreational, and creek maintenance benefits. Also, the Downtown Strategy 2040 EIR found that cumulative shading and increased disturbance in riparian habitats and special-status fish habitat would be minimized through adherence to building setbacks requirements.
3. Page 6, BIO-2 and Biological Technical Report (Appendix C), page 63, plants used at the site should not be on the Cal-IPC list or Valley Water's Invasive Plant Management Plan list. Use of native plants, in conformance with the Guidelines and Standards for Land Use Near Streams, particularly those valuable to wildlife and pollinators, in a diversity of layers (e.g., trees, shrubs, grasses/herbs) and that provide food sources for native wildlife and/or pollinators throughout the year are encouraged.
4. Page 6, BIO-2, adverse impacts on the adjacent riparian corridor would also result in potential loss of riparian habitat for bats.

Additionally, to minimize the spread of invasive nonnative plant species and plant pathogens the following measures should be considered for inclusion to BIO-2: construction equipment is clean and free of soil, seed, and plant parts; fill, soil amendments, *etc.*, placed within the upper 12 inches of the ground surface is free of vegetation and plant material; and use of certified weed-free erosion control materials.

5. On page 9, Impact BIO-3, Mitigation Measure BIO-1 does not address impacts on habitat in the riparian corridor.
6. Page 9, BIO-4, tree removals may also impact roosting bats.
 - a. Bullet point 1 states the nesting season is Feb 1 – Aug 31, but bullet point 2 indicates it is Feb 1 – Aug 15. Migratory bird and raptor nesting season for Santa Clara County is typically considered to be January 15 - August 31.
 - b. Last line in bullet point 2 has a typo “μiit,i~fi6n,” change to “initiation.”

- c. Under “Reporting” surveys should also be conducted during building demolition (any time there could be impacts to nesting birds). BLPH and swallows, in particular, may nest on buildings, as well as raptors or other birds.
7. On page 33 the discussion of the riparian setback should clearly discuss the riparian setbacks required as per the City’s Riparian Corridor Policy and the Santa Clara Valley Habitat Plan. The discussion notes setbacks as related to the category of the stream, but doesn’t clearly describe where these categories and associated setbacks are defined.
8. On page 34 the document should note if any new outfalls or upgrades to existing outfalls are required as part of the project.
9. Pages 35, 71, 74, 81 and BIO-2, discuss use of California natives at the site including as a mitigation measure for areas adjacent to the river. To preserve the genetic integrity of the existing locally native riparian species, landscaping at the site should be in conformance with the Guidelines and Standards for Land Use Near Streams Design Guides.

The discussions regarding the use of local natives in conformance with the Guidelines and Standards for Land Use Near Streams, *i.e.* use of plants grown from seed or propagules collected in the Guadalupe River watershed, are not consistent with the use of box sized trees of local native riparian species such as oaks. Use of Design Guide 2 is most appropriate for areas of riparian mitigation or enhancement as plants that conform with this guide will be very small and must typically be contract grown by a native plant nursery at least a year in advance of planting. Design Guide 3 is most appropriate for areas where aesthetics are most important and plantings that conform with this guide can be found at commercial nurseries in larger sized container.

Please revise the SEIR for consistency in regards to use of the native plants and conformance with Design Guides 2 and 3.

10. On page 37 the first paragraph under “Demolition” states “Six of these 52 on-site trees to be removed are located along the riparian corridor boundary.” If the canopy is continuous from the existing riparian area to the six trees to be removed, the trees should be considered part of the riparian corridor. If these trees are part of the riparian corridor the last sentence “No mature riparian vegetation is present” on page 58 should be changed as appropriate.
11. The site layout as shown on Figure 7 doesn’t appear to address the loss of access to Valley Water properties along Locust Street, which is to be vacated as part of the project, as noted in our NOP letter and other project correspondence.
12. On page 57, it appears not all trees have been identified; coast live oak, California bay laurel, coast redwood, evergreen huckleberry, California incense cedar, *Yucca* spp., and many *Salix* and *Juniperus* spp. are native to CA.
13. On page 59, first paragraph notes that there “are pockets of mature riparian vegetation upstream and downstream of the site,” there are trees in the project area, that are also mature and would also constitute a pocket of mature vegetation, either in or adjacent to the riparian area (depending on whether the canopy is continuous).
14. On page 59 second paragraph and also page 163 of the Biological Technical Report (Appendix C), please change “rifle” to “riffle.” Riffle sculpin tend to occur higher in the watershed than the project area.
 - Change “California roach (*Hesperoleucus symmetricus*)” to “Central California roach (*Lavinia symmetricus symmetricus*);” this is consistent with CDFW’s most recent Fish Species of Special Concern list.
 - Sacramento sucker adults also occur in the Guadalupe River. Chinook salmon (*Oncorhynchus tshawytscha*), mosquitofish (*Gambusia affinis*), common carp (*Cyprinus carpio*), and other sunfish (Centrarchidae family) also occur in the downtown area of the Guadalupe River. Bats may use the river/riparian area as a movement corridor.
 - Ducks (mallards, mergansers, etc.), geese, egrets, herons, and other squirrels (western gray and fox squirrel) frequently occur along the Guadalupe River as foragers. Swallows and phoebes commonly nest on structures over or near the river. Migratory songbirds may nest in trees.

15. On page 59, the third paragraph notes that while the riparian corridor is not high-quality habitat and primarily a movement corridor, the area can and does support breeding/rearing for urban wildlife such as native fish including *O. mykiss*, migratory birds (including phoebes and swallows), and foraging for these species as well as ducks, herons, and egrets. Bats could use trees or crevices for roosting.
16. On page 60, tree hollows/bark, bridges, or crevices could also provide roosting habitat for bats. Pallid and Townsend's bat are probably unlikely to occur in a downtown urban area as they are very sensitive to disturbance; however, may use the river as a movement corridor, and could occur as a transient (day/night roost, nighttime movement). Other bat species which may be more tolerant of disturbance such as hoary, western red, big brown, Mexican free-tailed, and *Myotis* spp. have potential to occur. Yuma myotis and Mexican free-tailed bats have been observed foraging along the mainstem of the Guadalupe River. Western red bat is a species of special concern and should be addressed in the biological analysis. Common bats are protected under CDFG Code Section 4150.
17. On page 67 western red bat have been detected on Coyote Creek at East Santa Clara St (approximately 1.5 mile northeast); and therefore, it may not be accurate to say it is unlikely they would occur in the project area. However, if present, they would probably occur in low numbers on a transient basis.
18. On page 68, in addition to steelhead, western pond turtle, bats, and peregrine falcon - Pacific lamprey, Chinook, Central California roach, and western red bat have potential to occur in the biological study area. If there are significant and unavoidable impacts to bat roosting habitat due to Project activities, a qualified biologist experienced in successful bat mitigation techniques should be engaged to advise on appropriate, site-specific mitigation measures. In addition to buildings – trees (peeling bark, hollows, foliage), other vegetation, bridges, and crevices provide potential bat habitat.
19. The discussion on page 70 (also see discussion on page 76 of Appendix C, Biological Technical Report) and page 152 do not address temporary construction impacts on the riparian habitat if the Almaden Office Project and this project occur at the same time as is noted page 152.
20. Page 70 we recommend considering design alternatives that would allow for the implementation of a larger setback as the Guadalupe River is one of the few systems that supports endangered CCC steelhead in the county, and a wider (planted) buffer between the river the development area could contribute to improved water quality.
21. On page 77 also page 53 of the Biological Technical Report (Appendix C), the nesting season is defined as Feb 1 – Aug 31 under “avoidance,” but under “nesting bird surveys” it implies the season is from Feb 1 – Aug 15. Jan 15 – Aug 31 is typically considered the nesting season for Santa Clara County.
22. Page 84 states “There is no reasonable alternative for the proposed project that avoids or reduces the encroachment into the setback area. This biological report is not considering project alternatives. It is our understanding that the project has considered the proposed project with a setback of less than 35 feet, but that those options were viable.” The SEIR should show that there are no reasonable alternatives (e.g., building configurations).
23. On page 85, second paragraph, regarding compatibility of the project with the riparian appears to state the project is compatible since it includes “potentially deleterious qualities, similar to what might be the case with a chemical manufacturing plant...” though that appears to not be a compatible use.
24. Page 137 of Appendix B, Initial Study, incorrectly notes the site is located in an “unstudied area of undetermined flood hazard (Flood Zone X)...” The site is located in a shaded zone X as per FEMA's Flood Insurance Rate Maps which is an area that has been studied and for this site represents a 0.2 percent annual chance flood hazard.
25. On page 11, Appendix C- Biological Technical Report, the discussion of lighting should consider using light colors shown to have reduced impacts on wildlife.
26. On page 18, Appendix C- Biological Technical Report, while it is not high-quality habitat and primarily a movement corridor, the area can and does support breeding/rearing for urban wildlife such as native fish including *O. mykiss*, phoebes, and swallows, and foraging for these species as well as ducks, herons, egrets, and other migratory songbirds. Bats could use trees or crevices for roosting.
27. On page 20, Appendix C- Biological Technical Report, please note *Calocedrus decurrens*, *Yucca* spp., and many *Salix* and *Juniperus* spp. are native to California.

28. Appendix C, Biological Technical Report, page 21, Table 1 please clarify if the diameter is DBH or another specific measurement.
29. Appendix C, Biological Technical Report, Table 3 starting on page 28,
- *Bombus occidentalis*, there was apparently a verified observation from Santa Teresa County Park on 3/25/2019 (<https://www.bumblebeewatch.org/app/#/bees/view/39538>). There is potential for the two *Bombus* spp. listed in Table 3, as well as *Bombus caliginosus*, to occur in Santa Clara County.
 - a. Change “crotch” bumble bee to “Crotch’s” throughout.
 - b. Steelhead – although they are absent from the development area, they are not absent from the study area. Urban runoff, such as fertilizers, has potential to impact habitat.
 - c. CRLF (California red legged frog) – may occur outside of the Sierra foothills and coast range. Species habitat descriptions throughout refer to the Sierras; more important is habitat use in the county.
 - d. WPT (western pond turtle), an observation was made by Valley Water biologists on April 8, 2019 just downstream of Coleman Ave, approximately 2 miles downstream from Woz Way.
 - e. PEFA – breeds in areas other than the Sierra or coastal habitats; nests on buildings in addition to cliffs. Known to nest regularly on City Hall, approximately 1 mile away. We recommend using the terms “likely” and “unlikely,” throughout; the definitions provided in this document for “possible” and “unlikely” are very similar.
 - f. YEWA are a common migrant and do occur along the Guadalupe River; they were confirmed to have nested in this general area along the Guadalupe River between 1987 and 2005 (see Breeding Bird Atlas of Santa Clara County).
 - g. Pallid bat and Townsend’s bat, though unlikely to occur in a downtown urban area as the species is very sensitive to disturbance; it may use the river as a movement corridor, and could occur as a transient. Other bat species which may be more tolerant of disturbance such as hoary, western red, big brown, Mexican free-tailed, and *Myotis* spp. have potential to occur as well. Western red bat is a SSC. Common bats are protected under CDFG Code Section 4150.
 - h. Pacific lamprey, Chinook, Central California roach, and western red bat should be included in the analysis/Table 3.
30. Appendix C, Biological Technical Report, page 47, under “Species” it is stated that “eagles are likely to occur on or forage over the site:” however, page 31 states golden eagles are absent. PEFA are probably more likely to occur in the project area than ringtail.
31. Appendix C, Biological Technical Report, page 52 the last paragraph states “no mature riparian vegetation is present;” however, many of the trees along the west side of the development area appear to be mature, and likely contribute to the riparian habitat. If those trees were removed, it appears there could be a significant reduction of habitat in that area (apparently the majority of habitat) compared to existing conditions.
32. Appendix C, Biological Technical Report, page 53 given the high level of development in the surrounding area, one could argue that wildlife (such as migratory birds or raptors) would use those trees, especially those adjacent to the riparian area, for movement, breeding, and foraging. Wildlife habitat in the area is already limited, so likely that is the best available habitat in that area.
33. On page 54, Appendix C-Biological Technical Report, the discussion should note that in addition to ground disturbance, nesting bird surveys should be conducted prior to any project-related activity with potential to impact nesting birds (tree removal, vegetation pruning, demolition, etc.).
34. Appendix C, Biological Technical Report, page 56, under “Direct Impacts to Riparian Habitats,” if the canopy of trees to be removed is continuous with riparian trees, it should be considered part of the riparian habitat.
35. Appendix C, Biological Technical Report, page 61, in the discussion of indirect effects please clarify whether these potential impacts due to project activities have been deemed significant without the implementation of the proposed avoidance, minimization, and mitigation measures.
- a. Vegetation removal and building demolition has potential to impact bats as well as birds.
 - b. Ground disturbance could impact roots of established trees not targeted for removal.

- c. Recommend including a map of habitat types in this document including developed/hardscape, barren, upland, riparian, and wetland pre- and post-project to give a better idea of how developed the area is now vs. how developed it would be post-project.
 - d. Recommend including analysis of impacts to waters lacking vegetative buffers.
 - e. Reduced photosynthesis due to building shading could impact native riparian vegetation.
36. Appendix C, Biological Technical Report, page 64, under “Invasive Species Removal Targets” please note that London plane tree hybridizes with the native western sycamore, ultimately eroding the gene pool over time.
37. Appendix C, Biological Technical Report, on page 64 the discussion regarding the San Jose 2040 plan states that “a 100’ setback should be used on riparian areas in all but a limited number of instances.” If the goal of the 2040 plan and the City’s Riparian Corridor Policy is to have the majority of the Guadalupe River have a 100 foot setback, the argument that it is appropriate to reduce the setback from 100 foot setback to 35 feet since the area is already developed would not be in keeping the City’s goal of a 100 foot setback “in all but a limited number of instances” to the Guadalupe River since so much of the City is already developed.
38. Appendix C, Biological Technical Report, page 65, “Potential Constraints” (also applies to the discussion on page 82 of the SEIR) it is not clear if other building configurations have been considered that might be implemented to increase the riparian setback while still allowing development to proceed. For example, could the area north of the drop-off zone be better utilized? Or east of the building at the north end of the parcel? Would it be possible to reroute the driveway closer to the south end of the building at the north end of the parcel, to better utilize the area north of the building at the south end of the parcel (on the west side of the parcel)? Or could the driveway be removed so the building at the north end of the parcel could be moved west, then reroute the driveway to the east side of the building at the north end directly back to the drop-off zone/residential building (which would reduce the amount of hardscape needed for the driveway), and free up more space to expand the building at the south end of the property north (on the west side of the parcel)?

It is not sufficient for the qualified biologist to assume other design alternatives have been considered without analyzing those alternatives; it is the responsibility of the biologist to provide oversight and advise on the least biologically impactful alternative.

39. Appendix C, Biological Technical Report, page 67 it is not reasonable to state that a new development should not be required to meet the 100’ setback because “there currently exists development within 100-feet of the bank of the river.” The San Jose Plan 2040 is designed to improve existing conditions in San Jose for the future.
- a. First line of the bullet point: change “used” to “uses.”
40. Appendix C, Biological Technical Report, page 68, comparing compatibility with the riparian corridor by comparing the project to other developments that are not being proposed that could be worse than the one that is being proposed are not relevant to supporting whether this specific project meets the condition for a reduced setback.
- Bullet point 1, line 3 change “patters” to “patterns.”
 - Bullet point 1 states “commenting on the potential of the project to negatively affect the existing riverbank infrastructure is an engineering concern that falls outside of the scope of this analysis.” The beginning of this section states that “to receive an exception to the 100-foot setback, the project is required to submit a report by a qualified biologist, stream hydrologist, or other appropriate professional that certifies that five conditions listed in in Council Policy 6-34 are met.” It is appropriate for the biologist to review and attach reports certifying these conditions are met to the Biological Resources Report to support their conclusion.
 - Last paragraph before “Mitigation” states “While additional professional expertise may be required to fully address these conditions (e.g., civil engineer, economist, etc.), it is expected that the project will comply with the conditions for an exception of Council Policy 6-34. Therefore, there is no identified conflict with or constraint to development from Council Policy 6-34.” If the necessary information to make a determination is not available, recommend changing the wording along the lines of “based on the available information, at this time no conflict with or constraint to development from Council Policy

6-34 has been identified; however, additional professional expertise (e.g., civil engineer, economist, etc.) is required to ensure each of these conditions is fully met.”

41. Appendix C, Biological Technical Report, page 70 states “...and other mitigation measures described in this analysis, the proposed project would be consistent with #4.” Recommend describing the relevant goals of the SCVHP and the specific mitigation measures that ensure consistency. Also, the Guadalupe River does support western pond turtle, a covered species under the SCVHP.
42. Appendix C, Biological Technical Report, page 76, last paragraph the statement “the reduced impacts from these projects in the forms of observing a minimum riparian setback” is not appropriate if a minimum 35 feet riparian setback is legally required and in the case of the Almaden Office Project/Boston Properties project there are areas with no setback as noted on page 152 of the SEIR.
43. Page 9 of Appendix L, Geotechnical Investigation, notes that if excessive settlement or groundwater drawdown occurs recharge of the groundwater should occur through recharge wells and the contractor should submit a recharge plan as part of dewatering plan. The recharge plan should be reviewed by Valley Water and any wells construction must be permitted by Valley Water.

Please continue to forward project information to us for our review and comment.

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: Petersen, Adam <Adam.Petersen@sanjoseca.gov>
Sent: Monday, March 1, 2021 12:32 PM
To: Petersen, Adam <Adam.Petersen@sanjoseca.gov>
Subject: Notice of Availability of Supplement EIR for the Woz Way Project, San Jose (GP19-008 & H20-004)

The City of San Jose has elevated to Stage 5 of its Pandemic Management Plan. In addition, the County of Santa Clara has issued a “shelter in place” order which is applicable to the City of San Jose. This emergency necessarily impacts the City’s ability to provide services that are not immediately essential for the protection of public health and safety. The City is marshalling all of its resources to respond to COVID-19 and these actions have temporarily limit the capacity of the City to perform certain noticing functions.

At this time, the City will be utilizing alternative forms of noticing when necessary to reduce in-person contacts and still meet the California Environmental Quality Act (CEQA) noticing mandates. The City will be sending email notifications with “Request a Delivery Receipt” and “Request a Read Receipt” to replace the normal certified mailing for CEQA notices such as Notice of Preparation, Notice of Availability, and Notice of Intent. We ask all email recipients to respond to the "Request of Delivery Receipt" or send a follow up email acknowledging the receipt of these notices.

**NOTICE OF AVAILABILITY (NOA) OF
A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR)
FOR THE WOZ WAY OFFICE PROJECT AND
PUBLIC COMMENT PERIOD**

File Nos.: GP19-008 and H20-004

Location: South Corner of South Almaden Boulevard and Woz Way, 501, 507, 515, 527, 533, 547 & 553 South Almaden Boulevard, 276, 286 & 296 Woz Way, 529, 533, 520, 524, 526, 528 & 530 Locust Street

Assessor's Parcel No.: 264-31-037~041, 043, 044, 061~ 067, 092, 107,108

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.

Description: The project includes a General Plan Amendment (GP19-008) to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit (H20-004) to allow the demolition of 16 existing single-family homes and the construction of two, 20-story, 297-foot tall office towers, totaling approximately 1.8-million square feet. The office towers are comprised of approximately 10,100 square feet of retail space and approximately 1.22 million square feet of office space with four levels of underground parking and four levels of above ground parking on the approximately 3.08-acre project site.

Council District: 3

The proposed project will have potentially significant environmental effects on the air quality, biological, cultural, and noise 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.

In response to the County's COVID-19 Shelter-in-Place Order, hard copies are not available for review at libraries or at City Hall. 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 **March 1, 2021** and ends on **April 15, 2021**. Written comments must be received at the Planning Department by 5:00 p.m. on **April 15, 2021** to be addressed as part of the formal EIR review process.

Please submit written comments to **Adam Petersen** in the Department of Planning, Building and Code Enforcement via the following methods:

E--mail: Adam.Petersen@sanjsoeca.gov

Mail: Department of Planning, Building, and Code Enforcement
Attn: Adam Petersen
200 E. Santa Clara Street, T-3
San Jose, CA 95113

For the official record, please date and reference the project number, **Files Nos. GP19-008 and H20-004**.

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.

Please let me know if you have any questions or concerns.

Adam Petersen
Contract Environmental Team
City of San Jose Planning, Building
and Code Enforcement Department

200 East Santa Clara Street, Room 300
San Jose, CA 95113

adam.petersen@sanjoseca.gov

<http://www.sanjoseca.gov/index.aspx?nid=1725>

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PRESERVATION ACTION
COUNCIL OF SAN JOSE
History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105
www.preservation.org

April 7, 2021

VIA EMAIL: Adam.Petersen@sanjoseca.gov

Adam Peterson
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara Street, T-3
San Jose, CA 95113

Re: Woz Way Office Project Draft SEIR (GP19-008 and H20-004)

Dear Mr. Peterson,

Thank you for the opportunity to provide comments on the Draft SEIR for the Woz Way Office Project, a proposed 297-foot-tall, two-tower office and retail development on a 2.93-acre site in Downtown San Jose. As proposed, the project calls for the demolition of 16 existing single-family houses, seven of which are listed on the San Jose Historic Resources Inventory (HRI). PAC*sj strongly concurs with the DSEIR findings, based on the City of San José Historic Preservation Officer's Memoranda of December 2019 and March 2020, that five of these resources contribute to a Candidate City Landmark District, and should therefore be considered as qualified historic resources under CEQA. While we recognize that a dissenting opinion on this question has been provided in the DSEIR's Historical Resource Technical Report by MacRostie Historic Advisors (January 2020), we did not find this dissenting opinion to be persuasive or consistent with the evaluation of comparable historic resources elsewhere in San Jose. We therefore support the DSEIR conclusion that demolition of these resources would constitute a significant and unavoidable impact. We also acknowledge that no feasible project alternatives have been identified that would fully avoid significant impacts to these and other properties on the project site, including Structures of Merit not included in the Candidate City Landmark District. A robust mitigation strategy consistent with *Envision San José 2040 General Plan* policies should therefore be a condition of any project approval. This mitigation strategy should include, but not be limited to, a good-faith effort on the part of the City of San José, the project developer, and interested third parties to explore the relocation of some or all of these impacted resources to an appropriate new receiver site or sites.

PAC*sj BOARD

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PAC*sj appreciates the inclusion of a Relocation Analysis (Appendix G-3) and a Historic District Relocation Alternative (Project Alternative C) in the DSEIR, and believes that both of these components represent useful starting-points for an appropriate mitigation strategy. To be clear, we understand that the specific relocation alternative studied in the DSEIR is likely not feasible or viable, and would not ultimately reduce the project impacts to “less-than-significant” for the purposes of CEQA review. Nevertheless, we strongly encourage the continued exploration of other potential receiver sites that may or may not accommodate the entirety of the Candidate City Landmark District, as this approach remains entirely consistent with *General Plan* policies LU-13.1, LU-13.2, LU-14.3, and LU-14.6.

We further suggest that a Relocation Analysis should be a required component of any future EIR that includes relocation as a proposed mitigation measure. While the analysis included in Appendix G-3 is a welcome foundation, we believe that an appropriate scope for such analysis should also include physical dimensions (heights and widths) of the subject resources, limiting clearances (bridges, underpasses, street widths, overhead utilities, etc.) of potential relocation routes, and other basic parameters to help identify feasible receiver sites. As Lead Agency, the City of San José could also maintain a list of vacant public lands and/or interested private landowners. PAC*sj stands ready and willing to help facilitate a more comprehensive and collaborative strategy for exploring relocation as a mitigation strategy for this and future development projects impacting both CEQA-eligible historic resources and Structures of Merit.

We also strongly concur with the DSEIR finding that the Woz Way Office Project would further contribute to a significant and unavoidable *cumulative* impact to the stock of historic resources in Downtown San Jose. However, the proposed Mitigation Measure CUL-1 does little to address this recognized cumulative impact. We believe a more appropriate mitigation scope and project nexus would include resources to support the future preservation of comparable resources in Downtown and Downtown-adjacent neighborhoods facing significant development pressure.

Finally, we feel it necessary to question the DSEIR’s repeated use of the term “infill” in describing the project site and project objectives (see specifically Project Objectives 1 and 3, DSEIR p. 37). Our understanding of the term “infill” more accurately applies to development on vacant or undeveloped parcels within otherwise developed areas, such as vacant lots, surface parking areas, or developed parcels containing large open areas, and *not* a development that requires the wholesale demolition of a long-established, fully-built-out residential block. We suggest providing a clear definition of the term and an explanation for how this project both meets this definition and is consistent with the term’s general usage in the *Envision San José 2040 General Plan* and other relevant planning documents.



PRESERVATION ACTION
COUNCIL OF SAN JOSE

History Park
1650 Senter Road
San Jose, CA 95112
Phone: 408-998-8105

www.preservation.org

We again thank you for the opportunity to provide these comments and look forward to continued cooperation with the City and the project developer to address these issues through an appropriate and comprehensive mitigation strategy.

Sincerely,

Ben Leech
Executive Director
Preservation Action Council of San Jose

cc: Mark Tersini (mtersini@aol.com)
Vicrim Chima (Vicrim.Chima@sanjoseca.gov)



April 14, 2021

Department of Planning, Building, and Code Enforcement
Attn: Adam Petersen
200 E. Santa Clara Street, T-3
San Jose, CA 95113

RE: Woz Way Office Project - File Nos.: GP19-008 and H20-004

Dear Mr. Petersen,

The San Jose Downtown Association (SJDA) provides the following comments on the Supplemental Environmental Impact Report (SEIR) for the development of the Woz Way Office Project. We appreciate the level of detail and consideration staff have put into the development project and associated SEIR.

Land-use and Zoning:

This site is kitty corner from the 488 Almaden Blvd. tower and is an appropriate extension of the Downtown Core for more intensive use. We are proponents of the request the project is seeking: a General Plan Amendment (GP19-008) to change the land use designation from Public/Quasi Public to Downtown (DT), and a Site Development Permit (H20-004) to allow the demolition of 16 existing single-family homes. The proposed project with approximately 1.8-million square feet of office towers and retail space has great potential to positively activate this south gateway.

Location and Height:

This is the epitome of an anchor of an entry point of a Downtown, specifically for a crucial site adjacent to I-280. This project proposes high density by constructing two, 20-story, 297-foot tall office towers. The retail component will complement the 1.22 million square feet of office space with approximately 9,000 square feet of open office space, including several amenity deck spaces. Moreover, the skybridge adds a nice aesthetic appeal with a pragmatic use of connecting the buildings.

Parking and Traffic Circulation:

The Project also includes two loading areas for trucks and waste management. The north tower loading area would have three loading spaces, and the south tower would have ten loading spaces. The parking is handled sufficiently with four levels of underground parking and four levels of above ground parking. Minor concerns of backing up traffic per the ingress and egress (single one way lanes) to all parking areas (Levels B1 to B4, and Levels 1 to 4) via the internal driveway may slow traffic on Almaden Boulevard but seems to be ameliorated by the extensive internal driveway area (Figure 7, page 51).

In conclusion, the re-use of this 3.08-acre site will be a great asset for the city. We do not have any strong concerns regarding the biological, historic resources, and noise and vibration of this SEIR. SJDA thanks staff for their leadership in this project and we appreciate the opportunity to comment on this SEIR.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Knies', is positioned above the printed name and title.

Scott Knies
Executive Director

Petersen, Adam

From: Katja Irvin <katja.irvin@sbcglobal.net>
Sent: Thursday, April 15, 2021 4:50 PM
To: Petersen, Adam
Subject: Woz Way Project Final Draft SEIR Comment

[External Email]

Dear Mr. Petersen,

I may have missed this but I see no discussion in the Woz Way Project Final Draft SEIR documents about possible temperature impacts on the Guadalupe River from dewatering. Please make sure such impacts are analyzed and discussed. Steelhead and Chinook Salmon migrate in this river and are sensitive to water temperture.

Best regards,

Katja Irvin
(408) 569-8214

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TECHNICAL MEMORANDUM

To: City of San Jose
From: Frederik Venter, P.E. and Derek Wu P.E., Kimley-Horn and Associates, Inc.
Date: May 18, 2021

Re: **296 Woz Way Development – Transportation Demand Management Plan**

1: Introduction

This technical memorandum presents a transportation demand management (TDM) plan consistent with the provisions in the City of San José Municipal Code for the proposed 296 Woz Way project. The project site is located in the City's Downtown Core Area and consists of constructing a multi-story tower on the southwest corner of Woz Way and Almaden Boulevard. The proposed tower would have up to 1,226,000 square feet gross floor area of office and up to 10,107 square feet gross floor area of ground floor retail space.

The project is planning to implement a TDM program to reduce parking demand, encourage alternative transportation modes, and qualify for a vehicle parking reduction that can be granted by the City. These TDM measures are programs and incentives that would be implemented by the project to reduce overall trip generation and reduce single occupancy vehicle (SOV) trips to and from the site. The main purpose of the proposed TDM plan is to meet the parking reduction requirements outlined in the City's Municipal Code.

2: Required Parking

Per Chapter 20.70.100, Chapter 20.90.060, Table 20-190, and Table 20-210 of the San Jose Municipal Code (SJMC), the proposed 296 Woz Way project land uses are required to provide the following minimum off-street vehicle and bicycle parking:

- Retail Sales, Goods, and Merchandise (assumed use due to unknown future tenant)
 - No vehicle parking requirement in Downtown
 - One (1) short-term and two (2) long-term bicycle parking space
- Offices, Business, and Administrative (assumed use due to unknown future tenant)
 - Two and one half (2.5) vehicle parking space per 1,000 square-feet of floor area
 - One (1) bicycle parking space per 4,000 square feet of floor area

The parking ratio floor area refers to net floor area, which is 85% of the gross floor area. In addition, at least 80% of bicycle parking is required to be provided in short-term bicycle parking facilities for office use.

Based on the City ratios and the parking summary shown in **Table 1**, the latest project site plan is required to provide a minimum total of 2,607 off-street vehicle parking spaces and 264 bicycle parking spaces for the proposed office and retail uses. The project site proposes a total parking supply of 1,259 vehicle spaces and 274 bicycle spaces (211 short term and 53 long term). As a result, the project would have a vehicle parking shortfall per the City's off-street parking requirements.

To address the parking deficit, the project will need to implement a TDM program in order to qualify for a parking reduction of 52% from the City.

Table 1 – Woz Way Parking Summary

PARKING DESCRIPTION					PROPOSED PROJECT				
GUIDELINE SOURCE	PARKING TYPE	LAND USE	PARKING STANDARD PER GUIDELINE	PARKING RATE (SPACE/UNIT)	GROSS FLOOR AREA	PARKING RATIO FLOOR AREA	UNIT	VEHICLE PARKING (# SPACES)	BICYCLE PARKING (# SPACES)
San Jose Municipal Code Table 20-140 Table 20-190	Vehicle	Retail Sales, Goods, Merchandise	No Parking Requirement	0	10.107	8.591	KSF	0	-
		Office, Businesses, Administration	2.5 space per 1 KSF	2.5	1,226.600	1,042.610	KSF	2,607	-
	Bicycle	Retail Sales, Goods, Merchandise	2 short-term spaces 1 long-term space	3	10.107	8.591	KSF	-	3
		Office, Businesses, Administration	1 space per 4 KSF	0.25	1,226.600	1,042.610	KSF	-	261
INITIAL PARKING SUMMARY								VEHICLE	BICYCLE
TOTAL PARKING REQUIREMENT								2,607	264
PROPOSED PARKING SUPPLY								1,259	274
PARKING SURPLUS / SHORTFALL								(1,348)	10
SUFFICIENT PARKING?								NO	YES
FINAL PARKING SUMMARY WITH TDM & ADJUSTMENTS								VEHICLE	BICYCLE
MAXIMUM PARKING REDUCTION CREDIT PER MUNICIPAL CODE								57.5%	-
PARKING REDUCTION NEEDED								52%	-
TOTAL PARKING REQUIREMENT WITH 59% PARKING REDUCTION								1,259	264
FINAL PROPOSED PARKING SUPPLY								1,259	274
PARKING SURPLUS / SHORTFALL								0	10
SUFFICIENT PARKING?								YES	YES
NOTES:									
SQFT = Square Feet; KSF = 1,000 SQFT;									
Proposed parking supply based on project description and latest site plan from the applicant									
Parking requirements per San Jose Municipal Code Chapter 20.70 & 20.90									
Parking Ratio Floor Area is equal to 85% of Gross Floor Area									

3. Allowable Parking Adjustments with TDM

City of San Jose Parking Code

To address the parking deficit, the project will need to implement a transportation demand management (TDM) program with applicable measures identified in the SJMC and Transportation Analysis Handbook. The City Municipal Code allows for a reduction in required off-street vehicle parking spaces per Section 20.90.220 and 20.70.330 and is attached in the **Appendix**.

With alternative transportation and the project design, the site would be able to achieve the following applicable SJMC parking reductions:

SJMC 20.90.220.A.1.a-b

Allows up to a 20 percent parking reduction if the project:

- Located within 2,000-feet of a proposed or existing rail station, bus rapid transit station, or an area designated as a neighborhood business district, urban village, or area development policy in the City's General Plan.
- Provides bicycle parking spaces in conformance with Table 20-90.

SJMC 20.90.220.A.1.c-d

Allows up to a 50 percent parking reduction for the project implementing a TDM program with at least:

- One (1) measure as listed in 20.90.220.A.1.c.
- Two (2) measures as listed in 20.90.220.A.1.d.

SJMC 20.70.330.A

Allows up to an additional 15 percent parking reduction for projects in downtown by the director if:

- At least one of the TDM measures listed in 20.70.330.A.1 is implemented.
- The TDM plan can be maintained for the life of the project.

Project Parking Summary

Based on the above SJMC provisions, the maximum combined parking reduction that the project could be eligible from the City is 57.5% ($50\% + 50\% \times 15\% = 57.5\%$). With the 57.5% maximum parking reduction, the required number of vehicle parking is 1,108 spaces. To be compliant with the City's parking standards, the project is requesting a 52% parking reduction ($1 - (1,259 \text{ proposed spaces} / 2,607 \text{ required spaces}) = 52\%$) which is within the maximum allowable limit per SJMC.

To satisfy the City's parking requirements with the requested vehicle parking reduction, the project would need to conduct the following:

1. Implement a TDM program compliant with SJMC 20.90.220.A.1 to be eligible for a 52% vehicle parking reduction.
2. Meet the City's minimum bicycle parking requirement per SJMC.

The requested parking reduction is applicable for the site since the project:

- Is physically located within 2,000 feet walking distance to downtown VTA transit stations per SJMC 20.90.220.A.1.a
- Would provide on-site bicycle parking spaces to satisfy City standards per SJMC 20.90.220.A.1.b
- Would implement a TDM program with City approved measures and be provided for the life of the project per SJMC 20.90.220.A.1.c & d and SJMC 20.70.330.A.

4. Proposed TDM Program Elements

The following describes the proposed TDM measures that would be implemented for the project, including services that promote sustainable modes of transportation. The specific TDM measures are based on the measures specified in Sections 20.90.220 of the SJMC.

The project applicant would be responsible for ensuring that the TDM measures are implemented. After the development is constructed and the units are occupied, the property manager for the project would assume responsibility for implementing the ongoing TDM measures and be the TDM coordinator for developing, marketing, and evaluating the TDM program. Alternatively, a separate TDM coordinator could be identified for the project.

The TDM program will be monitored and refined over time to adapt to changing transportation trends and to maximize the efficiency of the program. In order to qualify for the parking reduction, the TDM program is specifically designed to focus on incentives and rewards for employees to participate in the program rather than penalties for not participating. The proposed TDM measures committed for the project are summarized below in **Table 2**.

Table 2. Proposed TDM Program Summary

TDM Measure	Municipal Code Section ¹	Description
Site Design-Based²		
Secure Bicycle Parking for Employees	B.	The proposed project will provide both short-term and long-term bicycle parking spaces on-site to satisfy minimum City requirements for the office and retail component. This component is required per SJMC to qualify for a parking reduction.
Transit Use Incentive Program for Tenants	C.ii	The proposed project will participate in the VTA SmartPass program to provide transit passes for all its retail and office employees. This TDM measure is one of the required measures per SJMC to qualify for a parking reduction greater than 20%.
Preferential Parking for Electric Vehicle Plug-In Stations	D.iii	Electric vehicle charging stations will be provided for parking spaces located near the building entry points or elevators. The specific locations and layout for electric vehicle stations are to be determined.
Telecommuting / Flexible Work Schedule	D.v	The future property manager and office tenants on-site can establish a telecommute or flexible work schedule to encourage alternative transportation.
On-Site TDM Manager	D.vii	The proposed project will designate an on-site TDM manager and develop a strong marketing campaign to improve tenant awareness, participation, and monitoring in alternative transportation measure options.
On-Site Showers and Changing Facilities	D.xii	The project will include on-site shower facilities with lockers to compliment the on-site bicycle parking and encourage alternative transportation for all employees.

¹ Refers to the section in City Municipal Code 20.90.220.A.1

² Refers to TDM specific measures identified in City Municipal Code 20.90.220.A.1

Transit Use Incentive Program for Tenants

Developing a transit use incentive program for employees, such as on-site distribution of passes or subsidized transit passes would be an effective transportation option due the project's proximity to existing VTA bus and LRT stations in downtown. Within 1/3-mile walking distance near the project site, VTA bus routes 66, 68, 82, and 304 and VTA LRT stations at the Convention Center and Children's Discovery Museum provide local and regional service for commuters between San José downtown and major transit destinations in Santa Clara County.

The 2021 annual VTA SmartPass cost for Corporate pass in Downtown San Jose is approximately \$180 per person under 3,000 participants and \$90 per person over 3,000 participants. To participate in the SmartPass program, the project would annually submit a completed SmartPass Agreement Form, comply with all SmartPass Terms and Conditions, and retain documentation of Corporate status. Required forms would be submitted to SmartPass@vta.org and SmartPass records would be maintained for program monitoring.

This TDM measure is one of the required measures to qualify for a parking reduction greater than 20% per the provisions in SJMC 20.90.220.A.1.c.

Preferential Priority Parking for Electric Vehicle Charging Stations

Providing preferential parking spaces for electric vehicles and high occupancy vehicles (HOVs) can provide an attractive incentive to carpool, rideshare, and use electric. To be effective, designated parking spaces and charging stations should be located in areas that are most desirable such as near building entrances, covered, and/or attended.

Telecommuting/Flexible Work Schedule

Telecommuting allows employees to work remotely and reduces trips to the work site while flexible work schedules allow employees to modify their work hours to be able to use transit or other travel modes or to commute during non-standard peak hours. Depending on project development, these policies can be incorporated into the office component of the project site to encourage alternative transportation.

On-Site TDM Manager, Marketing, and Information Strategies

A strong marketing and public information campaign for the proposed TDM measures can help provide awareness to residential tenants and improve participation in these programs. The project can designate an on-site TDM manager and distribute the following for marketing its TDM plan:

- Information "Welcome" packets for new tenants which includes information about public transit services, discount transit passes, bicycle maps, bike share locations, and rideshare programs.
- Building / Project website with information and links to relevant TDM agencies, forms, and services.
- Regularly published electronic newsletter and e-blasts.
- Information boards located in the lobby of the project posting updates to relevant TDM programs and incentives.
- Describe the project's TDM plan in the covenants, conditions, and restrictions (CC&R) for tenants.

On-Site Showers and Changing Facilities

End-of-trip facilities including showers/changing room encourage active bicycle transportation. Providing these facilities enables active commuters to arrive early and prepare for the day without hygienic concerns and compliments the proposed on-site bicycle parking. The proposed shower/changing room facility is provided on the ground floor next to the secured indoor bicycle parking in both office towers. The latest site plan showing this amenity is presented in the **Appendix**.

5. Summary of TDM Program Efficiency

The relative effectiveness of the proposed TDM measures can be estimated from the following resources that provide guidance on vehicle miles traveled (VMT) reductions.

- California Air Pollution Control Officers Association (CAPCOA)
- San Jose VMT Model

It should be noted that there is no 1:1 direct correlation between a parking reduction and a VMT reduction since these are two different units of measure. In other words, a 10 percent reduction in VMT does not necessarily translate to a 10 percent reduction in vehicle parking.

California Air Pollution Control Officers Association

The California Air Pollution Control Officers Association (CAPCOA) identifies VMT reduction estimates from the August 2010 report *Quantifying Greenhouse Gas Mitigation Measures*. This document provides data on several transportation measures applicable for reducing the effect of vehicle trips and impact on air quality from strategies associated with building operations, site design, location efficiency, alignment with regional policies, and regional infrastructure.

Table 3 summarizes the corresponding TDM strategies, their raw individual VMT reduction, and their category maximum VMT reduction from the CAPCOA report. It should be noted that the effectiveness of vehicle trip and VMT reduction may diminish with each additional TDM strategy implemented. Each of the CAPCOA TDM strategies can be combined with others to increase the effectiveness of vehicle trip and VMT mitigation; however, the interaction between the various strategies is complex. Generally, with each additional measure implemented, a vehicle trip and VMT reduction is achieved, but the incremental benefit of the reduction may be less than the benefit that measure would have if it was considered on its own.

Based on CAPCOA, combining the measures listed could reduce vehicle trip making and VMT by up to 25% through monitoring and enforcement.

Table 3 - TDM Effectiveness Summary - CAPCOA

TDM Measure	CAPCOA Strategy	Raw VMT Reduction (Range of Effectiveness ¹)	Total Category Maximum VMT Reduction ²
Secure Bicycle Parking for Employees	SDT-6 Provide Bike Parking in Non-Residential Projects	Reduction included in TRT-5 shown below	25% CAPCOA Category Maximum for Commuter Trip Reduction Strategies
Transit Use Incentive Program for Tenants	TRT-4 Implement Subsidized or Discounted Transit Program	Up to 1-20%	
Electric Vehicle Plug-in Stations	SDT-8 Provide Electric Vehicle Parking	Reduction is dependent on other measures not included in this TDM plan	
Telecommuting / Flexible Work Schedule	TRT-6 Encourage Telecommuting and Alternative Work Schedules	Up to 0-6%	
On-Site TDM Manager	TRT-7 Implement Commute Trip Reduction Marketing	Up to 1-4%	
On-Site Showers and Changing Facilities	TRT-5 Provide End of Trip Facilities	Up to 2-5%	

Source: *Quantifying Greenhouse Gas Mitigation Measures*, California Air Pollution Control Officers Association, August 2010

¹ Raw VMT reductions does not include adjustments for category maximums or applications to only certain land uses.

² CAPCOA provides an estimated maximum effectiveness for each of its reduction categories. Reductions beyond those maximums are not supported by evidence.

San Jose VMT Model

The relative effectiveness of a TDM plan for a project can also be estimated using the San Jose VMT model. The City's VMT Model includes four (4) tiers of trip/VMT reduction measures:

- Tier 1: Project Characteristics—development density and integration of affordable and below market rate housing.
- Tier 2: Multimodal Infrastructure—investment in bike access, improving network connectivity, increased transit accessibility, traffic calming, and pedestrian network improvements.
- Tier 3: Parking – limited parking supply and providing end of trip bike facilities.
- Tier 4: TDM Programs – car sharing, CTR marketing, commute trip reduction programs, employee cash out, subsidized transit programs, telecommuting/alternative work schedules, free long-distance shuttle service, workplace parking pricing, and ride share programs, transit service expansions, unbundled parking, and vanpool incentives.

Tier 1 and Tier 2 VMT reduction measures are generally already assumed to be accounted for in the City of San Jose Travel Demand Model outputs. The maximum VMT reductions for the Tier 3 measures is twenty percent (20%) and the maximum VMT reduction for the Tier 4 measures is twenty five percent (25%) per the City's VMT

Tool. However, the cross-category maximum, which accounts for multiplicative dampening to ensure reductions are not over counted is 40 percent (40%) for all four tiers combined.

Based on the proposed TDM plan, the project with the proposed TDM measures is expected to reduce the VMT per employee from 9.74 to 8.9, or an average 9% reduction. A summary output of the project VMT with the proposed TDM measures from the City's VMT Evaluation Tool is presented in the **Appendix**.

6. TDM Program Summary

The TDM measures presented in Section 4 are consistent with SJMC provisions to obtain an allowable parking reduction that can be granted by the City with implementation of a TDM plan.

The project's proposed TDM plan could have an estimated VMT and vehicle trip reduction effectiveness ranging between 9% to 25% based on CAPCOA and the San Jose VMT Model.

7. TDM Monitoring and Enforcement

Implementation

The project applicant would need to submit this TDM plan to the City of San Jose and would be responsible for ensuring that the TDM elements are incorporated into the project. After the development is constructed and occupied, the project applicant needs to identify a TDM coordinator. It is assumed that the property manager for the project would be responsible for implementing the ongoing TDM measures. If the TDM coordinator changes for any reason, the City and tenants should be notified of the name and contact information of the new designated TDM coordinator.

Monitoring and Reporting

The TDM plan will need to be re-evaluated annually for the life of the project. If it is determined that the parking reduction is not being achieved (i.e., the on-site parking garage exceeds 95% occupancy or reaches full capacity), additional TDM measures, or parking management measures, would need to be introduced to ensure that the parking is being addressed by the project without the burden being placed on outside entities.

The designated TDM coordinator will consult with City staff to ensure the monitoring and reporting meets the City's expectations. Monitoring will include the following components:

- Annual Vehicle Parking Counts
- Annual Mode Share Survey
- Annual Monitoring Report

Annual Vehicle Parking Counts

Annual parking counts should be conducted by an outside third-party consultant on a typical weekday (Tuesday, Wednesday, or Thursday). Counts should be collected when school is in session, should not be collected on days with inclement weather, and should avoid days immediately before or after holidays. Parking counts of the number of parked vehicles and vacant spaces should be conducted between 10:00 AM and 3:00 PM.

The goal of the TDM plan is to avoid parking spillover. Therefore, if the parking counts show that the on-site parking spaces are less than 95% occupied, it can be assumed that the project's parking demand is being

accommodated on-site, and the TDM plan is effective. If parking occupancy exceeds 95% or the on-site parking reaches full capacity, then spillover is likely occurring and the TDM plan may need to be enhanced.

Annual Mode Share Survey

To aid in the monitoring process, it is recommended to conduct an annual employee survey that will provide insight into the success of the various TDM measures. The survey would provide quantitative data to determine the mode share between SOV and alternative transportation trips as well as gather employee feedback on how to modify non-effective measures or expand upon successful measures. The annual survey would provide qualitative data regarding employee perceptions of the alternative transportation programs and perceptions of the obstacles to using an alternative mode of transportation.

The property manager or TDM coordinator should conduct an initial employee survey to determine the starting participation level for company subsidized TDM measures. Employees that pledge to participate in a company subsidized TDM measure (ex. Transit pass) should be monitored through online app or other reporting software to ensure the program is being utilized effectively.

Annual Monitoring Report

The property manager or TDM coordinator should submit annual reports to the City of San Jose for three (3) years, and then upon request of the Zoning Administrator for the life of the project with the following information:

- Results of the vehicle parking counts and mode share surveys.
- Effectiveness of individual TDM program components from the annual mode share survey.
- A description of the TDM programs and services that were offered to tenants in the preceding year, with an explanation of any changes or new programs offered or planned.
- Description of next steps including future TDM modifications and implementation timeline (if needed)

If the observed parking counts indicate that the parking occupancy is acceptable and not over capacity, no further action will be required until the following years' monitoring activity or request from the City.

If the first annual parking counts indicate that the on-site parking exceeds 95% occupancy or reaches full capacity, the property owner will adjust the TDM program to satisfy the required trip reduction measures. It is recommended that the TDM program review is conducted in conjunction with the employee survey results to identify refinements to existing strategies and new strategies to implement. Since some TDM measures take longer to implement and become widely used, the City may consider whether the property owner has made a good-faith effort to meet the TDM goals and may allow the property owner a certain "grace period" time. At the City's discretion, the property owner may be given a grace period to adjust the TDM program before new parking counts are assessed.

Appendix

Attachment A – Project Site Plan with Shower/Changing Room Facilities

Attachment B – San Jose Municipal Code 20.70.330 and 20.90.220

Attachment C – San Jose VMT Evaluation Tool Summary Report for Project with Proposed TDM program

OWNER:
KT URBAN

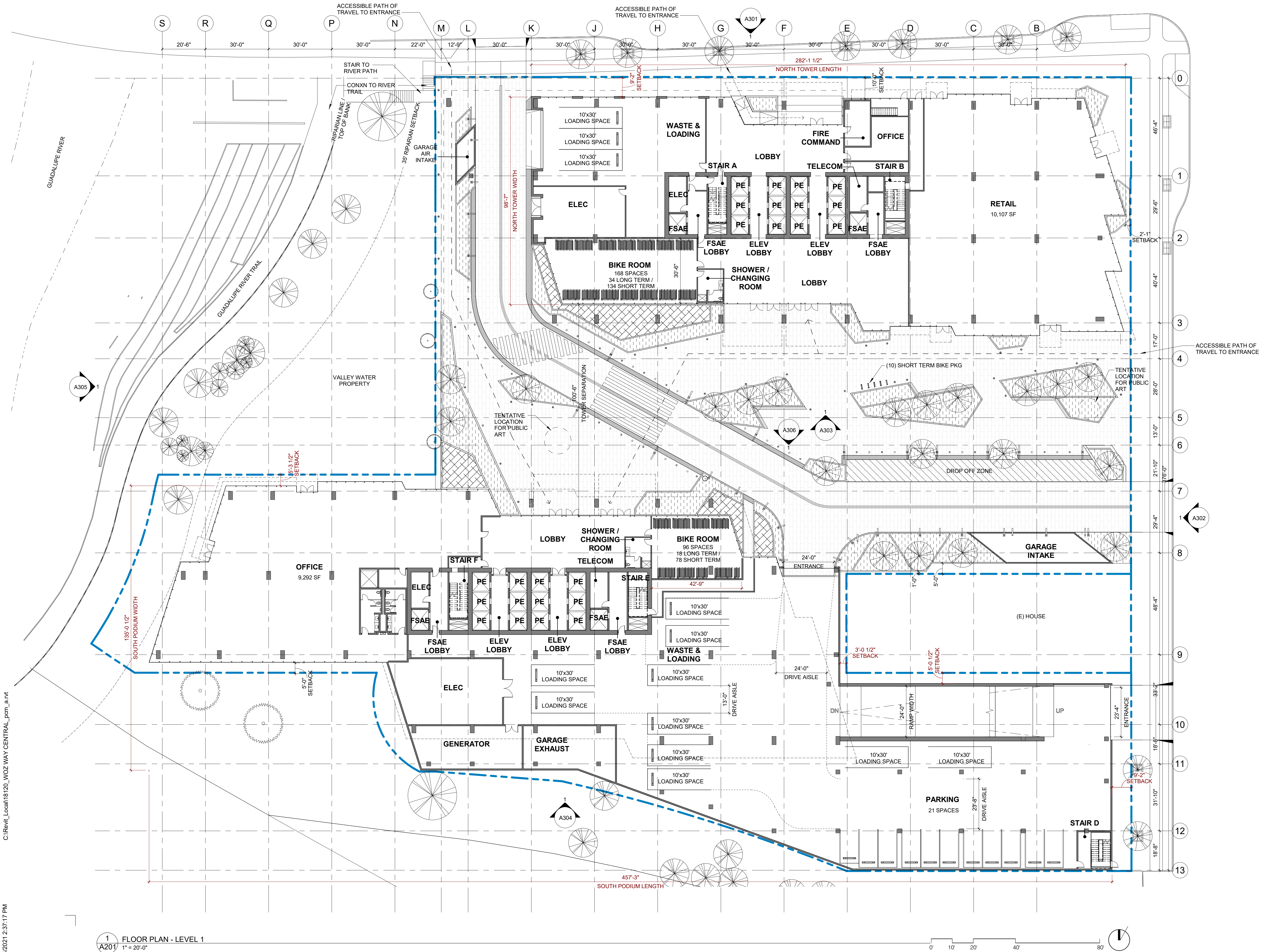
PROJECT NO.: 18120
DRAWN: NM/PM
DATE: 09 APR 2020
SDP SET GP19-008/H20-004

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PROGRESS SET

SCALE: 1" = 20'
SHEET NO.:

A201



20.70.330 - Reduction of requirement.

In addition to exceptions provided for under Section 20.90.200 and Section 20.90.220, the following reductions in parking requirements may be made by the director:

- A. The director may grant up to a fifteen percent reduction in the number of spaces required as part of the issuance of a development permit where the reduced number of spaces will be adequate to meet the parking demand generated by the project when the following findings are made:
 - 1. The project has developed a travel demand management (TDM) program that provides evidence that a TDM program will reduce parking demand and identifies the percentage of parking demand that will be reduced through the TDM program. The TDM program will incorporate one or more elements of TDM including, but not limited to measures such as Ecopass, parking cash-out, alternate work schedules, ride sharing, transit support, carpool/vanpools, shared parking, or any other reasonable measures; and
 - 2. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.
- B. For mixed-use projects, the director may reduce the required parking spaces by up to fifty percent, including any other exceptions or reductions as allowed under Title 20, upon making the following findings:
 - 1. That the reduction in parking will not adversely affect surrounding projects;
 - 2. That the reduction in parking will not be dependent upon public parking supply; or reduce the surrounding public parking supply; and
 - 3. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.
- C. The total parking required for a project may be reduced by up to one hundred percent as part of a development permit where public parking is provided on-site as part of a public or private development project. Public parking spaces may be applied toward the parking requirements for the use, applying no more than a one-for-one standard. The finding shall be made in the development permit by the director and be based on an alternate peak use, shared parking or parking demand analysis.
- D. The project will provide replacement parking either on site, off-site within reasonable walking distance or pay the current in-lieu fee for the parking required if the project fails to maintain a TDM program.

(Ords. 26248, 27091, 29217.)

20.90.220 - Reduction in required off-street parking spaces.

A. Alternative Transportation.

1. A reduction in the required off-street vehicle parking spaces of up to fifty percent may be authorized with a development permit or a development exception if no development permit is required, for structures or uses that conform to all of the following and implement a total of at least three transportation demand management (TDM) measures as specified in the following provisions:
 - a. The structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the city's general plan or the use is listed in Section 20.90.220 G.; and
 - b. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.
 - c. For any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least one of the following measures:
 - i. Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations at the ratio set forth in the development permit or development exception considering type of use; or
 - ii. Develop a transit use incentive program for employees and tenants, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA SmartPass system will satisfy this requirement).
 - d. In addition to the requirements above in Section 20.90.220 A.1.c for any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least two of the following measures:
 - i. Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations; or
 - ii. Develop a transit use incentive program for employees, such as on-site distribution of

- passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA SmartPass system will satisfy this requirement); or
- iii. Provide preferential parking with charging station for electric or alternatively-fueled vehicles; or
 - iv. Provide a guaranteed ride home program; or
 - v. Implement telecommuting and flexible work schedules; or
 - vi. Implement parking cash-out program for employees (non-driving employees receive transportation allowance equivalent to the value of subsidized parking); or
 - vii. Implement public information elements such as designation of an on-site TDM manager and education of employees regarding alternative transportation options; or
 - viii. Make available transportation during the day for emergency use by employees who commute on alternate transportation (this service may be provided by access to company vehicles for private errands during the workday and/or combined with contractual or pre-paid use of taxicabs, shuttles, or other privately provided transportation); or
 - ix. Provide shuttle access to Caltrain stations; or
 - x. Provide or contract for on-site or nearby child-care services; or
 - xi. Incorporate on-site support services (food service, ATM, drycleaner, gymnasium, etc. where permitted in zoning districts); or
 - xii. Provide on-site showers and lockers; or
 - xiii. Provide a bicycle-share program or free use of bicycles on-site that is available to all tenants of the site; or
 - xiv. Unbundled parking; and
- e. For any project that requires a TDM program:
- i. The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and
 - ii. The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.
2. A reduction in the required off-street vehicle parking spaces for a structure or use of up to ten percent or up to two off-street vehicle parking spaces, whichever is less, may be

authorized with a development permit or a development exception if no development permit is required for a particular use, for nonresidential uses in conformance with the following:

- a. In addition to the off-street bicycle parking spaces required for the structure or use, ten off-street bicycle parking spaces consisting of bicycle racks or five off-street bicycle parking spaces consisting of bicycle lockers shall be provided for everyone required off-street vehicle parking space that is reduced; and
- b. The bicycle parking spaces shall conform to all of the requirements of this Chapter.

B. One-Family Dwellings.

1. A reduction in the required off-street vehicle parking for a one-family dwelling is allowed by right if the following criteria are met:
 - a. At least one covered parking space is provided; and
 - b. No more than one dwelling or one One-Family Dwelling and one Accessory Dwelling occupy the lot; and
 - c. The location of the required covered parking is set back a minimum of forty-five feet from the front lot line when the garage is accessed via a curb cut from the front lot line and forty feet from the side corner lot line when the garage is accessed via a curb cut from the side corner lot line; and
 - d. The required covered parking is accessed by a driveway of a width no less than ten feet and no more than twelve feet; and
 - e. Any curb cuts accessing the parking shall be in proportion to the driveway width; and
 - f. No additional paving in the front setback shall be designated or used for parking; and
 - g. The covered parking structure shall meet all other applicable regulations of this title.
2. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an Accessory Dwelling, no replacement spaces are required. A garage, carport or parking structure shall be deemed converted when all or any part of an Accessory Dwelling is proposed to be constructed in all or any part of the area occupied by a garage, carport or parking structure.
3. When a garage is converted in conjunction with the construction of a Junior Accessory Dwelling, no parking spaces are required to be replaced. A garage shall be deemed converted to a Junior Accessory Dwelling Unit when all or any part of the Junior Accessory Dwelling Unit is proposed to be constructed in all or any part of the area occupied by a garage.

C. Ground Floor Commercial Uses in Neighborhood Business Districts or Urban Villages.

1. The off-street vehicle parking requirement for uses subject to Note 3 on Table 20-190 in Section 20.90.060 shall be reduced to one space per four hundred square feet of floor area, provided all of the following requirements are met:
 - a. The site is designated on the general plan land use/transportation diagram with the

- neighborhood business district overlay or designated as urban village; and
- b. The use is located on the ground floor of a building; and
 - c. No parking reduction is approved for a use pursuant to Section 20.90.220 A.1 of this chapter.
- D. Multiple Family Residential in the Main Street Districts. The decision maker may reduce the required vehicle parking spaces for a multiple-family residential use in the pedestrian oriented zoning districts with a development permit based on the following findings:
1. The project includes one or more of the following options:
 - a. The project includes unbundled parking that maximizes the efficient use of available parking; or
 - b. The project includes a car-share program that reduces the demand for parking spaces; or
 - c. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street by means of parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; and
 2. The project does not include a parking reduction pursuant to Section 20.90.220 G.; and
 3. For a project that includes ground floor commercial building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses; and
 4. The project provides vehicle parking spaces at a parking ratio of no less than 0.8 parking spaces per residential unit.
- E. Nonresidential Uses in a Main Street District. The decision maker may reduce the required vehicle parking spaces for non-residential uses by up to thirty percent with a development permit based on the following findings:
1. The project achieves one of the following:
 - a. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street through parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; or
 - b. The project promotes the efficient use of available parking by providing shared parking facilities; and
 2. The project does not include a parking reduction for ground-floor commercial building area subject to reduced parking pursuant to Section 20.90.220 A or 20.90.220 C of this title; and
 3. For a project that includes ground floor commercial building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses.

F. Miniwarehouse/Ministorage.

1. A reduction in the required off-street parking may be authorized with a development permit for those miniwarehouse/ministorage buildings meeting all of the following requirements:
 - a. Buildings are single story; and
 - b. Loading spaces are available directly adjacent to those storage units contained in the single-story building.

G. Other Uses.

1. Up to a twenty percent reduction in the required off-street parking for private instruction or personal enrichment; sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions; SROs; efficiency living units; emergency residential shelters; residential care/service facilities; convalescent hospitals; hotels/motels; bed and breakfast inns; senior housing uses; recreation uses; gasoline service or charge stations when combined with other uses; and performing arts rehearsal space uses may be approved with a development permit or a development exception if no development permit is required, provided that such approval is based upon the findings that the project is either within two thousand feet of an existing or proposed bus or rail transit stop; or the use is clustered with other uses that share all parking spaces on a site.
2. Up to a one hundred percent reduction in the required off-street parking for emergency residential shelters may be approved with a development permit or a development exception if no development permit is required.

(Ords. 26248, 26455, 27607, 27955, 28321, 28448, 28449, 28791, 28836, 28858, 29012, 29217, 29821, 30133, 30353, 30396.)

CITY OF SAN JOSE VEHICLE MILES TRAVELED EVALUATION TOOL SUMMARY REPORT

PROJECT:

Name:	Woz Way	Tool Version:	2/29/2019
Location:	296 Woz Way	Date:	4/16/2021
Parcel:	26431037	Parcel Type:	Urban High Transit
Proposed Parking Spaces	Vehicles: 1,259	Bicycles:	274

LAND USE:

Residential:		Percent of All Residential Units	
Single Family	0 DU	Extremely Low Income (\leq 30% MFI)	0 % Affordable
Multi Family	0 DU	Very Low Income ($>$ 30% MFI, \leq 50% MFI)	0 % Affordable
Subtotal	0 DU	Low Income ($>$ 50% MFI, \leq 80% MFI)	0 % Affordable
Office:	1226 KSF		
Retail:	10 KSF		
Industrial:	0 KSF		

VMT REDUCTION STRATEGIES

Tier 1 - Project Characteristics

Increase Residential Density	
Existing Density (DU/Residential Acres in half-mile buffer)	11
With Project Density (DU/Residential Acres in half-mile buffer)	11
Increase Development Diversity	
Existing Activity Mix Index	0.83
With Project Activity Mix Index	0.78
Integrate Affordable and Below Market Rate	
Extremely Low Income BMR units	0 %
Very Low Income BMR units	0 %
Low Income BMR units	0 %
Increase Employment Density	
Existing Density (Jobs/Commercial Acres in half-mile buffer)	69
With Project Density (Jobs/Commercial Acres in half-mile buffer)	95

Tier 2 - Multimodal Infrastructure

Tier 3 - Parking

End of Trip Bike Facilities	
Bicycle Parking Spaces Provided by Project	274 spaces
Project Provides Additional End-of-Trip Facilities Beyond Parking?	Yes

Tier 4 - TDM Programs

Commute Trip Reduction Marketing/ Education	
Percent of Eligible Employees	15 %
Subsidized or Discounted Transit Program	
Percent of Transit Subsidy	100 %
Telecommuting and Alternative Work Schedule Program	
Alternative Work Schedule	Telecommute 1.5 days per week
Percent of Eligible Employees	15 %

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold.

