February 7, 2013

City of San Jose
200 East Santa Clara Street
San José, CA 95113

RE: Diridon Station Area Plan Draft Environmental Impact Report (DEIR) - File No. PP09-163

Honorable Mayor, City Council, Planning Commission, Michael Brillot, and David Keyon,

The San Jose Cool Cities Team (SJCCT) of the Sierra Club Loma Prieta Chapter would like to comment on the Draft Environmental Impact Report (DEIR) of the Diridon Station Area Plan (DSAP). Our main concerns with the DEIR involve impacts within the project area as well as the surrounding environment and communities. Given the circumstances –climate change, air pollution, hydrological impairments and flooding, and impacts on humans and wildlife—the SJCCT suggests specific recommendations in six (6) sections of the DEIR, including: A) Land Use, B) Transportation, C) Air Quality, D) Greenhouse Gases, E) Biological Resources, and F) Hydrology.

The following comments are in respect to the potential impacts and mitigations (and/or lack thereof) proposed in the DEIR for the DSAP. Each impact is organized in the chronological order as written in the DEIR unless the solutions we propose are grouped.

Thank you for considering our recommendations. We hope that by working together, Diridon Station can become a community that supports and embraces the grouping of homes, jobs, and services near transit while protecting species and their habitats and the surrounding environment.

A. Land Use

There should be a hierarchy of neighborhoods throughout the City of San Jose. The area that should get the most intensification is downtown followed by station areas, public institutions (public/quasi public), office parks, and then residential. These types of neighborhoods create different varieties of place-making.

1. DSAP is Not Downtown: The Diridon Station Area must focus more on housing rather than downtown place-making as indicated in the plan. Currently, DSAP designates mixed-use developments coupled with increased intensity of restaurants, clubs, and other entertainment facilities. DSAP must act more as a housing stock that feeds into the downtown and the accessible transit hub. An example of this would be the Balboa BART station in San Francisco.

See “Housing”: http://www.sf-planning.org/ftp/general_plan/Balboa_Park_Station.htm#BPS_HSG
The housing-focused character of DSAP we're proposing changes the land use of the area to one that may also restore the natural landscape, thus, considering the nearby riparian corridors that have been known to cause massive flooding. By reducing intensity of the area, parking can be reduced and the riparian corridors can be restored. Tools that can accomplish this are Transfer Development Rights and Incentive Zoning. We ask that these tactics be considered, studied, and implemented. Further, current conditions show that the Delmas parking lot is a suitable area to be converted into an alluvial park that can act as a pleasant connection to the station area and its residents to open space and downtown.

2. More Flexibility on Housing Location: To better connect people between the project area and downtown, housing must not be limited to the southern portion of the project area as suggested in the Final and Alternatives reports for the DSAP. Further, it is important to note that a new market segment is growing between the senior populace and adolescents; they both prefer to live near transit with easy accessibility. This is especially true amongst seniors because there is a need. Over the next twenty years the Baby Boom Generation will reach their senior years and it is estimated that by 2030, one out of every four residents of Santa Clara and San Mateo Counties will be over age 65. Since most seniors have limited mobility, the plan must consider the negative impacts of a southerly focused housing on seniors, and therefore, housing must be spread throughout the project area closer to transit than the proposed quarter mile/5 minute walking distance measured exclusively for young adults.

B. Transportation

1. No HSR Alternative: Although we commend the City of San Jose (CSJ) for preparing project alternatives of the California High Speed Rail (HSR), CSJ must prepare a “No HSR” alternative considering the Federal Government’s funding of HSR is uncertain. In effect, a plan that considers the station without HSR reduces parking estimates, changes circulation measurements, traffic and congestion levels, and may bring more opportunities for land-uses that prioritize pedestrian and bicycle circulation. Again, we strongly recommend CSJ to study and create a "No HSR" alternative since there would be considerable impacts on pedestrians and bicyclists from car traffic, congestion, and circulation of an HSR plan.

2. Flawed Assumptions: There are many flawed assumptions in the flow and level of service measurements incorporated into the mitigation measures for Impact TRAN-1 (pgs 9, 134). Freeways (I-280, SR 87, I-680, and US 101) and connector roads to freeways are currently congested. Expanding roads or freeways would not improve traffic and congestion conditions since money spent for driving develops into mechanisms made in favor of driving.

Impact TRAN 1 (Pg. 9) – When compared to existing conditions, build-out of the DSAP would result in a significant impact on 15 directional mixed flow freeway segments and four directional HOV lane freeway segments during at least one peak hour when compared to the existing condition.

Mitigation Tran 1 (Pg 9) – Full mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway

See: http://www.engr.scu.edu/~emaurer/classes/ceng140_watres/handouts/Gualupe_project_summary.pdf
http://smchealth.org/sites/default/files/docs/SMC_AgingHealthBookletLR.pdf
capacity. It is not feasible for the proposed project to bear the responsibility for implementing such extensive transportation system improvements due to constraints in acquisition and cost of right-of-way. In addition, Caltrans or VTA have not developed a freeway widening program to which individual projects can contribute.

The DSAP is intended to reduce vehicle travel and congestion in the long-term. In particular, the intensification of development in proximity to Diridon Station would make transit a more viable commute option for people living and working in the Plan area, which would reduce vehicle traffic at a citywide and regional scale. However, it is not possible to know if the strategies proposed by the DSAP would reduce freeway impacts to a less than significant level. [Significant Unavoidable Impact]

And

Impact TRANS 3: The proposed project would result in a significant impact on mixed flow lanes of one additional freeway segment under Strategy 2000 plus Project Build-out conditions. [Significant Impact]

Mitigation TRANS 3: Freeway widening is not a feasible mitigation measure and it is not possible to know if the strategies proposed by the DSAP would reduce freeway impacts to a less than significant level. Although the DSAP is intended to reduce vehicle travel over the long-term, particularly at a citywide and regional level, it is not possible to know if the contribution to freeway impacts would be reduced to a less than significant level. [Significant Unavoidable Impact]

The following tools must be considered, for TRAN-1 and TRAN-3, to reduce dependence on automobiles and increase a multi-modal approach in the Station Area:

- **Reduce Parking**: The most significant precursor to driving is parking. Currently, public transit costs more money and time than refueling and parking an automobile. In essence, tools to put the real cost of fuel and parking must be implemented in the station area. Cars usually benefit from extensive amenities of parking which provide much faster and cost effective reasons to drive than to take transit. Therefore, CSJ must conduct a "door-to-door" (switch terminal) study of cost and time used when taking transit versus the cost and time it takes to drive from place to place.

- **Further**, phase out the HP Pavilion arena surface parking lot which will enable more density and walkability, and fewer vehicle trips

- **Do Not Widen Roads**: We caution and remind the City again that widening roads and freeway capacity are auto-centric tools to relieve traffic and congestion only for the car.

- **The DEIR must utilize the many basic Transportation Demand Management (TDM) strategies and tools the Plan already includes.** We strongly recommend either free or discounted transit passes to both residents and employees within the project boundary provided or subsidized by developers, local government, and/or companies as outlined on pages 2-116 and 2-117 of the Plan. Other common features of TDM programs include car and bike share, mobility management like carpool programs, and emergency ride home services.7

- **Further, reporting must be required on vehicle trips and transportation mode share** – this is a step that can be approved by the City up front, without working out more of the TDM implementation details.

- **Shuttles & Community Benefit Districts**: The DEIR must emphasize the use of public shuttles to the project area not only to downtown, but also to abutting communities. More specifically, we recommend shuttle buses with stops approximately every three blocks, financed through development fees or Community Benefit District (CBD) as effective and enduring mitigation measures to relieving traffic and congestion within the project area.

• Further, CBDs must be funded through “parking congestion pricing” to ease parking congestion by using price signals to alter automobile usage behavior.

• Mode Share & Bus Rapid Transit (BRT): The set of transit services that are accounted for to meet the 40% mode share goal in the plan does not include Bus Rapid Transit (BRT). There are two major BRT projects adjacent to the Diridon Area - El Camino and San Carlos. The San Carlos stop is about a half-mile away and access must be made closer. The BRT projects must play an important role at bringing residents to jobs or transit connections.

• Further, the DEIR does not include the cumulative impacts current and future traffic and congestion may have on the BRT projects.

3. “Protected Intersections” & Parking Policies: We disagree with the mitigation of designating the stated intersections as "Protected Intersections" as the only means of mitigating Impact TRAN-2 at the stated intersections.

Impact TRAN-2: Build-out of the DSAP would result in significant impacts to the intersections of The Alameda/Naglee Avenue and Park Avenue/Naglee Avenue under Strategy 2000 plus Project Build-out conditions. [Significant Impact]

Mitigation TRAN-2: These intersections serve as gateways to Downtown and as important transit, bicycle, and pedestrian corridors. Therefore, the project proposes to add these two intersections to the List of Protected Intersections. As a condition of project approval, the City/future developers will be required to implement offsetting improvements to pedestrian, bicycle, and transit facilities in the vicinity of the existing and proposed protected intersections. The construction of offsetting improvements would be required for impacts at these intersections. [Significant Unavoidable Impact]

“Protected Intersection” implies that no further improvements can be made by including Smart Growth initiatives and General Plan policies, however, “Protected Intersections” do not guaranty multi-modal improvements because of other roads and networks that may be causing the traffic and congestion to begin with (which may be subject to “improvements” such as road widening”). 8 We are certain that if pedestrian and bicycling facilities are planned in those intersections as well as throughout project area, then the Level of Service will improve. According to a study conducted by Greenbelt Alliance & Nelson/ Nygaard Consulting Services, 4 cities have shown significant improvement in their transportation system by implementing innovative parking policies to mitigate problems related to traffic and congestion.9 These cities are:

• The city of Boulder, Colorado, which was able to revive its downtown by abolishing minimum parking requirements for all the non-residential uses and also by adopting policies to fund public transportation system rather than creating oversupply of parking spaces.

• The city of Arlington County, Virginia, which transformed itself by “choosing to surround its new Metro stations with intense, high-density transit-oriented development and market-rate parking, rather than the more usual swaths of free park-and-ride lots and parking structures. Today, the Metrorail corridors generate 50% of the County’s tax base on just 7% of its land, making it possible for the County to give its residents the best levels of government services in the region, with the lowest tax rates.”

• The city of Santa Monica, CA, which has built “shared parking lots at strategically located locations to allow the downtown to function well with just 2.1 spaces per 1000 square feet of building space.”

8 See the following website/PDF of CSJ’s “Traffic Impact Analysis Handbook” for our references to Protected Intersections on page 6: http://www.sanjoseca.gov/DocumentCenter/View/4366

9 See: http://ss.yimg.com/kj/groups/20892832/153360934/name/SAN+IOSE+Diridon+PTDM+Revised+Draft.docx and http://ss.yimg.com/kj/groups/20892832/1260156053/name/SAN+IOSE+Diridon+PTDM+Revised+Draft+Appendix.docx
The city of Pasadena, CA, which was successful in installing parking meters and reducing on-street parking by their employees on roads. The revenue that was generated from these parking meters proved useful in funding various street side and community improvements.

We believe that city of San Jose can use these examples for improving its circulation and transportation networks. The following tools must also be considered as adequate mitigation measures to Impact TRAN-2 and in general throughout the DEIR:

- **Pedestrian Priority:** We recommend that pedestrian priority be the primary design criteria for block size, streets and public spaces, with bikes second, transit third, and automobiles last, controlling speed wherever possible to create pedestrian convenience within ½ mile of the station area.\(^{10}\)
- **Traffic Speed Limitation:** We recommend including a 15 mph traffic speed limitation for most streets within DSAP for pedestrian and bicycle safety and priority. Fatalities rise exponentially above 15 mph.\(^{11}\)
- **“Safe Routes to School”:** We recommend Safe Routes to School be integrated within the station area to accommodate the most vulnerable street users first and to serve all ages and abilities.\(^{12}\) With downtown containing San José State University as well as several elementary schools including St. Patrick School, Gardner Academy, Learning Pathways, and Horace Mann Elementary, DSAP should be safe for pedestrians of all ages.
- **Mid-block pedestrian:** We encourage cross walks, connected to “paseos” every 50 ft. to increase neighborhood walkability.
- **Coordinate with Regional Planning Processes** such as Plan Bay Area, adopted Climate Action Plans and the Grand Boulevard Initiative to meet goals and targets integrated within station area.\(^{13}\)
- **Require Unbundled Parking:** When parking is unbundled and users pay to park, fewer spaces are needed and construction cost savings can be passed on to tenants and home buyers as rent reduction or reduced residential unit cost. This is something that must be done now since it meets all of the policy goals the City is trying to achieve in Envision 2040 and the Green Vision, including: air quality improvements, greenhouse gas reductions, and congestion improvements.
- **Implement Residential Permit Parking Zones** for existing residential neighborhoods, within and adjacent to all of DSAP, where needed to protect neighbors from overflow parking.\(^{14}\)
- **Collect In-Lieu Parking Fees** to build public satellite parking on the edge of the station area to control traffic and avoid prime real estate in the DSAP wasted on extra parking garage space. In addition, pooled parking is more efficient.

**References:**

\(^{10}\) San Francisco used these design criteria in their Better Streets Plan (adopted December 2010) with linkages among the City for improved community life, access and mobility: [http://www.sf-planning.org/ftp/Better Streets/proposals.htm#Final Plan](http://www.sf-planning.org/ftp/BetterStreets/proposals.htm#Final Plan)


\(^{12}\) See: [www.dot.ca.gov/hq/LocalPrograms/saferoutes/saferoutes.htm](http://www.dot.ca.gov/hq/LocalPrograms/saferoutes/saferoutes.htm)

\(^{13}\) See: Regional Planning Process Plan Bay Area Priority Development Areas - [www.bayareavision.org/initiatives/prioritydevelopmentareas.html](http://www.bayareavision.org/initiatives/prioritydevelopmentareas.html), Grand Boulevard Initiative - [www.grandboulevard.net](http://www.grandboulevard.net), and FOCUS - [www.bayareavision.org/initiatives/index.html](http://www.bayareavision.org/initiatives/index.html)

\(^{14}\) See: [http://www.mtc.ca.gov/planning/smart_growth/parking/2-2-12/12-Jeff_Tumlin_Nelson_Nygard_Summary_and_Key_Lessons.pptx](http://www.mtc.ca.gov/planning/smart_growth/parking/2-2-12/12-Jeff_Tumlin_Nelson_Nygard_Summary_and_Key_Lessons.pptx)
• **Implement Parking Congestion Pricing** in a community benefit district (CBD) to ease parking congestion by using price signals to alter automobile usage behavior.\(^{15}\)

• **Implement Metered Parking, Shared Parking** and combine all parking through a parking authority that can qualify under the State's Air Resource Board's "Parking Cash-Out Program,\(^{16}\)" including satellite public parking. For example, Satellite Parking –Some cities, such as Portland, Oregon –have low or no parking requirements in downtown buildings because the city provides public parking structures, in preferred locations, using “in-lieu” developer fees. Shared Parking –Private parking is open to public use at certain times e.g. parking in office buildings is open for public parking at night; in Mountain View, CA, condo residential parking is shared with CalTrain commuters during the day.

• **Further, implement “smart parking”** as a means of enabling land uses that minimizes travel requirements. Since parking increases the use of cars, this results in health impacts from pollution and noise, danger to walking and dispersal of the land uses where it’s inefficient to walk, which in effect, increases obesity, heart disease, and type II diabetes levels on people.\(^{16}\)

• The City of San Jose must **de-emphasize or remove automobile "Level of Service"** within the Diridon Station Area and use modal splits to set goals for each mobility mode such that each gets equal share and appropriate environmental impacts are measured adequately. Modal Splits establish goals/metrics for the percentage of traffic planned to use each different mode of travel- walking, biking, bus, shuttle, scooters, cars, etc. As suggested in SB 743 (Steingberg, 2013):\(^{17}\)

  SB 743 requires the Governor’s Office of Planning and Research (OPR) to amend the CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts. Particularly within areas served by transit, those alternative criteria must “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.

• **Installing High Quality Bicycle And Pedestrian Infrastructure:** Bike/Ped infrastructure around the station area must be improved because there currently are no significant bicycle routes around the Station Area. In addition, the DEIR indicates LOS E and/or F (Figure 4-5, pg 139) on many areas proposed to have Class II and III bicycle lanes or none at all in the DSAP (pg. 2-103), such as Park Ave, Taylor St., San Carlos, Santa Clara/ The Alameda, Montgomery St., Delmas Ave., and Autumn St. **Class I Bicycle Facilities and sidewalk widening must be made in these streets that have LOSs of Es and Fs for the safety of bicyclists and the success of the DSAP.** This supports and enhances “The Alameda: A Plan for the Beautiful Way” 2010 report which was created and backed by the community such as the Shasta/Hanchet Park Neighborhood Association.\(^{18}\) Also, a **centrally located bike stand/station must be installed**, so that more people could easily locate this facility and can avail themselves of its benefits. By creating a centrally located bicycle stand, we can eliminate the danger of theft from the minds of the bicyclists, which could create more comfortable conditions for them to leave their cars and travel using bikes. According to the General Plan Policy TR-2.8 “Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned

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\(^{15}\) See: [http://www.dukakiscenter.org/storage/TRNEquityFull.pdf](http://www.dukakiscenter.org/storage/TRNEquityFull.pdf)

\(^{16}\) See: [http://lomaprieta.sierraclub.org/transportation/parking](http://lomaprieta.sierraclub.org/transportation/parking)

\(^{17}\) See: [http://www.opr.ca.gov/s_ab743.php](http://www.opr.ca.gov/s_ab743.php)

facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.”

- **Further, implement** a duplicate or enhanced version San Francisco’s 4th and King Caltrain station where a staffed bike parking lot is alongside bicycle repair shops.

- **Green Streets/Walks:** In addition to Park Avenue being a “Green Street”, it must also be a “Green Walk” to make the walking experience both pleasant and efficient. Examples of pleasant walkways include Bryant St. in Palo Alto and San Francisco’s Embarcadero. “Green Streets/Walks” should not only be limited to east-west connections, but also for north-south along riparian corridors to extend natural alluvial buffers. Examples of where this must be included are Autumn St. running along the Guadalupe River and Delmas Ave.

The DEIR proposes to add the stated intersections below under the list of protected intersections.

*According to the DEIR-TRANS IMPACT 4: Build-out of the DSAP would make a substantial contribution to significant cumulative impacts at the intersections of Park Avenue/Naglee Avenue, The Alameda/Naglee Avenue, and Lincoln Avenue/San Carlos Street under Cumulative plus Project conditions. [Significant Cumulative Impact]*

We believe that the problems with these intersections could be improved by adopting:

- **Removal of Excess Street Parking:** There are excess parking spots provided on the Montgomery St. and Autumn St., which should be reduced to provide better bike/ped infrastructure. By removing curbside parking spaces on this road, we could provide room for dedicated bike lanes and better pedestrian infrastructure on both sides of these roads.

According DEIR-TRANS IMPACT 5:

*The project would make a substantial contribution to significant impacts on transit priority corridors. [Significant Cumulative Impact]*

The following mitigation strategies must be considered:

- **Establish Transportation Management Association (TMA):** These associations can help in managing the functions of the transit priority corridors such as parking management and pricing, transit pass subsidies, managing and enforcing trip reduction requirements, and providing information. Possible stakeholders should be identified and involved in forming these TMA’s.19 20

C. **Air Quality**

As shown on page 191 of the DEIR, the project exceeds the thresholds set by the BAAQMD for ROG and NOx. Reactive Organic Gases (ROG) and Nitrogen Oxides (NOx) are precursors to ozone, photosynthetic smog.

*Impact AQ-1: Build-out of the DSAP would result in a net increase in ROG and NOx in the Bay Area, contributing to existing violations of ozone standards. This conclusion is consistent with the analysis in the Envision PEIR and Strategy 2000 EIR. [Significant Impact]*

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19 See: [https://www.portlandoregon.gov/transportation/article/96759](https://www.portlandoregon.gov/transportation/article/96759)
The DIER states that an increase in ROG will be sourced from aerosol products and cannot be contained. However, the DIER does not specifically state a source of NOx, which 42% out of all sources come from on-road vehicles.\(^{21}\) Further, the Bay Area Air Quality Management District states that “unusual heat waves triggered new exceedances of the national ozone standard during the summers of 1995 and 1996.’ ‘As a result, in 1998 U.S. EPA re-designated the region [San Francisco Bay Area] back into nonattainment status for the national 8-hour ozone standard.’ The region also periodically exceeds state ambient air quality standards for ozone and particulate matter.’\(^{22}\) The EIR suggests that this impact is unavoidable due to unforeseen impacts of future projects within the station area. This impact must be studied more, and thus, cross-analyzed more thoroughly with the Transportation section of the DIER as a majority of NOx will come from idling, congestion, and traffic of motor vehicles in the area. For example, the transportation study on congested intersections and highways in Figures 4-5 and 4-6 of the Transportation section show a grade of LOS E and F on a majority of intersections based on the build-out of the DSAP. Since 42% of photosynthetic smog originates from on-road vehicles then mitigation measures to reduce automobile use must be a priority. Therefore, CSJ must use the mitigations suggested throughout our comments on the Transportation section.

The DEIR also must take into further consideration of cancer risk and the sensitive receptor populace (e.g. youth, elderly, and asthma patients). Although the DEIR includes CSJ as an area with high levels of toxic air contaminants (TAC) and mentions the adoption of BAAQMD’s Community Air Risk Evaluation (CARE) program, it does not provide any recommendations to reduce these emissions specific to the Plan. About 800 to 1,200 persons per million in the area are at risk of cancer due to exposure to TAC in San José.\(^{23}\) These emissions largely come from the abutting highways, such as 101, 87, 85, and 280. We recommend the City of San José to create measures to reduce cancer risk and the negative impacts to sensitive receptors specific to Diridon Station, which in effect, will help the CARE program become more successful.

D. Greenhouse Gases (GHGs)

The GHG section of the DEIR focuses on a globally- scaled perspective, and thus, the mitigation measures did as well. We disagree with this logic and recommend the city to focus on local and regional level solutions to climate change. Currently, the County of Santa Clara trails behind Contra Costa for second place with 19.6% (18.8 MMT/yr) of total CO\(_2\) emissions released within the entire Bay Area.\(^{24}\) When looking closely at the majority of GHG emissions, they are largely sourced from the City of San José’s travel behavior of automobile usage. Greenhouse gas emissions will continue to rise if commuters are given incentives, such as parking. A more in-depth study using vehicle miles traveled (VMT) in the area can better address the impact at a regional scale of the Bay Area more effectively, rather than on a global scale (which easily makes it seem as an unavoidable impact). Our transportation section comments address the use of VMTs in more detail, see our transportation comments.

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\(^{22}\) See page 7: [http://www.baaqmd.gov/~/media/Files/Planning_and_Research/Plans/CEQA_Guide/ceqa_guide.ashx](http://www.baaqmd.gov/~/media/Files/Planning_and_Research/Plans/CEQA_Guide/ceqa_guide.ashx)


1. **GHG Measurement & Evaluation:** The Plan’s DEIR does not discuss how GHG reduction will be critically measured, evaluated, and even fails to mention climate adaptation strategies. **We recommend that DSAP greenhouse gas emissions measurements be conducted annually to measure its progress via CAPCOA methodologies and include mandatory reportings prepared by Environmental Services to be addressed to the Planning Commission and City Council for evaluation.** This report will allow city staff and decision makers to reevaluate new ways of cutting down further GHG emissions, if needed, to reach the General Plan: Envision 2040 San Jose’s Greenhouse Gas Reduction Strategy and Green Vision goals. We also **recommend using CAPCOA’s extensive mitigation and climate adaptation strategies (2009 California Climate Adaptation Strategy)** as opposed to using the bare minimum as recommended in the DEIR.

2. **Green Concrete to Cut CO₂:** To further cut down on GHG emissions, the use of Green Concrete is highly recommended. Recently in Dallas six schools were built using Green Concrete and had a net savings of 108.7 million pounds of CO₂ emissions. Implementing this into the building requirements may cut down contributions to the significant unavoidable cumulative impact to global climate change. Also this could help fulfill the GHG emissions goals of San Jose’s Envision 2040 and the Greenhouse Gas Reduction Strategy.

3. **Green Building Certification:** The Plan and the Draft EIR does not consider making all new buildings green building certified. Implementing more green building certifications, like LEED Neighborhood Development (Silver or Platinum) certified buildings can help curb GHG emissions from residential use, office, retail, industrial, and commercial. San José’s Green Vision Goal 4 states that any new building within San José have to use certification of Build It Green or USGBC which strives for optimal energy performance and results in a reduction in Greenhouse gasses.

4. **Street Lights:** Referring to San José’s Green Vision goal number nine, implement 100% of the street lights with smart, zero emissions lighting such as Light Emitting Diodes (LEDs). This will help reduce GHG emissions, while implementing San José climate change goals.

**E. Biological Resources**

**Section 4.7 Biological Resources (Pages 252-276)**

The DEIR analysis discusses the impacts from the proposed project onto the riparian corridor. The impacts from increased human activity include: increased noise, litter, destruction of native vegetation, nuisance of wildlife, harassment from pets such as house cats, and night lighting. To help alleviate these impacts, the DEIR states that it will abide to the City of San José’s Riparian Corridor Policy Study measures. The measures include setback guidelines of at least 10 feet for trails, 100 feet for urban development and active recreational facilities, and 200-300 feet for night-lighted facilities.

The following must be included:

1. **Respecting Riparian Corridor Setbacks:** While these are good measures, we are concerned about the final language, “The setback for a particular project is typically determined on a case-by-case basis” (page 255). The SJCCT of the Sierra Club Loma Prieta Chapter recommends the language be

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26 See: [http://resources.ca.gov/climate_adaptation/docs/Statewide_Adaptation_Strategy.pdf](http://resources.ca.gov/climate_adaptation/docs/Statewide_Adaptation_Strategy.pdf)


29 Ibid
modified to reflect that development will always respect the setback guidelines. **We recommend the language to state, “The setback for a particular project is typically determined on a case-by-case basis, in accordance with the Riparian Corridor Policy Study setback guidelines.”** This setback measure will help to lessen the impacts of human activity, such as lighting, noise, litter, trampling, and house pets, on critical riparian resources. **If setbacks are not met, adequate mitigation measures and a public review process must be mandated.**

2. **Habitat restoration:** The DEIR’s Table 4.7-1 includes several San José General Plan 2040 policies to help reduce or avoid impacts on the city’s riparian corridor (page 256). However, the DEIR fails to incorporate one important policy, ER-2.5, which discusses habitat restoration. The San Jose Cool Cities Team (SJ CCT) of the Sierra Club Loma Prieta Chapter recommends Table 4.7-1 must include San José General Plan 2040 Policy ER-2.5: “Restore riparian habitat through native plant restoration and removal of non-native/invasive plants along riparian corridors and adjacent areas.” This will help to provide a much-needed suitable habitat for many critical wildlife species that rely on a healthy riparian corridor for survival.

3. **Proper Tree Replacement Ratio:** The DEIR’s Table 4.7-2 describes the tree replacement ratios for each tree that would be removed (page 266). Currently, a 1:1 replacement ratio of one 15-gallon container tree is set to replace those removed trees of a diameter of less than 12 inches. However, this fails to adequately replace the beneficial ecosystem services and critical habitat that would be lost due to the removal of a larger, established tree. **The SJ CCT of the Sierra Club Loma Prieta Chapter recommends it is critical to increase the minimum size of each replacement tree to a 24-inch box and have a tree replacement ratio of 2:1.** Therefore, two 24-inch box trees shall be planted for the removal of each tree which is less than 12 inches in diameter. This will help to more adequately replace the removed tree, provide a suitable habitat for wild species, clean the air and absorb pollutants, and help with erosion control. This tree replacement ratio and size minimum is especially critical in the riparian corridor where many wild species are found.

4. **Bird Nest Surveys:** The DEIR proposes a mitigation measure where bird nest surveys shall be completed no more than a certain period prior to demolition/construction activities, and if nests are found a construction-free buffer zone can be created (page 270). The DEIR states that the pre-construction survey “shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season… and no more than 30 days prior to the initiation of these activities during the late part of the breeding season.” However, the timeline does not accurately reflect the reproductive cycle of breeding birds. For example, according to VTA’s Santa Clara-Alum Rock Transit Improvement Project Final EIR and CalSiJ.org, the Yellow Warbler, a declining species and thus a California Species of Special Concern, nests in the Los Gatos/Guadalupe River-Coyote Creek riparian corridor. **Therefore, surveys must be conducted no more than 4 days prior to the demolition/construction period, in addition to surveys conducted within 4 days prior to any tree removals within the riparian corridor.** This aligns with many birds’ reproductive cycle and will more appropriately help to lessen impacts on Species of Special Concern, nesting raptors, and migratory birds.

5. **The Yellow Warbler** typically builds its nest over 4 days, the incubation period is 10-13 days, and the nesting period is 9-12 days. Therefore, the pre-construction surveys and its timeframe is not an adequate mitigation measure in protecting these birds. **Therefore, surveys must be conducted no more than 4 days prior to the demolition/construction period, in addition to surveys conducted within 4 days prior to any tree removals within the riparian corridor.** This aligns with many birds’ reproductive cycle and will more appropriately help to lessen impacts on Species of Special Concern, nesting raptors, and migratory birds.

6. **Bird-Friendly Design:** Approximately 750 million to 1 billion birds are killed in North America each year as a result of collisions with artificial structures. Several hundred million collisions result from windows in buildings, particularly plate glass and other highly transparent or reflective glass. Specifically near riparian and migratory corridors, where bird life is in greater abundance, collisions are much greater. Many cities are adopting bird friendly design guidelines or ordinance to address this problem. Within the Bay Area, the City of San Francisco, Oakland, and Sunnyvale have already

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adopted bird-safe building guidelines. The SJCCT of the Sierra Club Loma Prieta Chapter recommends the City of San José to adopt bird-friendly design guidelines in order to help prevent bird deaths and continue its leadership in wildlife and environmental protection. If not, we ask that the final EIR at least require bird safe building designs for all new construction.

F. Hydrology

1. Stormwater Runoff: We commend the plan to follow the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit, Provision C.3 (page 291), Low Impact Development (LID) measures and several General Plan: Envision 2040 Policies. However, both Los Gatos Creek and Guadalupe River are impaired water bodies, and therefore, it is critical to do more than the minimum required pollution prevention as suggested in the DEIR. Since this plan encompasses a large planning area where multiple developments will be constructed near sensitive waterways, it is reasonable to require innovative stormwater infiltration measures that can mitigate cumulative impacts and support General Plan Policies ER-8.5 and MS-3.4. Non-industrial projects should be required to implement additional measures such as: underground infiltration units; infiltration trenches; permeable pavement; and green roof infiltration systems. For more information see “Water Quality Improvement Project: Solving Water Quality Problems.”

2. Water Quality/Litter: The increase of human activity at the Diridon Station Area Plan will likely increase litter and pollution into the creek (page 299). The SJCCT of the Sierra Club Loma Prieta Chapter commends the City of San Jose for its efforts to reduce waste such as Provision C.10 and C.11 of the NPDES permit (page 299). However, again, stronger mitigation measures are necessary to address the increase of human activity and not impact the critical biological resources and water along the creek. Additional mitigation efforts must include increase of trash/recycling/compost bins with proper enclosures to avoid runoff, such as one bin every 250 feet along sidewalks, as well as creek trails. Furthermore, creek trails should offer pet waste bags. Educational signage about waste reduction should be displayed throughout the Diridon Station Area Plan and creek trail areas. This effort can be funded by development impact fees or a Community Benefit District.

3. Flooding: The analysis of flooding must include possible impacts from the Los Gatos Creek Bridge Replacement / South Terminal Phase III Project immediately upstream from the planning area. The EIR must analyze how this will effect erosion, sedimentation, and possibly even change the creek channel, and hence how it will affect flooding and other creek issues in the planning area. See Appendix A for more information about this project. To avoid flooding impacts, the Plan must restrict below-grade structures within flood hazard areas. Furthermore, to protect from the impacts of any new building in flood zones, the EIR must include a mitigation measure to require the developers of any new structure within a 100-year flood hazard area to analyze the potential for the project to impede or redirect flood flows (to guarantee the claim in the DEIR that there will be no impact in this area). Stating that the properties in DSAP are not near a creek channel is irrelevant because the threshold does not contain an exception for this condition. More analysis is needed.

4. Sea Level Rise - Please see Appendix B for a sea level rise map of the NOAA’s Coastal Services Center’s Sea Level Rise and Coastal Flooding Impacts Viewer. This map illustrates projected impacts of sea level rise. Although the map does not show impacts directly on the Diridon Station Area, impacts are still shown throughout San Jose’s watershed, such as the Guadalupe River. According to the National Institutes of Environmental Health Sciences, climate change and sea level rise are known to have alarming affects on life since it increases the temperature in water, “precipitation frequency and severity, evaporation-transpiration rates, and changes in coastal ecosystem health could increase the
incidence of water contamination with harmful pathogens and chemicals, resulting in increased human exposure.”  

This is one of several negative impacts sea level rise may have, therefore, the City of San Jose must conduct a much more thorough analysis of DSAP’s impact from sea level rise by considering it a “Significant Impact” with mitigations incorporated (pg 298).

5. **De-Watering:** Since discharges from de-watering will flow from storm drains into Los Gatos Creek or Guadalupe River, the quality and quantity of this water **must be strictly regulated.** Depending on the flow in these waterways at the time of dewatering, **discharge volumes may need to be limited, and water temperatures could also be an issue.** More specific measures must be developed to mitigate any possible impacts from dewatering on nearby aquatic habitats.

We thank the Honorable Mayor and City Council, Planning Commission, Michael Brillot, and David Keyon for giving the San Jose Cool Cities Team of the Sierra Club Loma Prieta Chapter the opportunity to comment on the Diridon Station Area Plan’s DEIR. We hope that with our combined efforts the Diridon Station Area Plan will thrive for the local community, the environment and the greater Bay Area.

Respectfully Submitted,

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