

Letter from Adams Broadwell Joseph & Cardozo, dated 6/13/18

Response 1

Comment noted. This comment does not concern the environmental analysis contained in the Mission Town Center Final EIR and the Addendum.

Response 2

Comment noted. The commenter summarizes the requirements under CEQA. The comment does not concern the environmental analysis contained in the Mission Town Center Final EIR and the Addendum.

Response 3

The City, acting as the CEQA lead agency for the proposed El Camino Real Mixed-Use Development project (proposed project), did conduct a review of the proposed project and determined that the project was within the scope of development analyzed in the Mission Town Center Final EIR and its environmental impacts were adequately analyzed and disclosed in that EIR, and that the preparation of an Initial Study/Negative Declaration or an EIR was not necessary.

Response 4

This comment summarizes Section 15162 of the *State CEQA Guidelines*, which provides for the use of a previously prepared EIR for a later project when none of the conditions requiring the preparation of a subsequent or a supplement to an EIR are met. The Addendum to the Mission Town Center Final EIR provides substantial evidence that none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or a supplement to the EIR have been met. For each resource topic, the Addendum clearly demonstrates that the proposed project would not result in new or more severe environmental impacts than previously disclosed, that there are no changes in circumstances that would result in new or more severe impacts, and that no new mitigation measures or alternatives are required to mitigate the impacts of the proposed project.

Response 5

The commenter claims that one of the conditions triggering the preparation of a subsequent EIR has occurred and that new information of substantial importance has become available since the Mission Town Center Final EIR was certified, and therefore the proposed project will result in more severe cumulative air quality, public health, and transportation impacts than disclosed in the Mission Town Center Final EIR and the Addendum. The City has reviewed the information provided by the commenter and has determined, based on substantial evidence, that the proposed project will not result in new or more severe cumulative impacts than identified in the Mission Town Center Final EIR. Detailed responses are provided below.

Response 6

The commenter points out that since certification of the Mission Town Center Final EIR, a new project, Phase II of the BART Extension Project (“Phase II Project”) has undergone CEQA review and has been approved, and as part of the Phase II Project, construction would occur at the Santa Clara Station, which is located approximately 400 feet from the project site. The commenter notes that the Phase II Project was not identified in the list of cumulative projects analyzed in the Mission Town Center Final EIR. For this reason, the commenter asserts that the City should prepare a subsequent EIR to analyze, disclose, and mitigate cumulative air quality, public health, and transportation impacts that could result from constructing the proposed project at the same time as the Phase II Project. As the information presented in the responses below shows, the proposed project would not result in new or more severe cumulative impacts even when the information regarding the Phase II Project and its environmental impacts are considered. Therefore, a subsequent EIR is not required.

Response 7

See **Response 8** below for a discussion of the adequacy of the cumulative air quality and human health risk impact analysis contained in the Mission Town Center Final EIR and the Addendum. See **Response 12** below for a discussion of the adequacy of the cumulative transportation impact analysis contained in the Mission Town Center Final EIR and the Addendum. For reasons and the substantial evidence presented in the responses below, the inclusion of the Phase II Project in the cumulative impact analysis for the proposed project does not change the conclusions of the Mission Town Center Final EIR and the Addendum with respect to the cumulative impacts of the proposed project on air quality, public health, and transportation.

Response 8

The commenter claims that Dr. Fox provides substantial evidence that new or more severe cumulatively significant impacts that were not previously analyzed in the Mission Town Center EIR would occur, and that the “increase in criteria pollutants and hazardous air pollutants from the construction and operation of the [Phase II Project] adjacent to the Project site would be sufficient to result in significant cumulative air quality and public health risk impacts during both construction and operation of the project.”

This claim is not supported by facts because Dr. Fox’s letter does not provide substantial evidence that there would be new or more severe cumulative air quality and human health risk impacts due to the proposed project. The attached letter simply reports that the Phase II Project would result in a significant and unavoidable project-level NO_x impact during construction.

There are a number of reasons why there would not be any new or more severe significant cumulative air quality and human health risk impacts even if the construction-phase NO_x emissions of the Phase II

Project are considered along with the construction-phase NO_x emissions of the proposed project. First, due to the physical characteristics of NO_x, this pollutant does not result in localized air quality impacts on receptors located near the emissions source, such as a construction site. Therefore, NO_x emissions from the construction of the Santa Clara station as part of the Phase II Project would not cumulate with the NO_x emissions from the construction of the proposed project to result in a significant cumulative human health impact on nearby receptors.

Second, the Bay Area Air Quality Management District (BAAQMD) provides guidance that a Bay Area lead agency may use to evaluate a project's project-level and cumulative impacts on air quality and human health. The guidance is set forth in *BAAQMD's CEQA Air Quality Guidelines*, and is used routinely by the City to evaluate the significance of a project's impacts on air quality. According to the guidelines, project emissions that do not exceed the BAAQMD emission thresholds for criteria pollutants, including nitrogen oxide (NO_x), would not have a significant project-level or cumulative impact on air quality. As shown in Table 4.1-7 on page 4.1-19 and in Table 4.1-8 on page 4.1-25 of the Mission Town Center project Final EIR, construction and operation of the proposed project would not result in emissions of any criteria pollutant that exceed BAAQMD emission thresholds, and therefore the proposed project would not result in a cumulatively considerable impact with respect to criteria pollutants, including NO_x.

Third, although not required to reduce the proposed project's NO_x emissions during construction, Mitigation Measure AIR-4b requires the use of U.S. EPA rated Tier 4 engines for all diesel-powered construction equipment larger than 50 horsepower and operating on the project site for more than two continuous days and also for all diesel-powered portable equipment (i.e., air compressors, concrete saws, and forklifts) operating on the project site for more than two days. This mitigation measure would result in a substantial reduction in NO_x emissions from the construction of the proposed project.

Fourth, even though the Phase II Project EIS/EIR found that project's construction-phase NO_x impact to be significant and unavoidable for the project as a whole, as detailed in Table 6.3-3 of the Phase II Project EIS/EIR, with the inclusion of Mitigation Measure AQ-CNST-B, which would require construction equipment to be installed with Tier 4 engines (VTA 2018), the mitigated on-site emissions would not exceed BAAQMD significance thresholds (note that the majority of the Phase II Project's NO_x emissions during construction are attributed to off-site haul truck emissions, of which only a small percentage would occur within the project area).

Lastly, it is unlikely that the construction periods of the proposed project and the construction of the Santa Clara station would overlap. The proposed project is expected to begin construction in early 2019 and be completed for occupancy by late fall 2021 while construction of the Phase II Project is expected to

begin no earlier than mid-2021.¹ As a result, phases of construction at the project site involving the use of heavy construction equipment, such as grading, that would result in the highest levels of emissions during construction would not occur at the same time as similar phases would occur at the Santa Clara station construction site.

Thus, while the analysis contained in the SEIS/EIR for the Phase II Project concluded that NOx emissions during construction of the Phase II Project would result in a significant and unavoidable impact, that conclusion with respect to the construction-phase air quality impact of the Phase II Project has no bearing on the conclusions in the Mission Town Center Final EIR with respect to project-level and cumulative construction air emissions of the proposed project.

For the same reasons presented above, the construction-phase air emissions of other pollutants associated with the proposed project, including toxic air contaminants, when combined with those resulting from the construction of the Santa Clara station, would not result in a new or more severe cumulative air quality or human health impact.

Finally, with respect to project operations, the proposed project does not include any sources that would emit toxic air contaminants during project occupancy and operation. Therefore, the project would not contribute to any cumulative operational impact related to toxic air contaminant emissions that could affect human health.

Response 9

The comment summarizes the comments provided by Mr. Dan Smith and focuses on the adequacy of the transportation analysis with respect to two issues: (1) the accuracy of the cumulative traffic impact analysis given the recent approval of the Phase II Project, and (2) the trip generation methodology used to estimate project trips. Detailed responses to the comments by Mr. Smith are presented in **Response 12** below.

Response 10

The commenter summarizes the proposed project and asserts that the Addendum fails to identify and reveal significant cumulative air quality, human health, and other impacts. Please see **Responses 8 and 12** which show that the Mission Town Center Final EIR and the Addendum adequately assess the cumulative air quality, human health, and traffic impacts of the proposed project and that there would be no new or more severe cumulative impacts than previously disclosed.

¹ <http://www.vta.org/bart/timeline>

Response 11

See **Response 8** above.

Response 12

The comments are focused on the adequacy of the cumulative impact analysis and the trip generation methodology used in the preparation of the Addendum TIA. The responses are provided below.

Cumulative Traffic Impacts

The commenter states that if the traffic impacts of the Phase II (BART) Project are considered, the cumulative transportation impacts would be more severe than analyzed and disclosed in the Mission Town Center project EIR. The commenter notes that the Phase II Project was not included in the lists of Approved and Pending projects (Tables 4.0-1 & 4.0-2, Mission Town Center Draft EIR, pages 4.0-3 to 4.0-9).

The analysis of the cumulative traffic impacts in the Mission Town Center project EIR did not rely solely on the lists of Approved and Pending projects to project future traffic demand within the study area, but instead utilized the City of Santa Clara's travel demand forecast model that had been prepared for the City Place EIR. This is stated in the Mission Town Center Draft EIR on page 4.0-9.

"However, the analysis of cumulative traffic impacts in Section 4.8 does not rely on a list of projects but is instead based on regional projections of growth. The cumulative traffic analysis includes traffic volumes based on forecasts from the VTA traffic models, which contains City-wide development and roadway improvements expected to occur by the Year 2040, including the City Place development (listed in Table 4.0-2 above as the Related and the Montana Lowe Enterprise projects).

The City of Santa Clara travel demand model is based on the Santa Clara Valley Transportation Authority (VTA) travel demand model. The VTA model is the regional transportation model and it assumes the Phase II BART Extension to the Santa Clara Caltrain Station will be completed by 2040. As a part of the modeling effort for the Mission Town Center EIR, the model's land use assumptions were reviewed using the Approved and Pending project lists. In addition, the City's 2040 model included growth in both jobs and housing within the Traffic Analysis Zones (TAZ) representing the Santa Clara Station Area Plan.

Since traffic associated with the Phase II Project was accounted for in the 2040 cumulative impact analysis included in the Mission Town Center project EIR and the proposed project would result in fewer daily and peak hours trips than the Mission Town Center project, there is no reason to believe that the project would result in more severe cumulative traffic impacts.

Project Trip Generation

The commenter raises the following questions: (1) why was a pass-by trip reduction applied to the project trip generation when the previous analysis did not include such a reduction, and (2) the selection of the trip generation rates used for the retail space.

Pass-by Trip Reduction

The commenter is correct that the trip generation table (Table 1 below) in the Addendum traffic impact analysis (TIA) shows a pass-by trip reduction for daily and peak hour trips. In light of the comment, Fehr & Peers reviewed the trip generation and level of service (LOS) calculations used for the Addendum TIA. The review revealed that even though the trip generation table in the Addendum TIA erroneously reported a pass-by trip reduction, such a reduction was not used in the Addendum TIA analysis. Table 2 below presents the traffic volumes used in the TIA analysis. As Table 2 shows, a pass-by reduction was not applied. Please also note that while the pass-by trip reduction was not applied to the volumes actually used in the Addendum TIA, the difference in the peak hour volumes is very small - Table 1 shows net new project trips of 103 AM peak hour trips and 102 PM peak hour trips whereas Table 2 shows 106 AM peak hour trips and 106 PM peak hour trips. In summary, the trip generation approach used in the Addendum TIA for analysis is consistent with the approach used in the Mission Town Center EIR.

Table 1 as presented in the Addendum TIA Memorandum

Land Use	ITE Code	Units	Weekday Trips	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
REVISED PROJECT									
Apartments	220	355 du	2,361	36	142	178	138	75	213
Retail	820	22,000 sf	939	38	24	62	39	43	82
Retail Pass-by Reduction ¹			17%	8%	8%	8%	8%	8%	8%
Subtotal:			3,140	71	164	235	174	114	288
Mixed Use Reduction ² :			34%	45%	45%	45%	42%	42%	42%
Total Trips			2,072	39	90	129	101	66	167
Existing Trips			715	15	11	26	34	31	65
Net New Trips			1,357	24	79	103	67	35	102
ORIGINAL PROJECT									
Net New Trips			1,725	30	89	119	80	46	126

Change	(368)	(6)	(10)	(16)	(13)	(11)	(24)
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Table 2 Trip Generation used in the TIA Analysis

Land Use	ITE Code	Weekday	AM Peak Hour			PM Peak Hour		
		Trips	In	Out	Total	In	Out	Total
REVISED PROJECT								
Apartments	220	2,361	36	142	178	138	75	213
Retail	820	939	38	24	62	39	43	82
	Subtotal:	3,300	74	166	240	177	118	295
	Mixed Use Trip Reduction:	34%	45%	45%	45%	42%	42%	42%
	Total Trips:	2,169	41	91	132	103	69	171
	Existing Trips:	737	15	11	26	34	31	65
	Net New Trips:	1,432	26	80	106	69	38	106
ORIGINAL PROJECT								
	Net New Trips:	1,725	30	89	119	80	46	126
	Change:	(293)	(4)	(9)	(13)	(11)	(8)	(20)

Shopping Center Trip Rates

The Institute of Transportation Engineers (ITE) Trip Generation Manual 9th Edition presents trip data for various land uses based on empirical data from studies performed throughout the United States. The ITE Shopping Center trip generation rate (Land Use Code 820) was used for the retail uses in the original Mission Town Center EIR TIA analysis. The Shopping Center trip rates include a wide range of shopping center types (local, community, regional) and sizes (2,000 square feet to over 1,500,000 square feet). In addition to this range of size, the number of studies is a consideration when using the ITE data. For Shopping Centers, the number of studies used to develop the trip generation rates are 310 studies for the Daily rate, 104 studies for the AM Peak Hour rate, and 426 studies for the PM Peak Hour rate.

Two methodologies are presented in the manual that are used to calculate trip rates from the available survey data: (1) weighted average rate and (2) fitted curve equation. The trip generation manual provides guidance on when and how to apply these methodologies based on a number of factors including sample size, standard deviation of sample, regression analysis R squared (R^2) value, distribution of data points, and project size compared to size of the sites surveyed. Depending on these factors, the analyst may also apply engineering judgment.

Standard Deviations & R^2 Values – The values of these two factors is key in determining the validity of the calculation methodology. For the Weighted Average method, the standard deviation must be less than 110% of the weighted average. For the Fitted Curve method, the R^2 value must be greater than 0.75.

The table below summarizes whether the data meets the test of the Standard Deviation and R² Values for the Shopping Center land use for the Daily, AM Peak Hour, and PM Peak Hour.

	Weighted Average Standard Deviation	Fitted Curve R² value
Daily	Yes	Yes
AM Peak Hour	No	No
PM Peak Hour	Yes	Yes

Based on this primary test of the data quality, the daily and PM peak hour rates meet the standards using either methodology. Since the number of surveys for Shopping Centers is large, ITE recommends using the Fitted Curve methodology. However, the size of the proposed retail space (22,000 square feet) is relatively small and is at the low end of the surveyed locations. The average shopping center size is around 300,000 square feet. Because the project is at the low end of the size range and both methodologies meet the data quality test, ITE does allow the analyst to review the actual plots of the data and equations.

Based on Fehr & Peers' (F&P) review of the plots, F&P elected to use the Weighted Average method for the Daily and PM Peak Hour rates. Since the AM Peak Hour fails both tests, F&P reviewed the plots for the AM Peak Hour. As noted previously, there are fewer studies included in the AM Peak Hour sample. After reviewing the plot, F&P chose to use the Fitted Curve method for the AM Peak Hour.

References

Valley Transportation Authority (VTA). 2018. *VTA's BART Silicon Valley Phase II Extension Project Final Supplemental Environmental Impact Statement/ Subsequent Environmental Impact Report and Draft Section 4(f) Evaluation*. February.