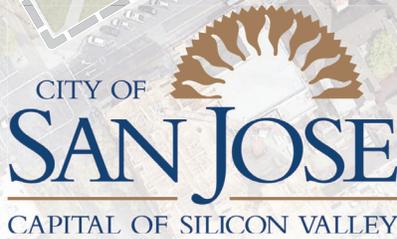


First Amendment to the Draft Environmental Impact Report

# St. James Park Capital Vision and Performing Arts Pavilion Project

SCH# 2016052074

Prepared by the



In Consultation with



September 2020

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## **SECTION 1.0 INTRODUCTION**

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This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the St. James Park Capital Vision and Performing Arts Pavilion project.

### **1.1 PURPOSE OF THE FINAL EIR**

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

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

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

### **1.2 CONTENTS OF THE FINAL EIR**

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

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

### **1.3 PUBLIC REVIEW**

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at the Department of Planning, Building, and Code Enforcement located at 200 East Santa Clara Street on the 3<sup>rd</sup> Floor on weekdays during normal business hours. The Final EIR is also available for review on the City of San José's website: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/st-james-park-capital-vision-levitt-pavilion>.

## SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

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The Draft EIR for the St. James Park Capital Vision and Performing Arts Pavilion project, dated May 2020, was circulated to affected public agencies and interested parties for a 45-day review period from May 19, 2020 through July 6, 2020. The City of San José undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of Draft EIR was published on the City’s website (<https://www.sanjoseca.gov/Home/ShowDocument?id=58693>) and in the San José Mercury News;
- Notification of the availability of the Draft EIR was mailed to project-area residents and other members of the public who had indicated interest in the project;
- The Draft EIR was delivered to the State Clearinghouse on May 18, 2020, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were made available on the City of San José’s website (<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/st-james-park-capital-vision-levitt-pavilion>).

## SECTION 3.0 DRAFT EIR RECIPIENTS

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

The NOA for the Draft EIR was sent to owners and occupants adjacent to the project site and to adjacent jurisdictions. The following agencies received a copy of the Draft EIR from the City of San José or via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Forestry and Fire Protection
- California Department of Parks and Recreation
- California Department of Transportation, District 4
- California Department of Transportation, Division of Aeronautics
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2
- Department of Toxic Substances Control
- Office of Historic Preservation
- State Water Resources Control Board, Division of Water Quality
- City of Campbell, Planning Division
- City of Cupertino Community Development Department
- City of Fremont Community Development Department
- City of Milpitas
- City of Morgan Hill, Planning Division
- City of Mountain View
- City of Palo Alto
- City of Santa Clara Department of Planning and Inspection
- City of Saratoga Community Development Department
- City of Sunnyvale, Planning Division
- Greenbelt Alliance
- Guadalupe-Coyote Resource Conservation District
- Lozeau Drury LLP
- Metropolitan Transportation Commission
- Native American Heritage Commission
- Office of Historic Preservation
- Regional Water Quality Control Board, Region 2
- PG&E Land Rights Services
- San José Unified School District

- San José Water Company
- Santa Clara Audubon Society
- Santa Clara County Planning Department
- Santa Clara County Roads & Airports Transportation Planning Department
- Santa Clara Valley Open Space Authority, Community Projects Review Unit
- Santa Clara Valley Transportation Authority
- Santa Clara Valley Water District
- Sierra Club-Loma Prieta Chapter
- State Water Resources Control Board
- Town of Los Gatos, Community Development Department
- United States Fish and Wildlife Service
- Approximately 120 individuals who requested notices during the Notice of Preparation and Scoping Meeting.

## SECTION 4.0      RESPONSES TO DRAFT EIR COMMENTS

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

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

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## GOVERNMENT AGENCIES

### A. Santa Clara County Airport Land Use Commission (dated May 20, 2020)

**Comment A.1:** Thank you, for the opportunity to review the NOA. The project site has the SJC Airport Influence Area boarder running along the west sided along First Street, any specific development west of first street needs to be reviewed for compliance with the ALUC policies. However, the FAA Part 77 Surfaces cross the site at a 212 AMSL horizontal surface height and are applicable to future development no matter what. Any structures over 75 feet tall (permanent or temporary), need to be reviewed with FAA obstruction procedures.

**Response A.1:** The project does not include development on the west side of First Street. As discussed in Section 2.3 Project Description of the Draft EIR, the proposed improvements would be up to 35 feet tall. As a result, the heights of the proposed improvements would not require airspace safety review by the FAA (see discussion on page 110 of the Draft EIR). This comment does not raise any significant environmental issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

### B. Santa Clara Valley Transportation Authority (dated July 6, 2020)

**Comment B.1:** VTA appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the St. James Park Capital Vision and Performing Arts Pavilion project. VTA has reviewed the document and has the following comments:

1984 Master Agreement for the Downtown Transit Mall

The City of San Jose and the Santa Clara County Transit District (later amalgamated into VTA) entered into the Master Agreement for the Downtown Transit Mall (“Master Agreement”) in 1984 in order to specify the construction, ownership, and maintenance, and financing roles between the City and VTA. The DEIR does not reference the Master Agreement.

VTA has been working closely with the City to coordinate a park redesign that is mutually acceptable and is consistent with the Master Agreement. As proposed, the redesigned park does not change light rail operations and does not modify the light rail track; however, the project reconstructs the southbound St. James platform. Regarding buses, the project includes the closure of the Second Street to all traffic including private vehicles and transit buses, including the closure of the VTA bus lane and requiring a rerouting of VTA Bus Routes 72 and 73. The closure of the VTA bus lane on Second Street and the subsequent rerouting of VTA buses does not conform with the terms of the Master Agreement. Given that the park redesign requires rerouting of VTA buses, the Master Agreement would have to be amended to facilitate the project.

VTA is open to amending the Master Agreement to address this proposed project. Any such amendment to the Master Agreement would have to be approved by the City and VTA prior to approval of the project by City Council.

**Response B.1:** The City would continue to coordinate with the agency to make any changes to the Master Agreement. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment B.2:** Crossing Modification

The project intends to enable the new official pedestrian crossing of the light rail tracks where no official crossing exists today. Per the VTA Land Use and Development Review Policy (Sec 4.B. Strategy), VTA typically does not support new at-grade crossing of the light rail and VTA would only support this proposed at-grade pedestrian crossing if it enables an intuitive, safer, and channelized connection across the park and reduces opportunities for informal crossings.

Per the DEIR, in order to establish new at-grade crossings of the light rail tracks authorization must be granted by the California Public Utilities Commission (CPUC). This is to comply with General Order 88-B Rules for Altering Public Highway-Rail Crossings. VTA is prepared to work closely with the City of San José to coordinate the appropriate approvals from VTA and CPUC.

**Response B.2:** As stated in the Draft EIR, the project proposes a mid-block crossing along 3<sup>rd</sup> Street, not along the light rail corridor. Furthermore, the project proposes pedestrian enhancements at St. James and 2<sup>nd</sup> and St. John and 2<sup>nd</sup>. The City would coordinate any further design and construction of these pedestrian enhancements with the VTA. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment B.3:** Work within VTA Properties

As noted in the DEIR, due to the proximity of this project to VTA property (e.g. the reconstruction of the southbound St. James Station platform), the project will require a Construction Access Permit (CAP) and Restricted Access Permit (RAP) from VTA.

**Response B.3:** The City would coordinate with the VTA for these permits. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment B.4:** Downtown Transportation Plan

The DEIR does not reference the Downtown Transportation Plan (DTP), which is a City of San José transportation plan for Downtown San José and Diridon Area. VTA's understanding is that the DTP, currently underway, will help shape "big transportation moves" to achieve a resilient and world-class Downtown San José. The DTP has a relationship to the St. James Park redesign project because it could alter assumptions made in the DEIR. For example, the DTP could analyze and implement service-only lanes or other significant transit and transportation efforts including an update to the circulation of streets surrounding St. James Park from one-way streets (existing) to two-way streets. Such changes could alter VTA's suggested rerouting of bus and light rail lines including Routes 72 and 73 when the park is under construction.

VTA recommends that the DEIR reference the DTP since one object of the DEIR is to disclose the relationships between his project to others in the Downtown San José area.

**Response B.4:** The Draft EIR and St. James plan were initiated in 2016, prior to the start of the DTP. Furthermore, the DTP is currently being developed and is not complete. Therefore, the DTP would consider this project as part of the background condition in the environmental analysis, should the proposed project be approved. This comment does not present new information that would change the transportation and circulation analysis of the Draft EIR.

**Comment B.5:** Bicycle/Pedestrian Accommodations

VTA applauds the level of detail the DEIR goes into regarding bicycle and pedestrian access around the project. However, the types of bikeway classifications listed throughout the document are incorrect. There are four classes of bikeways recognized by Caltrans, but the DEIR only notes three. VTA recommends the DEIR figures be updated to show the addition of Class IV separated bikeways throughout the downtown area.

VTA recommends the document clarify an inconsistency in Appendix G on page 44 that reads, “Note that the project would not remove any existing bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities.” This is inconsistent with the statement in the next paragraph that says “The project would have an adverse effect on the newly installed bicycle lanes because the project would widen the sidewalk along the St. John Street frontage to provide a consistent curb line with the existing blocks to the east and west. Although the parallel parking will be retained, the westbound Class II bicycle lane would be converted back to a Class III bicycle route with Sharrows.”

VTA commends the DEIR for noting policies around pedestrian and bicycle accommodations during construction. VTA requests the project/City work with VTA in case of bus stop closure or pedestrian/bicycle access to/from a transit stop is impeded due to construction. VTA requires two weeks’ lead time for any bus rerouting. Notification for rerouting can be sent to [rerouteteam@vta.org](mailto:rerouteteam@vta.org).

**Response B.5:** There is no inconsistency between the statements noted above. Page 44 of Appendix G is correct in the project would not remove any existing bicycle facilities or conflict with adopted plans or policies for new bicycle facilities. The transportation analysis acknowledges that the project would affect the newly installed bicycle lanes on St. John Street, but only to the extent that the westbound Class II bicycle lane would need to be converted back to a Class III bicycle route with sharrows. While the current westbound bike lane would be removed, the roadway will still retain a bicycle route, thereby maintaining the connectivity between bicycle facilities in the project area.

**Comment B.6:** VTA Transit Service

The DEIR is using an outdated version of the VTA Bus and Light Rail Operating Plan. VTA recently adopted and began operating a service plan in December 2019. While VTA is currently operating a temporary emergency service network due to the ongoing pandemic, the Final EIR/EIS (first amendment of the draft EIR) should reflect the new transit service plan. More information can be found on our website at <http://newtransitplan.vta.org/>.

In terms of long-term transit operations in the project area, VTA's highest priority is safety and VTA looks forward to continuing to work with the City of San José on making light rail operations through the redeveloped park safe and reliable. We also look forward to working closely with the City on future operations during events. With heavy event ridership anticipated for both the Northbound and Southbound platforms at the St James Light Rail Station, VTA will likely need to organize specific event day transit services, similar to events at SAP and Levi's Stadium.

#### Specific Notes and Comments

- Page 160 – Update VTA Light Rail text to reflect new service plan
- Page 162 – Update transit map on figure 3.17-3 to reflect new service plan
- Page 163 – Update table 3.17-1 to reflect new service plan
- Page 165 – Update the routes currently serving the area
- Appendix G Page 17 Updated figure 4 – update to reflect new service plan
- Appendix G Page 18 Update table 3 and text – to reflect new service plan

**Response B.6:** Appendix G of the Draft EIR was completed in July 2019, prior to VTA's new service plan adoption. The updated service plan does not affect the analysis provided in Appendix G of the Draft EIR and the Draft EIR itself. Furthermore, the City would continue its coordination with the VTA prior to construction and operation so as not to affect service.

#### C. Santa Clara Valley Water District (Dated July 6, 2020)

**Comment C.1:** The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed St. James Park Capital Vision and Performing Arts Pavilion Project located in the downtown area of the City of San José (City, received by Valley Water on May 20, 2020).

Per our review of the DEIR, we have the following comments:

1. Section 3.10.1.2 Existing Conditions, Dam Failure on page 115 states that the project site is not within the Lexington Reservoir inundation hazard zone; however, the project site is within both the Lenihan Dam on Lexington Reservoir and Anderson Dam inundation zones. This section should be revised accordingly.

**Response C.1:** The commenter is correct that the project site is also within the Lexington Reservoir inundation area. See Section 5.0 for the proposed text amendment. The text amendment does not change the conclusions of the Draft EIR.

**Comment C.2:** 2. Section 3.10.1.2 Existing Conditions, Groundwater on page 116 describes the range of depths to groundwater within the region. This section should also include the depth to groundwater specific to the project site, which is approximately 0 to 10 feet below ground surface. Please refer to Figure 2-16 on page 2-17 of the Valley Water 2016 Groundwater Management Plan (enclosed).

**Response C.2:** The language provided by the commenter regarding groundwater levels on-site have been added. See Section 5.0 for the proposed text amendment. The text amendment does not change the conclusions of the Draft EIR.

**Comment C.3:** 3. Section 3.10.1.2 Existing Conditions, Groundwater on page 116 states that the project site does not contribute to the recharging of the groundwater aquifer due to impervious surfaces. It should also be added that the project site is in the Santa Clara Plain Confined Area within the greater Santa Clara Subbasin, where the vertical flow of groundwater is restricted by a low permeability aquitard. Please refer to Figure 2-1 on page 2-1 and Section 2.1.2 Recharge Areas on page 2-2 of the Valley Water 2016 Groundwater Management Plan (enclosed).

**Response C.3:** The language provided by the commenter has been added. See Section 5.0 for the proposed text amendment. The text amendment does not change the conclusions of the Draft EIR.

**Comment C.4:** 4. Section 3.10.2.1 Project Impacts, Post-Construction on page 118 states that the project site is located in the Santa Clara Plain Recharge Area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions; however, the project site is located in the Santa Clara Plain Confined Area within the greater Santa Clara Subbasin. This section should be revised accordingly.

**Response C.4:** See Section 5.0 for the proposed text amendment. The text amendment does not change the conclusions of the Draft EIR.

**Comment C.5:** 5. Section 3.18.1.2 Existing Conditions on page 175 states that the project site is located approximately 3 miles west of the Guadalupe River and 2.2 miles east of Saratoga Creek this should be revised to reflect the site is located approximately 0.5 mile east of the Guadalupe River. Saratoga Creek should be removed from this discussion since the project site drains to the Guadalupe River, not Saratoga Creek.

**Response C.5:** The commenter is correct. See Section 5.0 for the proposed text amendment. The text amendment does not change the conclusions of the Draft EIR.

**Comment C.6:** 6. Valley Water encourages irrigation, the fountain, and splash pad to use recycled water, if available, to ensure water supply availability and sustainability to the community. Even if recycled water is not available, we recommend the project include guidelines for the fountain and splash pad to have a system to capture, clean, and reuse water. The DEIR notes that City policies encourage connecting to recycled water but does not state how the project will comply with these policies.

**Response C.6:** Based on a map of recycled water lines in San José, there are currently no recycled water lines available to service the project site (<https://www.sanjoseca.gov/home/showdocument?id=522>). As discussed on Page 181 of the Draft EIR, implementation of the proposed project would result in an overall decrease in water demand on-site by approximately 3,407 gallons per day. While recycled water is not currently an option for the proposed project, the overall

reduction in water use would help to ensure water supply availability and sustainability to the community.

## ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

### D. Martha O’Connell (dated May 19, 2020)

**Comment D.1:** I do not understand this: “the project would result in the demolition and removal of most of the existing improvements at the park,’ What is going to be removed?

**Response D.1:** Page v of the Draft EIR summary states that most of the existing improvements (i.e., physical improvements to the park) with the exception of the monuments and heritage trees would be removed. The project description on page 7 of the Draft EIR provides more details stating “Implementation of the proposed project would result in the demolition and removal of most of the existing improvements at the park, with the exception of the monuments and heritage trees. The existing landscaping, including non-heritage trees, would be preserved to the extent possible. Materials from existing features, such as the benches, fences, and playground, would be salvaged and reused on- or off-site, as feasible.” Page 10 of the Draft EIR states that the existing fountain would be removed.

### E. Larry Ames (dated May 20, 2020)

**Comment E.1:** I believe this may be of interest to the other Park & Rec. Commissioners as well: please share. Thanks!

**Response E.1:** The commenter is referencing the Notice of Availability. Staff has forwarded this to representative of the Department of Parks, Recreation, and Neighborhood Services (PRNS) to be included and sent to the appropriate commissions such as the Parks and Recreation Commission (PRC) in late September. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

### F. Jonathan Gordon (dated May 20, 2020)

**Comment F.1:** My only comment is that this project is fantastic for the city and downtown residents and I urge staff to move forward with it as fast as possible.

**Response F.1:** This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

### G. Carol Valentine (dated May 21, 2020)

**Comment G.1:** As a long time resident of downtown San Jose, and active member of my SKNAC neighborhood association I have long been aware of issues affecting our downtown. The plan to add the proposed improvements to St James park seems like a very good idea. I am especially excited about actually having public access to restrooms at that location. I would love to have the city maintain restrooms as the present lack of public restrooms in San Jose has been a real health hazard. The proposed buildings to provide performance events, and places for people to access locally grown

food all sound like great enhancements to the quality of life for San Jose residents. I really hope this project can go forward.

**Response G.1:** This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**H. Bob Carlson (dated June 6, 2020)**

**Comment H.1:**

Tim,

Nicely and accurately written. *(Notation added - In reference to comments made by Tim Quigley)*

In addition to your comments, it should be noted that Saint James Place, in the spirit of being a good neighbor and community citizen, is just completing a major building modernization, which cost the owners substantial money.

Also, each time an event has been held at the proposed pavilion location, the noise level has violated city codes, without any city enforcement.

**Response H.1:** Section 3.13 of the Draft EIR evaluates the potential noise impacts of the proposed project, including the anticipated activities in the new pavilion. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**I. Stephen T. “Tim” Quigley (dated June 6, 2020)**

**Comment I.1:** Many of us at St James Place Condominiums had had concerns from the outset of this redevelopment process and have expressed them repeatedly at the numerous community planning conversations to no apparent avail. Other park users and park development enthusiasts live/work at least a block off the park and are not personally or financially affected by this plan. As the only longstanding residents ACTUALLY LIVING on the park and the most knowledgeable of all things having to do with St James Park users, it would seem that our concerns would be addressed more satisfactorily.

YET, no good or even satisfactory reason has been offered for the following questions:

1. Why does the Pavilion have to be placed on St James Park? Guadalupe Park area adjacent to the SAP Arena is a short distance away and would offer a much better and less disruptive venue to local area residents for the placement of an Entertainment Pavilion which is intended to be used NOW up to 300 times a year (72 which will now be large concerts/events). At the outset, the estimate was 50 times a year, btw.

**Response I.1:** The purpose of the Draft EIR is to evaluate the project as proposed. The pavilion is proposed at St. James park. CEQA does require an EIR identify alternatives to the project that “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the

project” (CEQA Guidelines Section 15126.6). The alternatives discussion is included in Section 7.0 Alternatives of the Draft EIR, starting on page 189.

Pursuant to CEQA, an EIR shall describe a reasonable range of alternatives and does not need to consider every conceivable alternative to the project (CEQA Guidelines Section 15126.6(a)). While an alternative location at Guadalupe Park was not specifically studied, two other location alternatives were discussed: the Plaza de Cesar Chavez Location Alternative in Section 7.4.1.2 of the Draft EIR and Discovery Meadow Alternative Pavilion Location in Section 7.5.4 of the Draft EIR.

Alternative locations were explored based on those that may fit with the type of park programming proposed by the project. Guadalupe Park was not specifically studied because the layout, size, and current programming are not conducive to supporting the proposed pavilion. In addition, while there is transit nearby, the site is not immediately accessible by light rail and is not within easy walking distance of residential development. A first exploration of this park finds that this would not meet that basic characteristics to meet most of the project’s objectives and therefore, other locations were considered.

As discussed in the Draft EIR, Cesar Chavez was considered because it could support the proposed pavilion, but was rejected as Cesar Chavez is unlikely to accommodate the additional events due to its already existing high volume of events and programming. The Discovery Meadow Alternative was identified, and it was concluded that it could meet all of the objectives except for objective 7 of transforming an underutilized neighborhood park into a prime destination where music concerts occur. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment I.2:** 2. If St James Park is to be the site of the pavillion, why has the developer insisted that it be placed at the North East Corner adjacent to the original and oldest housing complex (St James Place) directly on St James Park? There is now a second housing complex adjacent to the Park, The James, which is at the South West Corner and plans have long been in process for Swenson and a partner developer to build a third high rise complex of two towers on the North West Corner. What reason can city management offer for not placing the Pavilion on the south east corner of the park and not inconvenience any one of the three housing complexes, especially the oldest housing complex building. The south east corner is adjacent to a city parking lot, a private parking lot, an empty law office and an office building. The decision should be obvious. And the Pavillon Design can easily accommodate and not affect the Naglee Monument?

**Response I.2:** The comment pertains to questions about design options and choices of certain aspects to the proposed project. The purpose of the EIR is to evaluate the impacts of the project as proposed. The project proposes a performing arts pavilion at the northeast corner of the park, facing south.

While proximity to the noise source is a factor, the directionality of noise also contributes to the impact. As shown in Figure 3.13-2 on page 139 of the Draft EIR, the uses behind the proposed stage benefit from lower noise levels because the sound

is directed away from those uses and is somewhat screened by the venue itself. Therefore, if the pavilion was located in the southeast corner of the park, St. James Place and the future Swenson project would experience higher noise levels than under the current plan because there would be no barrier to the noise source.

**Comment I.3:** 3. From the outset, St James Place owners have been concerned with the projected noise levels. We are a now almost 35 year old housing complex. The building code requirements for window insulation (single pane) have changed significantly in the intervening years. 70% of our 32 units are owner occupied. And many of these owners are retired and on fixed incomes. The HOA does not have the financial reserve capacity to absorb the estimated \$1,000,000 expense of bringing our window installations up to today's code (triple pane). When this conversation started, the estimate was 50 concerts a year (about one a week)...NOT 300 concerts/events (about one every 1.2 days) of which 72 large concerts/events (one every 5 days). What is the city going to do in this regard?

When I purchased my condo 16 years ago, I researched the city long term plan for the park. The plan for the north east corner called for the removal of the old temporary St James Park Senior Center. With the eventual removal of that old antiquated facility, the plan was to replace it with a typical neighbor community park. With that assurance, I purchased my unit.

What the city is now planning is not a typical neighbor community park.

**Response I.3:** An analysis of the project's noise impacts is included in Section 3.13 Noise, specifically subsection 3.13.2.1 starting on page 134 of the Draft EIR. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**J. Diego Nieto (dated June 7, 2020)**

**Comment J.1:** I am writing to support the redevelopment of St James Park. A beautiful, safe and lively park would transform the area. My family and I live four blocks away from the park and hope that the redevelopment will reach its fullest potential, which includes Levitt Pavilion. We live downtown for the cultural resources and entertainment options that are within walking distance. Noise from concerts or festivals are of no concern.

**Response J.1:** The commenter is in support of the project. The comment does not raise any environmental issues under CEQA or with the adequacy of the Draft EIR. Therefore, no further response is required.

**K. Chuck Dougherty (dated June 8, 2020)**

**Comment K.1:** I don't know why I'm bothering to submit this "public input" about St. James Park. The Council will do as it damned well pleases, regardless of what I or others say. However, here are my thoughts:

1. \$60 million to redo St. James is a huge waste and misdirection of limited resources; (and I suspect the price tag will ultimately exceed \$100 million)

2. The City is over \$300 million behind (and growing) in deferred maintenance of all our other parks;

**Response K.1:** This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment K.2:** 3. The proposed redevelopment does not follow the National guidelines for Historical Parks;

4. The out-of-town company contracted to redesign the park has little or no idea of its historical significance, or our community cultural values; ("Monument Walk": What a joke)

5. The McKinley and Naglee monuments are offensive, or should be, to our predominantly Hispanic, and minority Native American, communities, and should be removed. The McKinley statue in Arcata has already been removed;

**Response K.2:** The Draft EIR includes a Historic Resources Evaluation and Rehabilitation Assessment (Appendix D of the Draft EIR) to analyze the impact of the changes to relevant guidelines and requirements such as the City's *St. James Square Historic District Design Guidelines* and the *Secretary of Interior's Standards (SOI) for the Treatment of Historic Properties Rehabilitation Standards*. The SOI were used to evaluate the project's consistency with the standards and the SOI's Guidelines for Cultural Landscapes was considered. Project effects were analyzed for impacts the proposed project would have on the park as a Candidate City Landmark and contributor to the City Landmark District and the National Register District and the local and National historic district as a whole under California Environmental Quality Act (CEQA). There are no federal guidelines outside the ones noted as part of the Historic Resources Evaluation and Rehabilitation Assessment that are specific to historic parks.

The goals of the *St. James Square Historic District Design Guidelines* are the preservation of the historically significant structures in the St. James Square Historic District and the compatible integration of existing and new buildings on properties include within the area of historic sensitivity. The project was analyzed against the design guideline components such as General Character, Site Layout/Setbacks, Building Form and Scale, and Surface Treatment such as Fenestration, Materials, Detailing, Colors, and Landscaping. Based on the analysis of the Draft EIR and associated documents, the project is not in substantial conformance with the general character and surface treatment (specifically fenestration, materials, detailing, and color) guidelines.

The SOI Standards (Rehabilitation) were used to evaluate the project's consistency with the standards and the SOIs Guidelines for Cultural Landscapes was considered. While many of the standards obtained a "consistent" or "substantially consistent" rating, the proposed project would not fully be consistent with retaining or preserving the historic character with its design, such as the character-defining pathways.

Based on applicable federal, state, and local standards used for historic analysis above, the Draft EIR disclosed that the project would have a significant unavoidable impacts to historical resource pursuant to CEQA Guidelines Section 15064.5. The commenters opinions regarding the proposed design and the retention of the monuments is noted but these comments do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment K.3:** 6. There should be an archaeological study done. There is reason to believe the park may be a sacred site for the Ohlones.

**Response K.3:** As stated in Section 3.5.2.1 of the Draft EIR, while there are no known archaeological resources on-site, the project site is located in an archaeologically sensitive area and unknown archaeological resources could be encountered during project construction (see page 76 of the Draft EIR). The Draft EIR identifies mitigation measures that the project shall implement to reduce impacts to archaeological resources if encountered during construction. The mitigation includes having a qualified archaeologist on-site to monitor excavation on-site, evaluating resources found (if any), and implementing measures to reduce impacts to a less than significant level (see mitigation measures MM CUL-2.1 on page 76 of the Draft EIR). This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment K.4:** 7. The Parks & Recreation Director told the Park Commission that the reason for the redevelopment of the park is to:

(A). Get rid of the undesirables hanging out there;

The "undesirables" have been there forever, and always will be; and there's not that many of them. There's a Constitutional issue involved, and there's more than that hanging out all over the City.

(B). to promote and attract downtown businesses.

Using funds to promote business, that rightly should go to other parks and facilities, is a misuse of resources.

**Response K.4:** This comment does not raise any significant environmental issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment K.5:** If the City was genuinely interested in improving the park, then they should remove 2nd Street and the trolley that divides the park. Put one or both under the park, like N. First Street, between Devine and Julian; or reroute both.

The park is fine, just the way it is. Leave it alone.

"It's haunted and bad luck". -- Clyde Arbuckle, frmr City Historian

**Response K.5:** This comment does not raise any significant environmental issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**L. Tahra Venec Chavez (dated June 8, 2020)**

**Comment L.1:** I had stumbled on the internet of a plan for Saint James park. The future plans are great. I personally believe that this is done to create togetherness with the local businesses. In ways to create it more affordable. There are a lot of great businesses in San Jose.. Machine shops... landscaping..pool and designs..and even better these local businesses would in my opinion be more than happy to invest time and labor in creating a park that puts there name on the map. A park where it benefits the community. This is about rebuilding our city and everyone should do there part of it. When I was working at Samsung as a night chef. I would always take the light rail and exit Saint James park. The amount of homeless breaks my heart. I was always bringing food to them. They were always waiting and they were full of smiles and respect. They care for the park same as we do. There times are rougher then most. This is a way to teach hands on skills. This gives good opportunity to have there support and helping hands.. Make this an opportunity to do different. Thank you and I love love to help and be apart of this change. my name is tahra venec chavez

**Response L.1:** The commenter is in support of the project. This comment does not raise any significant environmental issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**M. Matt Stevens (dated June 10, 2020)**

**Comment M.1:** This letter is in response to the recently released EIR addressing the city's plans for St. James Park. My participation in meetings as a representative of St. James Place, the oldest residential building across the street from the park, has allowed me to give voice to the concerns of residents about events in the park. These concerns come from experiences of dealing with noise levels, traffic congestion, human waste, and parking problems that have come from some of these events. One thing at the root of our concerns is the dated sound insulation that the windows in our building provide. With some of these events we are unwilling attendees of the performance because it invades our very homes with its noise and vibrations (the absolute worst experience was from the infamous Sriracha Festival, an hours long pounding of our senses).

There are three points in the report that lack any mitigation or are supported by weak explanations. One addresses the park as a historical resource that is provided to the city and the adjoining residents. Many of us bought into the building when the promises of park development at that time were goals of restoring it to its original purpose as a green space and horticultural collection. Over the years park planning has changed, often undercutting the expectations of our building's residents. Many of us were pioneers in moving to the downtown during the years of redevelopment, and we endured some difficult growing pains in the process. I have lived in this building for over 32 years. At the time the promise was of a restored park.

**Response M.1:** An analysis of the project's historic impacts is included in Section 3.5 Cultural Resources, specifically subsection 3.5.2.1 starting on page 67 of the Draft EIR. In summary, the EIR concluded that the project would result in a

significant and unavoidable impact to the historic integrity of the park and district (see Impact CUL-1 on page 74 of the Draft EIR). The commenters statements regarding existing experiences of dealing with noise levels, traffic congestion, human waste, and parking problems, as well as expectations of the parks use do raise specific issues pertaining under CEQA or the analysis in the Draft EIR. Therefore, no further response is required.

**Comment M.2:** My second point has to do with the park’s visual character. The proposed pavilion is directly in front of our building, giving us a view that is far from the park we hoped as a neighbor. This would for all time be what we see from our homes, and that doesn’t even address the other concerns that would come from the events held in the pavilion. We did not buy our homes to have the back of a performance space as our primary view. The visual character of the park would be changed in a way that we consider detrimental.

**Response M.2:** The project’s aesthetic impacts are discussed in Section 3.1 Aesthetics, starting on page 19 of the Draft EIR. The project’s impact on the existing visual character and quality of public views of the site is discussed on page 26 of the Draft EIR. The EIR concluded that the implementation of the project would result in a significant, unavoidable impact because it would change the visual character of the site and, as designed, would be constructed in a manner that is not fully consistent with applicable historic standards which would impact the historic significance of the park and Saint James Historic District. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment M.3:** Most importantly, the noise from some events has been an assault on the quality of life in our own homes. The report clearly states that the noise would exceed acceptable limits during some events. We have been told that to mitigate noise concerns events would end at 10:00. Our lives before 10:00 have worth and should be a major consideration. There is a history of the city promising upgrades of our windows to new standards. Such work has been done for residences near the airport. The city seems to have conveniently forgotten that important mitigation.

For us the proposed changes in the park only bring dread. It all becomes a threat to our quality of life.

**Response M.3:** The replacement of windows in a building not on a project site is not typical mitigation and improvements on private property cannot be implemented using park fees. The City retrofitted windows of properties in the flight path of San José Mineta International Airport with funding from the FAA and the airport’s business operations (i.e., operating hours and frequency of flights) and impact (airplane noise) that is very different than the proposed project. Furthermore, as stated on page 134 of the Draft EIR, the City of San José relies of the following CEQA threshold of significance for operational noise:

Based on General Plan Policy EC-1.2, a significant noise impact would occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level, or five dBA DNL or more where noise levels would remain “Normally Acceptable.”

While operation of the pavilion would occur regularly, it would not permanently increase the ambient exterior noise level of the project area. As a result, there is no nexus to implement permanent improvements to off-site buildings to address non-permanent noise levels.

As stated on page 138 of the Draft EIR, operation of the pavilion would result in interior noise levels of 45 to 50 dBA within the residences along St. James Street. This is a 5.0 dBA increase over existing interior conditions of 40 to 45 dBA. Feasible mitigation and project conditions specific to the operation of the pavilion were identified in the Draft EIR on pages 138-140 which includes operational restrictions. While measures were identified to lessen the impact, due to the number of events per year, the City conservatively identified the operational impact of the pavilion as significant and unavoidable. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**N. The Friends of Levitt Pavilion San Jose (dated June 24, 2020)**

**Comment N.1:** The Friends of Levitt Pavilion San Jose (FLPSJ) is the local non-profit organization that was formed to work with the City of San Jose and the Levitt Foundation. FLPSJ's mission is building community through music by establishing a performing arts venue, the Levitt Pavilion, in St. James Park.

The circulation of the DEIR is the next step in this journey. We are pleased to support the proposed rehabilitation of the park, including the construction of a Levitt Pavilion.

We support the project objectives that include increasing everyday use and enjoyment of the park by making it a prime destination for downtown residents and the larger community.

Another project objective that we support is making the park a safe, fun, and family friendly destination that compliments the surrounding historic district.

We understand there are potential impacts regarding historic resources as well as noise. We are pleased there are recommendations included in the DEIR that will mitigate these impacts to the lowest levels possible.

Thank you for the opportunity to comment on the proposed St. James Park rehabilitation project.

We look forward to working with the community as this project moves forward.

**Response N.1:** The commenter is in support of the project. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**O. James L. Dawson (dated July 1, 2020)**

**Comment O.1:** We represent the Sainte Claire Club, a 501(c)(3) located at 65 East St. James Street in San José, across the street from St. James Park. The Sainte Claire Club was founded in 1888 by

local businessmen and ranchers and is the oldest existing men’s social club in California. Sainte Claire Club members and their guests use the Sainte Claire Club both day and night. The Sainte Claire Club has been at its current location since 1894; the club endeavors to maintain its history and legacy for its members, guests, and the citizens of San José. A significant part of the Sainte Claire Club’s history is Saint James Park, which is jeopardized by the proposal the city is currently considering to change the use of Saint James Park from a park into a location for commercial uses - a “Performing Arts Pavilion and Café” (the “Leavitt Pavilion”). Such a change would be contrary to existing federal, state and local land use rules.

At least one other potential location for the Leavitt Pavilion, namely Discovery Meadow, is superior. Choosing Discovery Meadow as the project site would demonstrably not involve any “significant and unavoidable impacts.” As stated in the Draft EIR at page 195, “There are no sensitive receptors located near Discovery Meadow.”

**Response O.1:** The comment did not provide any specific citation to existing federal, state, and local land use rules that would be violated and therefore, staff is unable to review, analyze, and respond. The commenter’s support of the Discovery Meadow location alternative is noted. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment O.2:** The Sainte Claire Historic Preservation Foundation, an affiliated non-profit organization, is concurrently submitting a separate response to the following sections of the Draft EIR: (1) “Significant and Unavoidable” impacts; (2) AES-1, design not consistent with the Secretary of Interior’s Standards for Rehabilitation; and (3) CUL-1, project would cause adverse change in historical resource.

The Sainte Claire Club responds to the following sections of the Draft EIR:

1) Impact on noise. “Significant and Unavoidable” impact NO1-1, generation of...increase in ambient noise levels...in excess of standards. The actual increase in noise levels would be much more significant than stated in the Draft EIR. The actual volume and frequency of the noise from Leavitt Pavilion events should be determined from the other Leavitt Pavilions. This data, along with the actual amount of noise that will be generated by the Leavitt Pavilion at the proposed Leavitt Pavilion site, should then be used in determining the efficacy of any proposed mitigation measures.

**Response O.2:** The Draft EIR includes a Noise and Vibration Assessment (Appendix F of the Draft EIR) which included long-term and short-term acoustic measurements and modeling of the existing ambient noise at the time of the drafting of the Draft EIR. The assessment created models simulating the potential noise impact of both construction and operation of the project and compared that to the ambient noise levels (Section 3.13.2 of the Draft EIR). The result of the project noise modeling stated that the operation of the general recreational area would result in a less than significant impact while the proposed performing art pavilion could result in a significant unavoidable impact.

The commenter has provided no data to support the assertion that the actual increase in noise levels would be much more significant than stated in the Draft EIR. The use of the noise modeling to extrapolate noise data from a similar event at the project site is an accepted methodology for estimating noise events. The use of noise data from other Levitt Pavilion locations would not necessarily be representative of the proposed project as sound levels vary by location based on terrain, proximity of other noise sources, and surrounding man-made structures. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment O.3:** 2) Impact on traffic. The impact on transportation traffic should be deemed “significant” because the non-significant finding in the draft EIR is based on the erroneous assumption that events would not be held at the SAP Center at the same time as events would be held at the Leavitt Pavilion. Traffic and transportation impacts should be determined for the times when the SAP Center is in use, not just the statement that “the [Leavitt Pavilion] project would not have adequate parking.”

**Response O.3:** Neither the Draft EIR nor the Transportation Analysis assume that events would not be held at the SAP Center at the same time as events would be held at the Leavitt Pavilion. The Transportation Analysis (Appendix G of the Draft EIR) states “Note that since the Market Street and Third Street Garages are also utilized by some people that attend events at the SAP Center, it is *recommended* that concert events at the pavilion be scheduled so as not to coincide with major events at the SAP Center whenever possible.” Transportation impacts are based on the measurement of vehicle miles traveled (VMT). As explained in Section 3.17.2.1 Project Impacts and 3.17.2.2 Cumulative Impacts, the proposed project would not result in a significant project level or cumulative VMT impact.

The discussion of parking in the Draft EIR and the Transportation Analysis is to address potential operational issues and to provide relevant information to the decision makers. Consistency with the City’s parking standards is not an issue considered under CEQA and lack of sufficient parking does not result in a CEQA transportation impact. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment O.4:** 3) Lack of adequate toilet facilities. There is no mention of the public health and safety danger of non-existent/inadequate toilet facilities for the concerts/events. This public health and safety danger, and the resulting direct environmental effect of 5000 concert goers consuming alcohol without toilet facilities, should be addressed.

**Response O.4:** Sanitation requirements were reviewed under Section 3.19 Utilities and Service System in the Draft EIR. Project operations were reviewed against the CEQA Appendix G guidelines on whether the project would result in insufficient water supplies or generate solid waste in excess of state or local standards.

Furthermore, the project would provide sanitary equipment and accommodation for any facility that would be build and operated. The project would be required to meet building and safety codes for design of indoor facilities to meet the health and safety

code. If additional facilities are needed during events, applicants would be subject to an operational agreement with City prior to operation. In which case, the applicant must provide adequate rest room facilities, to be determined in the final permit, including specifics on delivery and removal dates and time approved by the agreement. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment O.5:** 4) Lack of fencing. There is no mention of the fact that, in order to have 200 paid concerts per year a fence will have to be constructed around some or all of Saint James Park, thereby excluding the general public. This must be addressed.

**Response O.5:** The project does not propose fencing around the park and the commenter did not provide required policies in which fencing is required for outdoor concerts that staff could adequately analyze and provide a response to. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment O.6:** 1) The Unavoidable Noise Impact in Excess of Standards

The proposed project will create unavoidable noise in excess of standards. The Draft EIR, at Page v, Summary of Project, states that the project is intended to “renovate and revitalize St. James Park by implementing both physical and programmatic changes....The physical improvements proposed include: Performing Arts Pavilion Café and Restroom Building.... [the] project proposes to ... have additional programmatic elements, including events at the performing arts pavilion. The performing arts pavilion would be capable of accommodating a variety of events, such as film festival[s], concerts, and dance and theatre performances. It is assumed that 50 to 300 events (with up to 72 large concerts/events) would be held annually at the performing arts pavilion, with 20 to 5,000 attendees. In addition, the project proposes to allow commercial uses ...café, food and beverage vendors associated with events ... and merchandise vendors....” The aforementioned “physical” and “programmatic changes” to St. James Park is the erection and planned operation of the Leavitt Pavilion and associated structure.

The Leavitt Pavilion events will generate frequent noise “in excess of standards.” The amount and frequency of the noise “in excess of standards” is not clearly and adequately addressed in a manner sufficient for the City to make an informed decision. Moreover, the suggested noise mitigation measures are based on pure speculation. This deficiency can be easily remedied. The noise issue is discussed at length in Appendix F to the Draft EIR, which is the Environmental Noise & Vibration Assessment prepared by Bollard Acoustical Consultants, Inc., (the “Bollard Report”) revised July 30, 2019.

The Bollard Report does conclude that while certain proposed mitigation measures “would reduce the potential for adverse public reaction to amplified music events proposed at the...Pavilion...these measures would not ensure that the project does not result in a substantial increase in ambient noise levels within the noise sensitive interior spaces of the nearest residences, churches and social club... As a result, despite implementation of the mitigation measures which would reduce the severity of the impact, this impact would remain significant and unavoidable.” (Bollard Report, Page 41 [emphasis in original]).

The Bollard Report cautions that "... at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study." (Bollard Report Page 28 [emphasis added].) In other words, the Bollard Report uses an "assumption," as opposed to any empirical data, to determine "potential noise impacts" for up to 300 concerts per year using subwoofers and an array of speakers for up to 5000 people, 132 feet away from the Sainte Claire Club, and still comes up with significant and unavoidable impact.

The only tangible example used in the Bollard Report is a Día De Los Muertos festival held on October 24, 2014 and an "amplified event simulation." The Día De Los Muertos festival had "average and maximum noise levels up to 93 dBA and 100 dBA, measured ... at a position 100 feet directly in front of the main stage." One of the nearest "sensitive receptors" was the Sainte Claire and the noise levels "ranged from 44 to 57 dBA Leq and 46-67 dBA Lmax while music was played at the main stage." The problem with this example is that the "main stage" of the Día De Los Muertos festival was 180 feet from the Sainte Claire Club. Using the proposed location of the Leavitt Pavilion, and using the Noise Attenuation With Distance calculations found on page 9 of the Bollard Report, the amount of electronically amplified concert noise that would be heard at the Sainte Claire Club with the same volume from the proposed location of the Leavitt Pavilion would be at least 90 dBA to 95 dBA some 300 nights per year.

A more accurate example of what the concert sound would be at the Sainte Claire Club is the Sriracha Concert held on August 30, 2014. The Sainte Claire Club was aware that the Sriracha Concert was going to take place and monitored the sound with decibel meters inside and outside the Sainte Claire Club. The Sriracha Concert soundstage was significantly farther away from the Sainte Claire than the proposed Leavitt Pavilion soundstage. Nevertheless, during the Sriracha Concert, the sound inside the Sainte Claire Club was between 70 and 74 dBA. The sound outside the Sainte Claire Club was between 87.5 dBA and 107.5 dBA. As set out in the Bollard Report at page 7, this noise level is comparable to being next to a lawn mower (on the low side) and a chainsaw (on the high side) up to 300 nights per year.

The draft EIR is deficient because it is incomplete. Actual sound measurements should be undertaken at the location of the proposed Leavitt Pavilion using acoustic data from the operational Leavitt Pavilions in order to determine a range for the acoustical tests at the proposed Leavitt Pavilion site. Without this information, any conclusions about the degree of the noise impact will be, at best, conjectural. Any proposed mitigation efforts based on such conjecture will continue to be meaningless.

**Response O.6:** As stated in Response O.2, the methodology used in the noise assessment is appropriate for the analysis. While the commenter notes that they have noise data from an event at St. James Park that differs from that utilized in the noise assessment, this data was not provided or mentioned in the commenter's response letter to the Notice of Preparation.

The determination of a Significant and Unavoidable Impact would be made based on any data that shows the noise levels to exceed applicable standards. Because of the nature of the project (operation of a concern pavilion), there are limited measures that

would mitigate the impact, and none were found feasible to reduce the impact to less than significant. The Draft EIR Section 13.3 Noise Resources, concludes that even with all mitigation measures, “it does not ensure the project would result in a substantial increase in ambient noise levels at the nearest noise-sensitive receptors.” Therefore, the project would have a significant and unavoidable noise impact. Therefore, the project includes multiple design and location alternatives which specifically address the noise impact for the decision makers to consider. This comment does not change the findings for the Noise Resource area within the Draft EIR.

**Comment O.7:** 2) The Traffic Impact Would be Significant

The Draft EIR erroneously does not deem the Traffic/Transportation impact as significant and, accordingly, does not suggest any mitigation measures. This is based on the Transportation analysis prepared by Hexagon Transportation Consultants, Inc. (the “Hexagon Report”) dated July 30, 2019, which is Appendix G to the Draft EIR.

The Hexagon Report states at page 50 that “the project does include a performing arts pavilion that would hold various concerts throughout the year” but does not specify the frequency of the “various concerts.” The Hexagon Report acknowledges that events should not be scheduled at the proposed Leavitt Pavilion at the same time there are events scheduled at the SAP Center because the Market Street Garage is used by attendees at the SAP Center. The draft EIR acknowledges, at page 172, “If there were overlap on major events in the park and elsewhere downtown, the project would not have adequate parking.”

Despite the desire specified in the Draft EIR at page 164 for “multi-modal travel, consistent with the goals and policies of the City’s General Plan to reduce vehicle trip generation and VMT,” the fact is that most concertgoers get to concerts by driving their cars and trucks to the concert, not by bus or bicycle. The same goes for people attending events at the SAP Center.

The Hexagon Report’s solution to the inadequate parking problem at page V is “... that since the Market Street and Third Street Garages are also utilized by some people that attend events at the SAP Center, it is recommended that concert events at the pavilion be scheduled so as not to coincide with major events at the SAP Center whenever possible.” The problem with this recommendation is the following: what happens when there are concert events at the Leavitt Pavilion and the SAP Center scheduled at the same time? The first part of the answer is “inadequate parking.” The draft EIR does not consider the second part of the answer. That is, what is the effect of inadequate parking? In order for the EIR to be complete, this question must be posed and answered.

**Response O.7:** Refer to Response O.3.

**Comment O.8:** At Least Two Significant Impacts of the Project Are Not Even Considered in the Draft EIR; Both Must Be Considered

As you know, CEQA requires that an EIR contain detailed information to be provided to the agency and the public regarding the proposed project’s likely environmental effects. This detailed information should be accurate and complete. The draft EIR is not complete because it ignores at least two likely significant effects that will be caused by the Leavitt Pavilion events.

The final EIR should address the following, likely significant, impacts of the Leavitt Pavilion events:

### 3) The Lack of Adequate Toilet Facilities for Leavitt Pavilion Events and the Resulting Impact on Aesthetics, Public Health, and Public Safety are Not Considered

The draft EIR does not address, or even deem an “area of concern,” the following significant and foreseeable impact on Saint James Park and the surrounding area: the lack of adequate toilet facilities for the 20 to 5,000 persons attending 50 to 300 events at the pavilion per year. The draft EIR, at page 7 section 2.3.1.2, mentions a proposed “...approximately 1,250-square building consisting of a café and public restrooms...west of the performing arts pavilion in the northeast corner of the park,” directly in front of the Sainte Claire Club, but does not indicate the number of number of proposed restrooms or how that number could accommodate 5,000 concert attendees.

This deficiency in the draft EIR must be addressed. As you know, an EIR must provide the public with detailed information about the effect a proposed project will have on the environment and ways to minimize any significant effects that may be caused by a project. In order to do this, an EIR must contain a sufficient degree of analysis to provide decisionmakers with information that enables them to make a decision that intelligently accounts for environmental consequences. Thus, an EIR must first identify the significant effects that a proposed project will have on the environment. The draft EIR fails to do this.

There are various standards pertaining to the number of public toilets necessary for public gatherings, with or with or without alcohol being served at the public gathering. These standards range from one toilet for every 50 persons to one toilet for more than 50 persons, depending on gender, the length of the event, and whether alcohol is served. Under the 50-person standard, a 5,000-person event would need 100 toilets. Without adequate toilets, the attendees will need 100 “porta-potties.” The use of that number or porta-potties, or anything close to that number, requires an environmental review. The alternative, no porta-potties or an inadequate number of porta-potties, would (1) significantly exacerbate the currently serious public health problems in Saint James Park caused by open urination and defecation and (2) further spread this nuisance to the areas surrounding the proposed Leavitt Pavilion including the lawn and building of the Sainte Claire Club.

Parenthetically, it appears that the responsible persons at Leavitt Pavilion are fully aware of this issue because it also appears that the Leavitt personnel construct pavilions without adequate toilet facilities and subsequently solicit donations from the public to construct adequate toilet facilities.

The EIR should first deem this issue an area of concern, then deem it “significant,” and, finally, determine the specific number of available toilets at the Leavitt Café and specify the additional number of porta-potties that will be necessary for the events, both large and small.

### 4) The Impact of the Fencing Off Saint James Park is Not Considered

The Draft EIR also does not address, or even deem an “area of concern,” fact that some sort of barrier will need to be erected to keep non-paying attendees outside the perimeter of paid events. It appears that the plan is for the Leavitt Pavilion to have 200 or so paid events every year, or one every day and half. This means that the part of Saint James Park to be used for the concerts would, as a

practical matter, be fenced off most of the time and the general public would be excluded. This fact should be acknowledged and addressed.

**Response O.8:** This comment reiterates previous concerns that the Draft EIR did not consider lack of adequate toilet facilities and fencing as significant impacts. Refer to Responses O.4 and O.5.

**Comment O.9:** Conclusion

The Sainte Claire Club supports the St. James Park Capital Vision Project without the Performing Arts Pavilion component. The Leavitt Pavilion and associated cafe and public restrooms building, and the activities associated with the Leavitt Pavilion, would have unavoidable and serious effects on noise, traffic congestion, public health and access to St. James Park.

St. James Park is a unique historical asset that should not be transformed into an entertainment location for concerts when Discovery Meadow is an available location for the Leavitt Pavilion.

**Response O.9:** Refer to Responses O.1 – O.8. These comments do not provide new information that would change the analysis and findings already disclosed the Draft EIR.

**P. William “Bill” Gates (dated July 1, 2020)**

**Comment P.1:** This letter is submitted on behalf of my client, the Sainte Claire Historic Preservation Foundation, an IRC 501(c)(3) Nonprofit Charitable Organization, in response to the Draft Environmental Impact Report regarding the “St. James Park Capital Vision and Performing Arts Pavilion Project” (“the Project”), dated May, 2020.

The City of San Jose proposes to renovate St. James Park by implementing physical changes that would result in the demolition of the landscaping and most of the existing improvements at the park. In doing so, the Project must comply with the following:

- 1) The U.S. Secretary of Interior’s Standards for the Treatment of Historic Properties;
- 2) The California Environmental Quality Control Act (CEQA);
- 3) The San Jose Envision 2040 General Plan Goals and Policies for historic districts;
- 4) The 2004 Draft San Jose Downtown Historic Guidelines; and
- 5) The St. James Square Historic District Design Guidelines of 1989.

The Project is neither in compliance with nor consistent with any of the above, as indicated by the Draft EIR and the conclusions of numerous experts, retained by the City of San Jose, to assess the Project. In addition, the Project violates numerous City of San Jose Ordinances contained in Chapter 13.48, entitled “Historic Preservation.”

The EIR describes several structures designed as an outdoor music and performance venue for up to 5,000 spectators at a time. The structures described include four new buildings, one of which is 1,800 square feet and another which measures 1,250 square feet, and a Performing Arts Pavilion comprised of an approximately 4,000 square foot stage and a canopy 18 to 35 feet tall.

At the outset, the City must determine whether each element of the Project complies with all applicable ordinances, standards, regulations, and guidelines. The outcomes of these assessments are binary; each element of the Project either meets applicable legal standards or it does not. Our review of the various documents prepared by the City's consultants, including (1) Archives and Architecture, LLC's "Rehabilitation Project Assessment, St. James Park" and (2) "Historic Resource Project Assessment; St. James Park Capital Vision and Performing Arts Pavilion Project," reveals that the Project elements do not comply with applicable standards. Namely, the consultants' assessments describe the Project elements as being "not fully consistent with," "not fully compatible with," and "not fully meeting" the applicable standards. These descriptors are analogous to describing a person as "a bit dead," or "a tad pregnant." Either a person is dead or alive or is pregnant or not. Since this Project does not meet the requirements of our laws and guidelines, and it must be described as such; adding qualifiers does not remedy the Project's flaws, and allowing the Project to continue on that basis ignores their importance of laws, standards and guidelines and violates the rights of the public to enjoy a valuable and historic asset.

**Response P.1:** The determination of consistency can vary by degree, as is indicated in the conclusions of the historic assessment and the determination of consistency is used to conclude the level of impact, if any, under CEQA. Neither the City nor the Secretary of the Interior required complete and absolute compliance with their standards and guidelines. Substantial compliance is necessary to make finding of less than significant under CEQA. Because of the degree to which a project meets or does not meet each of the standards and/or guidelines, the qualified historian determines if a project is substantially compliant. The Draft EIR (Section 3.5.2.1) clearly identifies a significant and unavoidable impact on the historic integrity of the park and the district because it was determined that the proposed design was not substantially consistent with the applicable standards.

**Comment P.2:** The Secretary of the Interior's Standards for the Treatment of Historic Properties. St. James Park and the square of properties surrounding it ("the Square") are historically significant civic, religious, and private structures (collectively "St. James Square Historic District"). In 1979, the St. James Square Historic District was listed in the National Register of Historic Places. As a result of that designation, the District comes under the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties ("the Standards").

The Standards include a series of requirements for (1) the maintenance, repair, and replacement of historic properties, and for (2) the design of new additions or alterations to historic properties. The Standards are common sense, historic preservation "best practices" which help to protect our nation's irreplaceable cultural resources. The Standards for "Rehabilitation" include 10 principles for "the act or process of making possible a compatible use for a property through repair alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values." These Standards are not met.

In focusing on the Secretary's Standards, the EIR clearly states:

- "Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation." (Page 26.)

- “Absent a redesign of the project that would be fully consistent with the Secretary of the Interior’s Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level.” (Page 26.)
- “The proposed design would impact or not fully restore the pathways which are a character-defining feature.” (Page 72, Table 3.5-2.)
- “The proposed design of the monument walk would alter the historic spatial relationships and only partially reconstruct the historic use pattern.” (Page 73, Table 3.5-2.)
- “The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior’s Standards (Rehabilitation) regarding the proposed structures and overall design . . . the project would have a significant impact on the historic integrity of the park and the district.” (Page 73)
- “The City’s historic consultant and Historic Preservation Officer have a difference in expert opinion on the impact of the project on the integrity of St. James Park as a historic resource and as a contributor to the historic district. Consistent with the findings of the historic consultant, the City has concluded that the project, as designed, could result in substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.” (Page 74 [emphasis added])

It is interesting to note that while the EIR indicates the Project’s “significant and unavoidable impact,” the City’s paid consultant appears to ignore these findings.

In the above James Park Rehabilitation Project Assessment,” under the section titled “Secretary of the Interior’s Standards Review” (Page 14), the consultant states that the Project “cannot yet be found fully consistent with Standard 2 for the project’s potential impact on character-defining features of the park.” Further, despite the Project not being consistent with the Standards, the consultant nevertheless states that “there are several historic materials remaining.” These statements obviously miss the point of the Secretary’s Standards, as does the additional comment that while the historical diagonal pathways may be missing in the Project design, some of them will be “reinterpreted” within the larger park setting. (Page 15.)

The City’s consultant goes on to state that the new “building designs are reasonably consistent” with the Secretary’s Standards that require the design to be a physical record of the original time, place, and use. (Page 16 [emphasis added]) The fact that the design and modern materials don’t blend with the surrounding buildings in the park Square is ignored by stating they “would be understood as designs from a different era than the surrounding contributing buildings.” Further, the consultant points out that the “proposed support buildings are modern buildings influenced by the International Style.” (Page 16.) In reality, the proposed support buildings basically continue the rectangular brick, mortar, and glass buildings demonstrating a “style” identical to buildings built in City parks for the past 75 years.

The Standard principle that design and new construction “will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment” was ignored by the consultant. To state that the proposed design “partially” meets

the Secretary's Standards because "some of the proposed new features and elements within the park are interpretive rather than substantiated" is preposterous. (Page 17.) Also, stating that "much of the proposed design of the project is respectful of the historic park design and surrounding historic district, and the replacements and new elements are mostly compatible-yet-differentiated" flies in the face of the Standard. (Page 18.)

Finally, and straining all credulity, are statements in the consultant's document indicating certain aspects of the Project are an "interpretation of the earlier design" (Page 18); that the new buildings, although differentiated from the historic buildings in size, form, materials, and colors "make the buildings blend into the park setting, rather than match the historic surrounding buildings" (Page 23) and that, while the support building designs do not meet the Secretary's "precise guidelines," the buildings merely serve as "support elements" and "are consistently twenty-first-century designs and would be subordinate to the historic district contributors." (Page 25.)

#### Historic Resource Project Assessment.

The Historic Resource Project Assessment (HRPA) was completed "for the City's use in conducting review of the project to renovate, rehabilitate and enhance the park under applicable public planning processes...." (Page 6.)

Significant statements in the Assessment include the following:

- "The park support buildings were not found to be fully compatible in design, materials, massing or scale, so they could affect the overall integrity of the Square as a whole, and there are some new design elements that might impact the park or the Square or both." (HRPA, Page 47 [emphasis added].)
- "If additional character-defining features are lost, while remaining a part of the St. James Square National Register District, it will be considered a "Nonconforming Property." (HRPA, Page 48 [emphasis added].)
- "As currently designed, the proposed project, as noted in the attached Rehabilitation Project Review, is not fully compatible with the St. James Square Historic District Guidelines and does not fully meet the intent of the Envision San Jose 2040 General Plan goals and policies; therefore, the proposed project cannot be found to have a "less than significant" impact on the historic district or individual contributing resource of the park." (HRPA, Page 48 [emphasis added].)
- "Recommendation 1: 'Redesign the project to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties with the St. James Square Historic District Design Guidelines, and with the intent General Plan Goals and Policies. The historic integrity of St. James Square Historic District would be preserved with a project design that is more fully compatible with General Plan Goals and Policies.'" (HRPA, Page 49 [emphasis added].)
- "Alternative recommendations associated with this report include clarifying, and possibly revising the colors of the park structures, including the Levitt Pavilion canopy..." (HRPA, Page 49.)
- "The alternatives also include revisions to the support buildings to be more in keeping with the massing and materials of the landscaping elements." (HRPA, Page 49.)

The above statements in the assessment again demonstrate that the Project does not comply with the Standards and therefore, it should not move forward.

**Response P.2:** The comment quoted statements from Appendix D of the Draft EIR and from the Draft EIR itself that conclude how the project does not meet the historic design standards such as the SOI. As previously stated in Response P.1, the Draft EIR includes a Rehabilitation Project Assessment and Historic Resource Evaluation (Appendix D of the Draft EIR) that was prepared by a qualified consultant firm. Based on the analysis of the project with the federal, state, and City standards for rehabilitation, many components of the projects were deemed to not be fully compatible with the standards and guidelines. Therefore, as concluded in the Draft EIR, the project is determined to have a Significant and Unavoidable Impact under Historic Resources. The commenter's conclusion of this finding is not different. Refer to Response K.2 for additional summary of the historic findings in the Draft EIR.

It is the City's responsibility to determine the CEQA impact on historic resources based on the assessment of the standards and guidelines prepared by the qualified consultant.

**Comment P.3:** St. James Square Historic Guidelines.

The Draft EIR, Page 68, Table 3.5-1: Summary of Project Consistency with St. James Square Historic Guidelines contains the following statements which demonstrate that the Project will cause irreparable harm to the historic value of the Square:

- "As discussed in Table 3.5-1, the City's historic consultant concluded that the project is not in substantial conformance with the general character and surface treatment (specifically fenestration, materials, detailing and color) guidelines. (Draft EIR, Page 71.) These materials are as follows: Brick & Plaster, Wood & Plaster, Stone, Wood, Terra Cotta, Clay Roof Tiles, Asphalt Shingles." (Rehabilitation Project Assessment, Page 26.)
- "The landscape structures such as the Levitt Pavilion canopy, playground equipment and transit covers do not list any materials within this list. The four support buildings include wood elements and trim, as well as tinted broad-formed cast-concrete. Although these materials are "appropriate to the architecture and style for which they are used," they are not on the list or "typical of those used on historic buildings." (Rehabilitation Project Assessment, Page 26 [emphasis added].)
- "The project would cause a substantial change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5." (Draft EIR, Page 74)

It is obvious, through a reading of the above, that the Project is not in conformance with the St. James Square Historic Guidelines.

Draft EIR Determination: "Significant Unavoidable Impact."

"Nevertheless, absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would

reduce the visual character impact to a less than significant level." (Draft EIR, Page 26 [emphasis added].)

It is abundantly clear that the St. James Park Capital and Performing Arts Pavilion project is inappropriate due to its many operational and historic impacts. The Project is especially ill advised at St. James Park when, according to the Draft EIR, a superior location exists. "The Discovery Meadow Alternative Location would avoid the projects impacts from operational noise and to historic resources" (Draft EIR, Page 196).

**Response P.3:** The commenter has restated elements of the Draft EIR, including the historic impact findings. The comment does not present new information that would change the analysis already disclosed in the Draft EIR. Refer to Responses K.2, P.1, and P.2.

**Q. Gordon McDonald, AIA (dated July 1, 2020)**

**Comment Q.1:** Thank you for the opportunity to respond to the Draft EIR noted above. After reading the document, as a retired architect and resident of Saint James Place, it concerns me deeply that the City is willing to not only sacrifice historic St. James Park, but the rights of its St. James Square Historic District citizens as well. The adverse impact of this project as proposed will forever destroy the centerpiece. (St. James Park) of the St. James Square Historic District while also damaging the lives and property of those who have resided at Saint James Place for so many years.

I have summarized my responses below for your review:

- I. Summary of Significant Impacts
  - a. Impacts on Aesthetics
    - i. Impact AES-1: Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation (see attached Standards for Rehabilitation). Draft EIR Determination: Significant Unavoidable Impact. (Draft EIR Page 26)
    - ii. The project includes mitigation measures (MM CUL-1.1 through CUL-I. 5, Section 3.5 Cultural Resource) to protect existing historic elements of the park from being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration. Nevertheless, absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level. (Significant Unavoidable Impact) (Draft EIR Page 26)

This project threatens the aesthetic character of our historic district. Renderings for the pavilion structure appear completely out of line with the surrounding aesthetics, and while I understand the goal is not to compete with these historic characteristics and to introduce a more modern contemporary core to the park, this design is so contrasting that it completely distracts from the historic charm of St. James Square. It is noted in the Draft EIR that it diminishes the Park to the point it no longer will qualify as the historic centerpiece of the St. James Square Historic District.

- b. Impacts on Cultural Resources (Historical)
- i. Impact CUL-1: The project would cause a substantial change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Draft EIR Determination: Significant Unavoidable Impact. Refer to Draft EIR pages vi – x “Summary of Significant Impacts and Mitigation Measures”
  - ii. The project includes mitigation measures (MM CUL-1.1 through CUL-1.5, Section 3.5 Cultural Resource) to protect existing historic elements of the park from being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration.
    1. According to the design alternative evaluated for the Draft EIR, “in order to reduce the impact of the proposed project, the design of the park would need to be modified to allow for a complete reintroduction of the diagonal paths and reorientation of the perimeter path to be more consistent with the original pathway. A redesign of the new park buildings would also be needed to meet the design standards. To allow for the diagonal paths, the pavilion would need to be removed from the project plan as there would be no space to accommodate the pavilion with the diagonal paths.” (Draft EIR Page 197).
  - iii. In 1979, St. James Square was listed on the NRHP as a historic district. The park was included in the listing as a contributor to the district, and “is the central and key component of that district of which without the district would lose its essence” (EIR page 66).
  - iv. “Implementation of the project would change the visual character of the site and the buildings and, as designed, would be constructed in a manner that would impact the historic significance of the park and the St. James Historic District” (refer to Section 3.5 Cultural Resources). (Draft EIR Page 26)
  - v. “The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior’s Standards (Rehabilitation) regarding the proposed structures and overall design. [...] Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property.” (Draft EIR Page 73)
  - vi. “The park itself is a contributor to the St. James Square Historic District at both the local and national levels, but with additional removal of features due to this project, and the potential insertion of structures and uses not compatible with the historic nature of the setting, the park would no longer be a contributor to the National Register Historic District but rather be considered non-conforming to that listing.” (Appendix D Historic Resource Project Assessment Page 9).
  - vii. “the park support buildings were not found to be fully compatible in design, materials, massing or scale, so they could affect the overall integrity of the Square as a whole, and there are some new design elements that might impact the park or the square or both.” (Appendix D Historic Resource Project Assessment Page 47).(If this is true of support buildings, why is it not true of the rest of the project?)

viii. “As currently designed, the proposed project, as noted in the attached Rehabilitation Project Review, is not fully compatible with the St. James Square Historic District Guidelines and does not fully meet the intent of the Envision San José 2040 General Plan goals and policies” (Appendix D Historic Resource Project Assessment Page 48)

ix. “The park as it exists today has lost many of the features associated with the period of significance that were identified in the NRHP and City Landmark listings. Changes including the construction (and subsequent removal) of the community center which resulted in a loss of trees and pathways, the addition of the exercise area, playground, dog park, picnic area, and storage structure, as well as the extension of North 2nd Street through the park in 1955” (Draft EIR page 64).

The mitigation measures for cultural/historic resources callously neglect to incorporate any design changes to solve the above issues. While I understand that a complete redesign of the project may seem unreasonable to the City, a new design of performing arts pavilion and support buildings (reducing the size of the pavilion and support buildings in conjunction while exploring a more complimentary design), would allow the space for reintroduction of the historic diagonal and perimeter paths. A modified design could also significantly reduce the number of attendees to events and therefore prevent future damage to the facilities and vegetation caused by over-crowding at shows of up to 5,000 people. Restoring St. James Park to a new historic beauty as the centerpiece of the St. James Square Historic District should be the ultimate goal of this project.

The Draft EIR’s reasoning that the park has lost its historical features over times is misstated and would be better argued that these historic features were allowed to disappear under layers of dirt and politics. Most of the changes noted are temporary as the result of a lack of park maintenance. The fact that 2nd street already bisected the park when the District was added to the National Register of Historic Places in 1979, discredits the opinion in the Draft EIR that this was a major cause of the park’s diminishing historical character. Is the City not attempting to exercise a “Neglect and Demolish” redevelopment tactic when it has been their responsibility to maintain and secure the park? Does the City operate under a separate set of regulations then its citizens? For example, why did the City demand that the developers of Park View Towers at 252 North First Street keep the historic First Church of Christ Scientist in their project (at great expense to the project developers), but City leadership allows themselves the unfettered right to destroy the historic characteristics of St. James Park and its District? Additionally, the Historic Landmarks Commission at its most recent meeting on June 3rd recommend 170 Park Center Plaza Building for historic designation, causing the developers significant extra costs, but failed to object on June 3rd, 2020 to the destruction of the historic designation of St. James Park? To this point, why is Steven Polcyn sitting on the Historic Landmarks Commission while serving on the Friends of Levitt Board not a conflict of interest (City of San Jose, Code of Ethics, 1.2.1)?

Have there not been several conflicts of interest on this project from the very beginning? Why do City staff as well as appointed and elected officials (whether honorary or not) currently sit on the Friends of Levitt Pavilion San Jose Board thereby exercising influence on the decisions of a non-profit charitable entity? Is this Board truly a representative of the local community interests without favor or pressure from the City?

What is causing the City to ignore the more logical choice of Discovery Meadows for this large performing arts pavilion? It would cost the taxpayers much less money (is the City using the restricted capital improvement funds designated for parks, which should have a balance of over \$120 million?). Furthermore, should the public be made aware that the City is planning to use a very large portion (\$41 million or more) of this “Park Fund” to renovate just one of its parks? Would it not be a wiser fiduciary decision by the City to use this amount to renovate several other blighted parks in San Jose, while also restoring historical St. James Park and activating it in a more harmonious way with neighborhood?

Building a concert pavilion for up to 5,000 people in St. James Park is causing the City to spend millions of dollars in taxpayer funds in infrastructure changes alone to close 2nd street to vehicle traffic and other modifications to streets and parking around the park. The price is way to too costly when you also consider the loss of a historic park and the environmental destruction of the neighborhood surrounding the Park.

**Response Q.1:** There are a number of questions raised in this comment. Questions that do not raise any issues with the adequacy of the Draft EIR such as funding, political interests, and influences of other projects are not CEQA issues or issues relevant to the Draft EIR. Therefore, no further response is required. Questions pertaining to the adequacy of the EIR, including mitigation measures for cultural impacts, reasons for loss of historic features over time, and proposed alternatives are addressed below.

The programming and design of the park were developed based on the goals of the City. The purpose of the Draft EIR is to evaluate the project as proposed. The pavilion is proposed at St. James park. Mitigation available for the historic impacts resulting from the project was not viable, however, multiple design and location alternatives are included in the Draft EIR for consideration by the decision-makers. Decision-makers may make a recommendation, approval, or denial of any of the alternatives as analyzed.

The statement regarding the loss of features in the park associated with the period of significance is accurate. The historic assessment identifies the period of significance, the character-defining features, and the planned renovations and additions to the park over time. Changes to the park throughout its history, including major redesigns, have been implemented as the City grew and public use of the space changed.

Discovery Meadow is included as an alternative to the project for consideration by the decision-makers. Refer to Response I.1.

**Comment Q.2:** c. Impacts on Noise and Vibration

- i. Impact NOI-1: The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Operation of the proposed performing arts pavilion would result in interior noise levels above the City’s residential interior noise standard. Significant and Unavoidable Impact with Mitigation Incorporated.

- ii. MM NOI-1.1: “Amplified music events at the performing arts pavilion shall end by 10:00 p.m.”
- iii. In regards to mitigating noise impacts, alternatives considered in the Draft EIR were “Alternative Pavilion Orientations/Locations On-Site” and the “Pavilion with No Concert Alternative.”
- iv. “larger events may generate noise levels considered objectionable, particularly if the events occur frequently, late into the evening, and include higher levels of amplified sound, considerable low frequency content of that sound, and elevated crowd noise levels. Furthermore [residents or businesses] may choose not to close their windows during events [...] which would result in higher noise levels within sensitive interior spaces” (Appendix F page 37)
- v. “To summarize, background sound pressure levels of 40-45 dBA were measured within the three nearest noise-sensitive receptors with no music present. With music present, sound pressure levels of 45-50 dBA dB were measured (both during the simulation and during the aforementioned festival). Therefore, the increase in sound levels which can be expected within these receptors resulting from amplified music played at the pavilion at a reference level of 85 dBA at 100 feet from the speakers is approximately 5 dBA. An increase of 5 dBA is considered a clearly noticeable increase for similar noise sources. However, for differing noise sources, such as music versus background noise within a residence, the increase would be considerably more noticeable. Although audibility is not a test of significance under CEQA, a 5 dB increase in interior noise levels where a source consisting primarily of music is responsible for the increase would typically be considered significant” (Appendix F Page 39)
- vi. “at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study” (Appendix F Page 28)
- vii. Pavilion project conditions were developed based on recommendations from Bollard Acoustical Consultants, Inc. However, the following recommendations from BAC were not incorporated into the project conditions. These recommendations were based on BAC’s 2014 study “for amplified music events held at the Saint James Park, and based on the sensitivity of the existing residential uses located directly north of the proposed pavilion, the Sainte Claire Club located west of the pavilion, and the Trinity Cathedral located opposite the proposed pavilion” (Appendix F Page 27). This 2014 study included the Dia De Los Muertos Festival.
  - 1. “The use of subwoofers at this venue should be discouraged” (Appendix F, Page 27)
  - 2. “Based on BAC’s observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters” (Appendix F, Page 27)
  - 3. The currently proposed pavilion is a “light and airy” design of the currently proposed pavilion without a back wall and lacking sound absorbing panels. BAC recommended sound absorbing material or reflectors.

viii. Project condition: to the extent feasible, “sound system output shall be limited to an average of 85 dBA Leq averaged over a five-minute period at a position located 100 feet from the amphitheater stage. This level could be increased if it can be demonstrated through noise level measurements that the design of the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.”

ix. San Jose General Plan Noise Element Goal EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

The 10:00 p.m. cutoff for amplified music events is much too late for residents at St. James Place who live within 150 feet of the proposed pavilion. The pavilion service road is even closer to St. James Place and will be active with loading of equipment and clean-up staff for hours after each show. The EIR also calls for an event attendees drop-off/pick-up area in front of St. James Place and the Sainte Claire Club causing additional hours of noise. What is the City planning as a means to protect the residents of St. James Place and the Sainte Claire Club from this constant noise? Several years ago, the residents of St. James Place were promised new sound-proof windows by a City official? Does this promise by the City apply equally to all residences and businesses in the St. James Square Historic District? Many St. James Place residents enjoy opening their windows in the day and evening to enjoy the breeze, however this project threatens their freedom to do so for up 300 days a year. As stated in the Appendix F of the Draft EIR, residents may “choose not to close their windows during events [...] which would result in higher noise levels within sensitive interior spaces” (Appendix F page 37). It is worth noting that I couldn’t find another Levitt Pavilion or other performing arts pavilion (designed for up 5,000 people) that was built with 200 feet of a residential building.

**Response Q.2:** The Draft EIR and associated Appendix F Noise and Vibration Assessment include ambient noise measurements, and modeling of proposed project (including the pavilion) potential noise impact. The 10:00 PM limitation was identified due to how noise is perceived at different times of day and to what extent normal exterior activities contribute to an increased noise environment. Noise standards typically identify the timeframe between 10:00 PM and 7:00 AM as being more sensitive to noise than the remainder of the day because there is less overall outdoor activity.

Appendix F and Section 3.13 of the Draft EIR discuss the Noise analysis and impact of the proposed project. The City’s CEQA threshold is the General Plan policies within the noise element. A significant impact is determined if noise from the proposed project would result in a permanent increase in ambient noise levels in excess of 3.0 dBA DNL (if the exterior noise limit already exceeds City standards) or 5.0 dBA DNL (if the exterior noise limit is within the acceptable City standards). The 5.0 dBA impact identified was based on the noise that would be generated during a large concert event with amplified music. While there would still be noise associated with clean-up and patrons leaving the venue after 10:00 PM, the noise from these activities would not rise to the level of the actual event. Therefore, the 5.0 dBA threshold would not be exceeded.

Because the Draft EIR and the Noise Study found that the recommendations from the sound study would not likely reduce the identified noise impact to less than significant, they are not included as specific mitigation measures. Nevertheless, the recommendations will be incorporated into the operation agreement between PRNS and the operating vendor.

**Comment Q.3:** I would also like to ask why the alternative of not allowing amplified music was not considered? It would seem that this could mitigate much of the noise impact from this project and at least deserves consideration. The Draft EIR also failed to consider the recommendation of the sound and vibration study to eliminate the use of subwoofers at the pavilion or incorporate sound absorbing materials. The proposed pavilion design also lacks a back wall so undoubtedly unwanted noise will impact St. James Place and the Sainte Claire Club. Additionally, the project does not have sufficient measures proposed to restrict sound and enforce compliance with said restrictions during events. These issues certainly raise the question again, why not place this performing arts pavilion in Discovery Meadow as the alternate site option in the Draft EIR (page 195) demonstrates as a more compatible location.

The Draft EIR also notes that this project will work around the schedule of Trinity Cathedral so as not to disrupt their functions with concerts/loud events (page 140). Will the same consideration be given to the First Unitarian Church, Sainte Claire Club and other residents and businesses surrounding the park? Or, was Reverend Byrd of Trinity Cathedral, who served on the Steering Committee for this project, given special considerations by the City for his service and support?

**Response P.3:** As previously stated in this document, CEQA requires an EIR to identify alternatives to the project that “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (CEQA Guidelines Section 15126.6). The alternatives discussion is included in Section 7.0 Alternatives of the Draft EIR, starting on page 189.

Pursuant to CEQA, an EIR shall describe a reasonable range of alternatives and does not need to consider every conceivable alternative to the project (CEQA Guidelines Section 15126.6(a)). As the operation of the pavilion generally includes music, while no amplified music alternative was not considered, an enclosed pavilion or no concern alternative was considered as part of CEQA to explore noise reduction alternatives.

**Comment Q.4:** d. Impacts on Transportation

- i. East St. James Street Loading/Passenger Drop-off/Pick-up
- ii. 2nd Street will be closed to vehicular traffic where it bisects the park. VTA will continue operating on the track that runs through the park.
- iii. Due to the closing of 2nd street through the park and the decoupling of St. James and Julian streets between Market and Fourth Street, traffic around the park would be subject to an increase in volume.

- iv. St. James Street would be two-way in front of the pavilion.
- v. “If there were overlap on major events in the park and elsewhere downtown, the project would not have adequate parking.” (Draft EIR Page 172)
- vi. Light Rail Transit (LRT) “on North 2nd Street would remain unchanged under the proposed project. As part of the project, permits from VTA and the California Public Utilities Commission (CPUC) would be obtained [...] Improvements to the existing VTA LRT platform would be implemented for greater safety and pedestrian circulation during park events. The City of San José would coordinate with VTA to appropriately identify and implement safety measures.” (Draft EIR Page 11)

The proposed East St. James Street Loading/Passenger Drop-off/Pick-up, which is across the street from St. James Place, will result in increased traffic and noise. The closing of 2nd Street will further increase traffic on St. James Street. Furthermore, because Saint James Street would be two-way directly in back of the Pavilion, passengers will load/unload on both sides of the street creating a greater impact to traffic congestion and gridlock.

The parking analysis for the Draft EIR was completed under the assumption that no other major events would take place in Downtown San Jose concurrently with a large event at the Pavilion in St. James Park. This is a highly unlikely scenario, especially considering proximity to SAP Pavilion and other large event venues downtown. Therefore, it is safe to assume that this project will not have adequate parking, therefore causing more traffic congestion and frustration around St. James park and the immediate downtown area.

I also question Light Rail safety in the park. Is a loud concert event with heavy pedestrian foot traffic compatible with light rail activity a few feet away? It seems this poses a great threat to public safety even with a five-foot fence around the portions of the track. Several near accidents involving VTA and pedestrians have occurred during music events at the Park over the past several years. In most cases the light rail operator was honking the horn, but the pedestrians were distracted and couldn't hear the horn over the noise level created by the music from the event. Does a 5,000 person capacity music venue located on VTA tracks even meet state and local government safety regulations?

Overall, the transportation analysis (appendix G) of this Draft EIR uses many questionable best-case assumptions of the activity downtown during the scheduling of up to 300 events in the Park when considering the potential impact of this project and is therefore flawed.

I appreciate your review of my comments. If the City would like to meet with the residents of St. James Place, we are ready and willing to discuss the changes that must happen to make this project successful.

**Response Q.4:** A Transportation Analysis (Appendix G of the Draft EIR) was completed for the project consistent with City standards using standard methodologies and no significant impacts were identified. The Draft EIR disclosed potential new trips and foot traffic to the proposed project. However, this does not result in an impact above the City Council Policy 5-1, which is the threshold for

Transportation under CEQA. Furthermore, as part of the Transportation Analysis, the project design and analysis were coordinated with VTA to ensure that the design of the proposed project would be consistent with agencies' regulations.

The discussion of parking in the Draft EIR and the Transportation Analysis is to address potential operational issues and to provide relevant information to the decision makers. As previously mentioned, consistency with the City's parking standards is not an issue considered under CEQA and lack of sufficient parking does not result in a CEQA transportation impact. Therefore, this comment does not present new information that would change the analysis disclosed in the Draft EIR.

**R. Olivia Heir (dated July 2, 2020)**

**Comment R.1:** Thank you for reviewing my comments in response to the Draft Environmental Impact Report for the St. James Park Capital Vision and Performing Arts Pavilion Project. I work at the Sainte Claire Club, located directly across the street from St. James Park, and also serve as Board Secretary for the Sainte Claire Historic Preservation Foundation. I hold an undergraduate degree from U.C. Santa Barbara in Environmental Studies with an emphasis in Urban Planning, a Certificate in Green Building and Sustainable Design from U.C.S.B., and a Master of Science in Environmental Management from the University of San Francisco. Therefore, I do feel qualified to share my concerns in regards to the negative impacts of this project on the St. James Square Historic District.

I have been working in close proximity to St. James Park for approximately eight years. During this time, I have witnessed the impacts of past festivals and concerts where crowd control and noise created unbearable conditions around the District. I typically work into the evening/night as we host events and dinners, and the noise from just these past events was extremely loud inside the Sainte Claire Club building. Hosting up to 300 events at St. James Park, with up to 72 "large" concerts and events with up to 5,000 attendees is unsettling, especially considering the failures of some of past events at the park where attendance was under 1,000.

As noted in the Draft EIR, St. James Square was listed on the National Register of Historic Places in 1979 with the park being "the central and key component of that district of which without the district would lose its essence" (Draft EIR page 66). Additionally, the City of San Jose designated St. James Square, which includes the Park, as a City Landmark District in 1984. As stated in the Draft EIR "implementation of the project would change the visual character of the site and the buildings and, as designed, would be constructed in a manner that would impact the historic significance of the park and the St. James Historic District" (Draft EIR page 26). The Historic Resource Project Assessment (Appendix D) states that "with additional removal of features due to this project, and the potential insertion of structures and uses not compatible with the historic nature of the setting, the park would no longer be a contributor to the National Register Historic District but rather be considered non-conforming to that listing" (Appendix D page 9). Additionally, the proposed project does not conform with the St. James Square Historic District Guidelines and is not fully consistent with the Envision San Jose 2040 General Plan goals and policies (Appendix D, Page 48).

The Historic Resource Project Assessment explicitly recommends a "redesign of the project to comply to comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, with the St. James Square Historic District Design Guidelines, and with the intent of

General Plan Goals and Policies. The historic integrity of St. James Square Historic District would be preserved with a project design that is more fully compatible with General Plan Goals and Policies.” (Appendix D Historic Resource Project Assessment Page 49). However, this recommendation is not incorporated into the Draft EIR. Under mitigation measures for this impact, the Draft EIR simply states that “absent a redesign of the project that would be fully consistent with the Secretary of the Interior’s Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level” (Draft EIR Page 26). According to the design alternative evaluated for the Draft EIR, “in order to reduce the impact of the proposed project, the design of the park would need to be modified to allow for a complete reintroduction of the diagonal paths and reorientation of the perimeter path to be more consistent with the original pathway. A redesign of the new park buildings would also be needed to meet the design standards. To allow for the diagonal paths, the pavilion would need to be removed from the project plan as there would be no space to accommodate the pavilion with the diagonal paths.” (Draft EIR Page 197). Is this really the only design alternative that would lessen impacts? Or would a less extensive redesign of certain elements allow with more conformance of historic guidelines? It seems that grouping these elements of redesign together is an attempt to make them infeasible. Calling the impacts to cultural resources “unavoidable” does not seem justified, especially to those who have invested so much in maintaining their historical designation as part of the St James Square Historic District.

**Response R.1:** While a less extensive redesign could lessen the impact of the project, as stated in the Draft EIR, only the full redesign as defined would reduce the impact to less than significant.

Under CEQA the determination of unavoidable with relation to an impact means that there are no feasible mitigation measures that would fully reduce the impact to less than significant. Therefore, the impact is unavoidable. A full redesign alternative was explored in the Draft EIR (Section 7.5.5). This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment R.2:** The disregard for the historic district shown throughout the Draft EIR is alarming. The City has held strict regard for the Historic District when evaluating other projects within the District but now that the City is proposing a project within the park, the “key element” of the District, concern for the historic character seems to have been carelessly dismissed.

The Draft EIR does attempt to justify this disregard for the park’s historic character by stating that “the park as it exists today has lost many of the features associated with the period of significance that were identified in the NRHP and City Landmark listings. Changes including the construction (and subsequent removal) of the community center which resulted in a loss of trees and pathways, the addition of the exercise area, playground, dog park, picnic area, and storage structure, as well as the extension of North 2nd Street through the park in 1955” (Draft EIR page 64). St. James Square was added to the NRHP in 1979, well after 2nd street was extended through the park in 1955, so this cannot be considered “a lost feature” since NRHP designation. Additionally, on page 63, the Draft EIR refers to the “temporary” nature of the dog park and storage structure.

**Response R.2:** The analysis of any project within the district must be based on its land use, relationship to the district, and its contributing status. The proposed project

was assessed using the standards and guidelines applicable at the time the project was proposed, consistent with all other projects.

The Draft EIR contain a thorough description of the historic significance of the park, square and district in Section 3.5 and in Appendix D of the Draft EIR. It is unclear from the comment of what has been disregarded as part of the historic context of the resource. The Draft EIR analyzed the project as proposed and made determinations that the project, as proposed, would result in significant and unavoidable impacts to this cultural resource.

The statement regarding the loss of features in the park associated with the period of significance is accurate. The historic assessment identifies the period of significance, the character-defining features, and the planned renovations and additions to the park over time. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment R.3:** The significant noise impact of this project asserts that “operation of the proposed performing arts pavilion would result in interior noise levels above the City’s residential interior noise standard” (Draft EIR Page 137). “To avoid this impact, exterior noise levels during a music event must be lowered by five dBA at St. James Place Apartments and Trinity Cathedral relative to the estimated maximum event noise level. A five dBA reduction would put interior noise levels at both locations at 45 dBA DNL or less, which meets the City’s residential interior noise standard, and the project would not result in a significant noise impact consistent with General Plan Policy EC-1.2” (Draft EIR Page 192). The Draft EIR does not set specific noise limits and does not include a detailed plan to ensure compliance with noise restrictions. If the Draft EIR included these noise restrictions and plans to control noise, it would seem that the significant noise impact would no longer be an “unavoidable impact with mitigation incorporated” (Draft EIR Page 140). The only mitigation measure actually included in the Draft EIR with regard to noise is MM NOI-1.1: “amplified music events at the performing arts pavilion shall end by 10:00 p.m.” (Draft EIR Page 140). What does 10:00 p.m. mitigate? Do the many residents living in close proximity to the park all go to bed well after 10:00 p.m.? Will the noise that continues after amplified music ends, including the event clean-up, tear-down and loading of cargo trucks, be insignificant? In my experience with event production logistics, an event with as many as 5,000 people would have noise continuing for many hours after the event ends.

**Response R.3:** The comment is referring to two separate part of the Draft EIR and is not comparing the correct noise assessment.

The commenter referred to the conclusion statement within the Section 3.12.2.1 Noise Resource section of the Draft EIR, which concludes that the project would have operational noise impact as proposed. The 10:00 PM limitation was identified due to how noise is perceived at different times of day and to what extent normal exterior activities contribute to an increased noise environment. Noise standards typically identify the timeframe between 10:00 PM and 7:00 AM as being more sensitive to noise than the remainder of the day because there is less overall outdoor activity.

The 5.0 dBA impact identified was based on the noise that would be generated during a large concert event with amplified music. While there would still be noise associated with clean-up and patrons leaving the venue after 10:00 PM, the noise from these activities would not rise to the level of the actual event. Therefore, the 5.0 dBA threshold would not be exceeded. However, as stated in Impact NOI-1 of the Draft EIR, the implementation of this measure and standard, “would help reduce music event noise in the project area; however, it does not ensure that the project would not result in a substantial increase in ambient noise levels at the nearest noise-sensitive receptors.” The project, even with those conditions for 10:00 PM would still be deemed as Significant and Unavoidable Impact with Mitigation Incorporated under Noise Resource. Hence an Enclosed Pavilion Alternative was explored and concluded to avoid the significant unavoidable impacts. The analysis on page 192 of the Draft EIR, as stated in the comment, is for an alternative to reduce the operational noise impact as a whole.

**Comment R.4:** The results of the noise and vibration assessment (Appendix F) are uncertain and state that “at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study” (Appendix F Page 28). How can noise impacts be accurately analyzed without concrete data? Even with these assumptions, it was found that “the increase in sound levels which can be expected within these receptors resulting from amplified music played at the pavilion at a reference level of 85 dBA at 100 feet from the speakers is approximately 5 dBA [which] is considered a clearly noticeable increase for similar noise sources. However, for differing noise sources, such as music versus background noise within a residence, the increase would be considerably more noticeable [...] a 5 dB increase in interior noise levels where a source consisting primarily of music is responsible for the increase would typically be considered significant” (Appendix F Page 39).

The project conditions listed on page 138 of the Draft EIR note that sound restrictions could be loosened if it is demonstrated that “the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.” Why 70 dBA? Does this sound limit ensure that interior noise levels will not exceed 45 dBA as required by the California Building Code and the City of San Jose’s General Plan Noise Element? San Jose General Plan Noise Element Goal EC-1.3 is to mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Additionally, the project conditions included in the Draft EIR did not include or even mention the following recommendations made in the noise and vibration assessment:

1. “The use of subwoofers at this venue should be discouraged” (Appendix F, Page 27)
2. “Based on BAC’s observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters” (Appendix F, Page 27)

3. BAC recommended sound absorbing material to the opaque panels over the stage, and if sound absorbing material is not feasible, sound reflectors were recommended. The Draft EIR makes no mention of sound absorbing material or reflectors, nor does it address the lack of a back façade to the stage.

**Response R.4:** The Draft EIR includes a Noise and Vibration Assessment (Appendix F of the Draft EIR) which includes long and short-term acoustic measurements and modeling of the existing ambient noise at the time of preparation of the Draft EIR. The analysis modeled the potential noise impact from both construction and operation of the project and compared that to the existing ambient noise levels (Section 3.13.2 of the Draft EIR). The noise analysis states that operation of the general recreational area would result in a less than significant impact while the proposed performing arts pavilion could result in a significant unavoidable impact. The use of noise modeling is an accepted methodology for estimating noise events.

The 85 dBA is the average noise level limit BAC determined would be appropriate for this venue at a reference distance of 100 feet from the stage to run the noise model and assess potential impacts.

The project is required to only mitigate noise generated by the project, not to address any current noise issues in the surrounding area. As such, BAC determined that if sound levels can be maintained at 70 dBA at the building facades during large events, the project itself would not result in a 5.0 dBA increase in noise and would have a less than significant impact on the surrounding land uses.

Because the Draft EIR and the Noise Study found that the recommendations from the sound study would not likely reduce the identified noise impact to less than significant, they are not included as specific mitigation measures. Nevertheless, many of these recommendations will be incorporated into the operation agreement between PRNS and the operating vendor.

**Comment R.5:** In regards to mitigating noise impacts, the only alternatives considered in the Draft EIR were “Alternative Pavilion Orientations/Locations On-Site” and the “Pavilion with No Concert Alternative.” Why was an alternate pavilion design or programmatic alternative not evaluated (for example, the alternative of having no amplified music)? Per CEQA Guidelines, the EIR should identify alternatives that “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.”

**Response R.5:** The commenter is incorrect in the number of alternatives that were analyzed in the Draft EIR. The Draft EIR considered eight alternatives, of which two were found to be infeasible. The remaining six alternatives include 1) No Project Alternative, 2) Enclosed Pavilion Alternative for 5,000 Attendees, 3) Enclosed Pavilion Alternative with Project Footprint, 4) Pavilion with No Concerts Alternative, 5) Discovery Meadow Alternative Pavilion Location, and 6) Design Alternative. All alternatives were chosen to reduce the significant unavoidable impacts that were found in the Draft EIR. Particularly noise impact could be reduced with the Enclosed

Pavilion Alternative. Refer to Section 7.0 (pages 189-200) of the Draft EIR for a full discussion of project alternatives.

**Comment R.6:** In the vibration analysis portion of the Draft EIR, the focus is on the limit of 0.2 inches/sec PPV, which is the standard for buildings of conventional construction. However, the Draft EIR does not assert whether the continuous vibration levels will be below the 0.08 inches/sec PPV levels required for buildings that are historic. There are several historic buildings located directly adjacent to the park, including the Sainte Claire Club.

**Response R.6:** The vibration discussion in the Draft EIR does not focus on the 0.2 inch/sec PPV thresholds established for conventional construction. As discussed on page 141 of the Draft EIR, “As shown in Table 3.13-4, project construction would not generate vibration levels in excess 0.08 inches/sec PPV at 50 feet, which is the most conservative limit.” The Draft EIR correctly states there are no historic buildings *directly adjacent to the park* as the park is surrounded by roadways and there are no historic buildings within 50 feet of the construction area.

**Comment R.7:** I would also ask why the Draft EIR notes that special concessions will be made for Trinity Cathedral’s schedule. Page 140 of the Draft EIR states that “due to the likely difficulty of providing additional acoustical isolation to the interior space of the Trinity Church, the designated noise contact shall work with the Church representatives to minimize interference with church functions to the maximum extent possible.” Will these concessions also be made for other entities such as the historic Sainte Claire Club, First Unitarian Church and Corinthian Ballroom all of which host day and evening events (including weddings) when large concerts in the park would be detrimental?

Also worth noting, the address provided in the Draft EIR for which to send public comments notes the incorrect zip code for City Hall (it lists 95112 instead of 95113). This is concerning as some of the public comments mailed to you may not have been received.

**Response R.7:** Trinity Church, while farther away from the proposed pavilion than the Sainte Claire Club, First Unitarian Church, and Corinthian Ballroom, is more significantly impacted due to the direction of the sound from the pavilion and the fact that the pavilion structure would help to shield the aforementioned buildings from the concert noise. In addition, Trinity Church was constructed in 1863, is made of wood, and is the oldest building surrounding the square. While both the Sainte Claire Club and First Unitarian Church were also built in the 19<sup>th</sup> Century, these are stone and stucco buildings that are approximately 28-30 years newer than Trinity Church. As stated in the noise report, there is a likely difficulty of providing additional acoustical isolation to the interior space of Trinity Church and, therefore, coordination of events between the pavilion and the church was recommended. The noise consultant did not find this same issue with the other structures. The City determined this recommendation to be feasible and included it as a condition of approval.

The commenter is correct that the Draft EIR has the incorrect zip code in the address on page 2. The Notice of Availability is the notice that was sent to all interested parties and has the correct zip code. This text change has been included in Section 5.0

of this document. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**S. Maria Petersen (dated July 2, 2020)**

**Comment S.1:** I purchased my home at 97 E. Saint James Street in 2004 only because I was attracted to the quiet, green, tree-filled park in the historic square across the street. There is a reason why city planners throughout history have been creating parks in the midst of buildings: to provide psychological and physical health to the surrounding community and to enhance property values.

The purpose of Saint James Park is to provide such health. It is meant to be a quiet, green, natural oasis in the middle of a walled-in square of civic, business and residential buildings, in the middle of a city. Why destroy it with jarring noise, crowds of people several times a week, increased trash, vermin, and traffic? Why cut the trees?

Saint James Square dates back to the late 1800s. Its centerpiece is the park, which is included in the National Register of Historic Places. Its historical aspect increases the attractiveness and value of the surrounding homes and businesses. Why ruin the character and aesthetics of Saint James Square with a pavilion that resembles a large modern bus stop?

What are the consequences of having a pavilion and many concerts in Saint James Park? City Planners will ruin the health of the residents who live nearby due lack of sleep and ruined eardrums from very loud concerts. Our community will see a decline in tranquility and psychological health. The City Planners will make it unsafe to live here because homeless people will use the empty structures at night to sleep and drug pushers will use the structures to transact their businesses. I guarantee they will come here at night. San Jose will lose revenue from the decrease in property taxes due to the decrease in property values from loud concerts, crowds, trash, vandalism, homelessness, drug pushers, lack of safety at night, traffic. The effects of the pandemic will make concerts and compact gatherings a health nightmare. The Bureau of Labor Statistics reports that nearly half the U.S. leisure and hospitality jobs were lost in April 2020. We do not know if there will be a resurgence of the pandemic every year. Events with large groups of people would not be able to take place. As such, it is best not to rely on Saint James Park as a means of entertainment revenue. The pavilion and other structures on the park will do damage to the character and aesthetics of the park and ruin its historical importance. Making Saint James Street a two-way street will increase traffic, traffic noise and car accidents.

What can the City Planners do instead? They can re-focus. Instead of damaging one of the best tranquil, historical spots in downtown San Jose, why not focus on the park's historical aspect by having historical events here (but not loud or crowded). They could plan chamber music and other small musical events that would attract a more peaceful crowd. They could plan farmer's markets and art fairs every other week that would help entrepreneurs, small businesses and those who are struggling economically. There are many other kinds of small, quiet events the City Planners could hold in the park, as long as they are spaced out during the month to give the park a chance to recover.

Also, instead of funding the construction of a pavilion, bathrooms and other structures in the park, the City Planners could fund more and plan more for the construction of housing and clinics for homeless people and drug addicts. Reducing the number of homeless and drug users will

automatically increase property values, making downtown San Jose more attractive to doing business and living here. By making San Jose more appealing, it will increase property values and tax revenues.

The current City Planners' focus on acquiring revenue from large concerts and daily events in front of a residential area is very much misguided. You will lose hard working, middle class, peaceful residents, as well as retirees and businesses. If people like me cannot find peace, quiet and safety in our own homes, and if businesses cannot find hygienic and safe places to conduct their businesses, I guarantee we will move out. Property values will decline, your tax revenues will decline, and your crime and homeless rates will increase.

There has never been a more opportune moment for San Jose's City Planners to reassess their goals and shift their focus. The city needs healthy projects, not harmful ones.

**Response S.1:** This comment is in regard to quality of life, maintaining a peaceful and quiet neighborhood, and future City planning. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**T. John Ragsdale (dated July 2, 2020)**

**Comment T.1:** I have been a resident of Saint James Place, at the corner of St. James and 3rd Streets, since 1995. I am writing to you regarding the plans to construct a concert pavilion across the street from our building in St. James Park. My unit overlooks the park, and as you can see in this picture, my view is of the exact area where the pavilion would be located.

Building a concert pavilion in this location would have negative impacts on the residents of our building, as well as downtown residents in general. I would like to make the following six points for your consideration:

**Visual Impacts**

The plans would destroy the visual character of the park. The large green lawn seen in the above picture is the ONLY green area in the downtown San Jose core. It is a popular place for people to walk, picnic, exercise, take wedding photos before ceremonies across the street, and even nap on a sunny day. Placing a concrete monstrosity in this green area would ruin the bucolic nature of the park which has been in existence since the 1800s and is on the National Register of Historic Places.

**Historical Significance**

St. James Park is an historic place, and has statues and monuments to local and national heroes. I was involved with a city project in the late 1990s to restore the fountain and original park design. Adding an incredibly large piece of bizarrely modern architecture into an historic park will irrevocably change the nature of the park, and it will lose its significance in San Jose's history.

**Noise**

When I moved into Saint James Place in 1995, the only event taking place in St. James Park was Shakespeare in the Park once a year. This event was A) not amplified, and B) held in the Western quadrant of the park (between 1st and 2nd Streets). Over the years the concerts and use of amplified

sound have exploded. The windows of this building were not designed to be soundproof. When you hold concerts in the park, even with my windows and blinds closed, things rattle on my shelves, and the sound is so loud that we cannot watch TV, listen to music, or even speak without shouting. If you move forward building this pavilion, you will have to upgrade all of our windows to be soundproofed, as the city did for neighborhoods near the airport (so there is a precedent). Also, the plan to allow concerts until 10pm is unacceptable. I work East coast hours, 6am to 2pm. I am in bed by 8pm. I cannot have live concerts blasting a few hundred feet from me several times a week. Currently concerts do not go past 8:30pm, and suggesting a 10pm end time for concerts directly across the street from a residential building is not workable.

#### Park Activation

Nothing makes my blood pressure rise more than terms the city manufacturers, such as “activating the park.” Do you not care about the current activation in the park? What about the after school programs from Horace Mann Elementary School, with large groups of school children playing in the green space pictured above every afternoon? This program has even been going on during the lockdown, with social distancing respected. Why would you take away the best activation currently in the park by placing a large concrete structure that obliterates the only space currently available for activation? This is clearly placing egos over the needs of the immediate community, who rely on that green space as part of their normal lives.

#### Covid-19

We are currently in the middle of a pandemic, with people afraid to leave their homes and if in public, staying at least six feet apart. I do not see concerts returning to our normal lives for years to come, and for many people, they will never be an option. Considering building an in-person concert structure in the current environment seems ludicrous. You don’t know when San Jose residents will be willing to attend a live event, or if they ever will again. It seems the funding would be much better spent providing the infrastructure to allow all residents to enjoy a variety of concert and live theatre options from the comfort of their homes. We don’t even have free Wifi in San Jose, at least not in my neighborhood, so that seems a better way to bring some art and culture to the masses than a concert stage in an historic park.

#### Homeless Issues

There is not adequate funding to deal with the chronic homelessness in San Jose. St. James Park has become the “People’s Park” of the South Bay, and the mayor and councilman copied on this letter can tell you how often residents of this building complain about vermin, crime, and garbage in and around the park. With so many homeless currently living in and around St. James Park, providing a structure for them to use will be a disaster. Would the pavilion come with additional funding for police and mental health workers to keep them out of the structure? We’ve had so many empty promises over the years, such as building the Villas on the Park would eliminate homeless from St. James Park, and none of these promises have come true. Unless you have a bullet-proof, fully funded, long term, plan for dealing with the homeless in St. James Park, and a commitment to the community that this new structure would not just become a new homeless shelter, you have no credibility that this issue will be addressed.

In closing, I am not opposed to change. I recognize the issues with the current park, and with some of the changes you have proposed to make the park more neighborhood-friendly would be adopted, such as closing 2nd Street (as it used to be closed when I first moved into the building). The dog

park, for example, was a great addition, and is quite popular. Bringing a concert pavilion into an historic park seems the antithesis of “neighborhood activation,” it certainly isn’t what this neighborhood wants or needs.

**Response T.1:** This comment raised questions and concerns such as motivation for the project, homeless funding, pandemic, and existing programs on the park from nearby uses need not be responded to as they are not CEQA issues and, therefore, no further response is required. The Draft EIR includes analysis on aesthetics, cultural resources, and noise in their respective sections (Section 3.1, 3.5, and 3.13). This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**U. Stephen T. “Tim” Quigley (dated July 4, 2020)**

**Comment U.1:** My life’s work has been about this country, this state and this city. So unsurprisingly fifteen years ago, as I approached the 60 year milestone, I decided to simplify my life and move out of my home in Naglee Park and purchase my current condominium residence on the second floor of the St James Park Complex. I did so in January 2004 AFTER carefully researching and being satisfied the City Master Plan ensured that the park was, in fact, intended to be a neighborhood park in the long term. The thrust of the City Master Plan was to return the park to its origins, recreating a Urban Horticulture Atmosphere. A quiet healthy environment with easy access to downtown and public transportation was idyllic for my senior years. The subsequent City Master Plan revision ten years later generally reaffirmed that to me, as it spoke to revitalization of this neighborhood park. Specifically, neither revision included a major performing arts pavilion.

However, the St James Park – Capital Vision – and Performing Arts Pavilion Revitalization Project from an Environmental Impact perspective does not meet the Master Plan intent nor standard for a neighborhood friendly park. As a result, I strongly oppose the construction of a Performing Arts Pavilion on the Park.

Over the past seven years, Sam, Raul and I have discussed the need of for revitalizing the park for the permanent park resident population in addition to and separately - solving the issues of the homeless population, the transient population and the drug culture population around the park. Yet, however well intended the city planning efforts were at first, this neighborhood revitalization project has morphed into a city management top down directed major entertainment venue project. This has occurred in large measure because the city is not listening. It has listened more to well entrenched current and past city hall enthusiasts and lobbyists (who do not live on the park) while choosing to not hear the persistent objections coming directly from the permanent residents on the park and through their St James Park revitalization planning representative. Please, recalibrate and listen.

There are three areas in this Environmental Impact Report which demonstrate the unacceptable deficiencies of the current revitalization plan.

First, Sound and Acoustic Attenuation.

The Environmental Impact Report clearly states that there is no guarantee that the sound levels and duration requirements can be completely adhered to during a performance. The city management

response is to state that concert timeframes will be contracted to be limited to and terminate at 10:00PM. This is a pathetic attempt at a response.

**Response U.1:** The comment summarizes the research efforts of the commenter in selecting a permanent residence. A comment regarding noise and the adequacy of the analysis in the Draft EIR was also made. The comment stated that the 10:00PM operational limitation would not resolve the noise issue of the proposed project. As stated in the Draft EIR Section 3.13, even with the project conditions, the project would still be deemed a Significant and Unavoidable Impact with Mitigation Incorporated under Noise Resource. This comment does not provide new information that would change the analysis already disclosed in the EIR.

**Comment U.2:** a. This EIR does not adequately address the impact on resident quality of life during the concert hours because of the issue of ensuring compliance to prescribed sound levels during the concert (especially bass sound levels). Historically, most concerts on this park have never stayed within parameters for an entire concert and there is rarely any active resident receptive city supervision to ensure that it does. In fact, city management is often negatively reactive to any resident concern. Additionally, for anyone who has been on the park at 10:00pm at the end of a concert, the post event crowd management issues are another ongoing concern. One only has to reflect on the infamous Sriracha Sauce concert to recall the complicit reluctance of both city management and the Downtown Association to ensure proper compliance with the event permit, until the Mayor had to personally step in.

b. This EIR also does not address that there have been assurances both from the Mayor's office and the District 3 office that ordinances to prescribe bass acoustic parameters would be forthcoming. No action ever has been taken.

c. This EIR also does not address that the Mayor and Council Member Peralez and staff, similar to sound attenuation precedent for dwellings in the airport guide path, have given several assurances that the city would pay the cost of replacing the windows in our condominium building for noise reduction quality of life purposes at St James Place; thereby comporting with current city sound and acoustic standards.

d. This EIR also does not adequately address the fact that the city is oblivious to who their residents are that live on St James Park and their health and wellbeing. As an example, I have lived and worked and invested my life in San Jose since 1968. As you know, I am a 31 year retired Naval Officer, Aviator and Vietnam Veteran. What you may not know is that I am a 100% disabled Vietnam Veteran having lived, among other things, with Ischemia Heart Disease and chronic hypertension compliments of Monsanto – now – Bayer Corporation's Agent Orange defoliant spray since I was 25 years old. My last (of several) major cardiac episode was two years ago. This is relevant to our conversation because this entire project is a classic case of "mission creep". Is anyone at city hall really managing this plan?

**Response U.2:** The intent and purpose of CEQA is to identify, disclose, and, if possible, mitigate the significant impacts a proposed project would have on the physical environment. Certain aspects such as noise, transportation, or air quality that could be interpreted as components of quality of life were considered and analyzed

based on the CEQA standards and threshold in the Draft EIR. Any discussions between the City Council and the St. James Park residents regarding building improvements cannot be speculated on in the Draft EIR. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment U.3:** When this proposal was first floated, its stated annual goal was for 50 musical events of varying neighborhood user friendly sizes during the year. Now, the proposal has grown to an anticipated 300 concerts per year. In practical terms, if no one at city hall has yet thought of this, that equates to 10 out of 12 straight months a year with a concert EVERY SINGLE DAY! Think about that. Are you listening? On top of that, 72 (one every five days consistently throughout the year) of these are planned for crowds in excess of 5000 attendees (cumulatively 360,000 per annum). The City doesn't even do that at the city stage in front of the Fairmont Hotel! Or for that matter, at any other city park!

This is certainly NOT idyllic for this retiree in his senior years on a fixed income. Oh and of note, the Pavilion is planned to be situated within 21 yards - 65 feet -...not of my condominium.....not of my bedroom...BUT of my bed! The debilitating impact on my quality of life is incalculable! Are you listening?

**Response U.3:** The comment raised the project description changes from its initial proposal to now and the proposed pavilion's proximity to the commenter's home. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment U.4:** Second, Aesthetic Nature of the Park and Neighborhood.

The Environmental Impact Report does not properly or sufficiently address the deleterious overall degradation which this project will have on the aesthetics of the park and its surrounding neighborhood.

a. There are now two existing multifamily residences on the park with plans for a third in the near term. Additionally, within one block of the park are seven (soon to be eight) other multifamily residences. The sheer anticipated numbers of participants at the 300 annual park events (72 of which will attract over 5000 attendees) will significantly attract (not dissuade) and impact CRIME, traffic congestion, littering, loitering, trash, drug usage, proliferation of graffiti, etc. The net effect will be a less safe neighborhood environment while straining policing resources, all of which is not adequately addressed in the report.

b. Furthermore, the sheer volume of the concert programming will exacerbate not mitigate the homeless, transient and drug populations which frequent the park today, especially in the after hours of an event. What might be surprising to city hall, the concerts DO NOT END sharply at 10:00pm. The residual often rowdy crowds linger well into the early mornings; adding to the degradation impact on the park. Additionally, the cumulative effect of the sheer volume of the programming will present a situation wherein the park never fully recovers from each event. It has taken up to 10 days to completely recover from a single non contiguous event. Imagine the cumulative effect of 300 straight days of programming! Are you listening!

**Response U.4:** The Draft EIR addressed the aesthetic impact of the proposed project and concluded that the project would have a significant and unavoidable impact on the visual character of the area (Section 3.1 of the Draft EIR). Visual effects from park usage are not a consideration under CEQA and would be speculative to measure.

The intent and purpose of CEQA is to identify, disclose, and, if possible, mitigate the significant impacts a proposed project would have on the physical environment. Perceived increases in crime, loitering, litter, drug use, homelessness (not directly related to the removal of permanent housing), and graffiti cannot be estimated and are not addressed under CEQA. Police services are addressed, but only to the extent that it needs to be determined if new police facilities need to be constructed to adequately serve the community (Section 3.15 of the Draft EIR). The Draft EIR includes a transportation analysis that was completed consistent with City requirements. The Draft EIR concluded that impacts to police services and traffic would be less than significant.

The 10:00 PM limitation used in the Draft EIR analysis was identified due to how noise is perceived at different times of day and to what extent normal exterior activities contribute to an increased noise environment. Noise standards typically identify the timeframe between 10:00 PM and 7:00 AM as being more sensitive to noise than the remainder of the day because there is less overall outdoor activity.

The 5.0 dBA impact identified by the analysis in the Draft EIR was based on the noise that would be generated during a large concert event with amplified music. While there would still be noise associated with clean-up and patrons leaving the venue after 10:00 PM, the noise from these activities would not rise to the level of the actual event. Therefore, the 5.0 dBA threshold would not be exceeded. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment U.5:** Third and finally, the Historic Nature of the Park will be irretrievably lost. The EIR states, “the park will no longer qualify under the National Registry of Historical Properties.” Sadly, City Hall is just choosing to ignore this impact. Rather than destroying the singular state wide unique heritage of St James Park, I expect city leadership to value our heritage and design a park revitalization project which celebrates not destroys our pioneer contribution to California history.

I look forward to continuing the city and community dialogue to assure this project is rejected and replaced by a visionary park revitalization project which respects our unique St James Park heritage and which provides a proper quality of life neighborhood park atmosphere for our park residents.

**Response U.5:** The commenter reiterated the impact of the project to historic and cultural resources as stated in the Draft EIR. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

## V. Victoria Baugh (dated July 5, 2020)

**Comment V.1:** I am writing in response to the request for comment on the proposed music pavilion and music events in Saint James Park. The proposal places a music pavilion directly across the street from and in front of the oldest residential building on the park. As I understand it, there would be from 50 to 300 events planned for that pavilion yearly with from 50 to 5000 people attending. Just imagine that your neighbor across the street has loud unruly parties every other day. Those parties start in the morning and run till after 11, and the party goes trash the street and your lawn not to mention making it impossible to park due to the numbers of cars blocking normally available parking. Additionally, imagine having to listen to music/noise that exceeds the safety limits for hearing loss for hours at time, at best weekly, and at worse every other day!

There are a number of reasons that placing the music venue in St James Park is untenable:

First. Saint James Park is considered by the community to be a neighborhood park. It serves those of us who live near as a place for exercise, taking the dog out, playing frisbee and soccer, taking the kids to the play area, afternoon classes with school kids for team games, seniors getting their walks in, folks using the fitness equipment, and just hanging out on pleasant day. This photo showing children playing was taken just last week. The park is a lovely green oasis surrounded by concrete that makes living across from it peaceful, pleasing and enjoyable. A pavilion located in the planned area directly across the way disrupts all of those things. The pavilion would totally change the character of the park from a neighborhood park to an entertainment center and all of the issues that accompany such, including noise, trash and litter, crime and people coming in and having no regard for the park or those who live around it. This is not speculation, this is our experience from the music venues that have been held in the park in that location. The noise consistently exceeded the levels that were supposed to be maintained and the DB levels considered safe for one's hearing. There were times that our walls and windows literally shook. Saying that the event would be over at 10 just means they stop playing at 10 - it will be closer to 11:30 before they can close up and the people have gone. The motor cycle gangs revving up and blasting out under our bedroom window last year is a vivid memory! I can only imagine what that would be like weekly or every other day! Those of us that work and study from home would be significantly impacted. Research shows that noise pollution and sleep deprivation significantly impact the immune system and sleep deprivation has been identified as a factor in Alzheimer's. These are not small concerns, multiple people in Saint James Place have compromised immune systems and don't need any additional stress.

There are three existing multifamily residential structures adjacent to the park and one in planning that would be directly impacted by the pavilion. Within one block of the park are seven other multifamily residential structures that will have significant impacts from the traffic, parking, trash and litter, crime, etc. that accompany an entertainment venue. To locate something like this in a residential historic neighborhood park simply doesn't make sense.

Second. Saint James Park is an historic park which dates back to the late 1800s and is included in the National Register of Historic Places. Its historical aspect increases the attractiveness and value of the surrounding homes and businesses. An entertainment venue as described is entirely out of character and diminishes the historic nature of the park and according to the EIR, "the park would not longer qualify under the NRHP as a constituting property" [sic]. Another concern is the ability of the park to withstand the level of use described. When we have had events in the park in the past, depending

on the size and length, they have left bare patches and holes in the grass which have taken days to weeks to recover. Basically the level of use described would destroy the park. In addition to the aesthetic and historical impact, having an entertainment venue in a residential neighborhood has a significant impact on the community in terms of property value and ability to sell or rent.

Third. Saint James St. is an artery that many people coming off 87 and 880 use to get across town. There are traffic issues now and when there were events in the park last year the traffic was significantly worse and parking was a nightmare. The level of use described would make it nearly impossible for the people in the community to ever have guests since parking would be unavailable for blocks as it was during the prior years events.

Forth. At one time there was a Sr Center across the way in the park. It was a haven for drug dealers and the homeless who would show up at night. There is a crime problem now, having an unguarded pavilion would make it much worse because it would provide criminals shelter from being seen. I hope that the above objections to the project are enough to persuade the City to relocate the planned music venue to an area where it doesn't have a significant impact on an existing residential neighborhood. It would make sense to have something in the park that maintains the historic character of the park and strikes a balance between the needs of the community and something that helps to create a vibrant park. We are certainly aware of the issues that exist in the park currently, however their impact on the community is far, far less than the potential harm done by the proposed project. We would be happy to work with the City to figure something out that would enhance the park and maintain its historic character and "community parkness." An entertainment venue that occurs between 50 and 300 times a year with up to 5000 people destroys the ability of the neighborhood to actually use this part of the park. If the City decides to go through with this project, I request that the city compensate the owners for the loss of value of their property and buy at fair market value, the units of those people who will need to move.

**Response V.1:** The commenters concerns about noise, traffic, crime, litter, and the historic significance of the park are noted. The Draft EIR addresses these issues associated with the proposed project as is applicable in Section 3.5, 3.13, and 3.17 of the Draft EIR. Refer to Responses P.1, P.2, and K.2 for responses pertaining to historic analysis. Refer to Responses R.3 and R.4 for noise and Response O.3 for transportation. This comment does not raise any issues with the adequacy of the Draft EIR nor does it provide new information that would change the analysis as disclosed in the Draft EIR. Therefore, no further response is required

**W. Bob Carlson (dated July 5, 2020)**

**Comment W.1:** I'm Bob Carlson, have been a resident of Saint James Place and San Jose since 1999, am a Downtown Parking Board Alumni, am currently treasurer of our HOA, and I have been actively involved with safety and security here for 21 years.

I oppose the St. James Park Capital Vision and Performing Arts Pavilion.

Saint James Park is an Historical City Park intended to serve all, including the Immediate Community neighborhood.

However, as Councilman Raul Peralez said:

“We need to strike a balance that gets us to something that’s acceptable to the immediate community, but also helps us create a vibrant park and space that we have all been longing for.”

Across Saint James Park from the Park are two “immediate communities”.

Saint James Place: the first residence, now own of two, in the Saint James Historic District.

Sainte Claire Club: One of the eight designated Historic Structures in the Historic District.

Having made integrated circuits for my career, I am very comfortable with change.

But change has to have a purpose.

This proposal misses the mark on these accounts.

- **THE PROPOSAL IGNORES THE EXISTING NEIGHBORHOOD AND ITS RESIDENTS.**
- **NEIGHBORHOOD MOTTO:** a neighborhood to live in, rather than pass through
  - The City will be creating a transient neighborhood rather than a destination city for living
  - From the neighborhood 2007 SJHDNA publication: background info if you want to live in the Saint James Historical District: “Residents and businesses committed to cultivating a viable and sustainable community, while maintaining the beauty, safety and Historical integrity of our neighborhood.”
- **PARK DESTRUCTION:** Just the opposite of why we want to create a vibrant park and space
  - Physical destruction: trees and grass, the City has difficulty keeping Green Grass with the few events held now
  - Historical designation: will be lost as the park becomes an entertainment center
- **NOISE:** The Saint James Historic District will not be a Viable Livable Community
  - Too much, too consistent, too unhealthy NOISE levels as proven by past events
  - 50 – 300 events per year is non-stop noise
  - Noise pollution and sleep deprivation significantly impact the human immune system
- **BUILDING FORM:** Pavilion Structure does not complement the neighborhood
  - It can be different but must complement
  - Historic buildings edging the park have coherence through their common siting, scale and similar characteristics
  - The pavilion structure would destroy the visual character of the park
- **TRASH AND LITTER**
  - Trash and litter result each time the park is used for an event: entertainment, food feeding, etc
  - Now, instead of infrequently, at 50 – 300 events per year, it will be constant
- **HOMELESS ISSUES**
  - Homeless Issues abound now in the Park. How will this improve the situation?
    - We’re facing an unprecedented homeless crisis through Downtown, City wide and Bay Area at large, Tran to Carlson
    - Encampments’ve been there for days and months with no action. Sanitary? Hardly! Safe? Maybe! Carlson to Liccardo
    - All the chaos from the movie night didn’t even budge them, Ragsdale to Carlson
    - As taxpayers, we have a lower priority than the homeless. Why?

- **INCREASED CRIME OPPORTUNITY.** Crime already costs Saint James Place big bucks
  - The City proposal does not reduce crime
  - Saint James Place has reinforced doors, installed cameras and just modernized the building
  - We have always appreciated your effort to make downtown safer and better for everyone!  
David Tran to Carlson
- **SOME PEOPLE WORK FROM HOME:** working from home requires a low noise environment
  - More essential now with COVID-19

**Response W.1:** The commenters concerns about noise, crime, litter, homelessness, and the historic significance of the area are noted. The commenter reiterated issues such as noise and historic significance of the park. The Draft EIR addresses all these issues associated with the proposed project as is applicable in Section 3.5 and 3.13 of the Draft EIR. Refer to Responses P.1, P.2, and K.2 for responses pertaining to historic analysis. Refer to Responses R.3 and R.4 for noise. This comment does not raise any issues with the adequacy of the Draft EIR. Furthermore, the comment does not provide new information that would change the analysis as disclosed in the Draft EIR. Therefore, no further response is required.

**X. Tiffani Crawford, Ph.D. (dated as July 5, 2020)**

**Comment X.1:** Ladies and Gentlemen:

Thank you so much for a wonderful redesign of Saint James Park in the Saint James Square Historic District. I would like to detail some EIR and neighborhood gaps and suggestions for your consideration.

A hardworking technology expert, I was thrilled 16 years ago to finally buy my own tiny apartment on Saint James Park with the hope of starting a family here. In the past five years, the quality of this neighborhood has dropped to zero, and I am embarrassed to admit to coworkers that I live here in this homeless encampment created by Mayor Liccardo where drug sales and mobile prostitution make the environment inappropriate for families, including the city’s and county’s decision to house the homeless, the impoverished, newly-released criminals, pedophiles and sex offenders in buildings on the park itself and adjacent to it. It is unsafe to walk a dog on the bacteria-ridden grass in the park. Mentally ill homeless people walk the streets night and day, screaming vulgarity at imagined people. Sleep is impossible if dumpsters are out on the street with the housed and unhoused rooting through them all night. Amid the coronavirus and protests, helicopters have buzzed the building night after night. Due to location instability and the declining value of the zip code, employers algorithmically screen out job applicants who live here, making socioeconomic advancement impossible without high-wage work. The county has even pushed false bankruptcies to residents’ credit reports, causing their employers to fire them even though the bankruptcies were not real and never appeared in the actual public record. I am simply sick of constant socioeconomic assault by the city and county, and their poor, unrepresented decisions against our families and livelihoods.

Before any venue can be successful at Saint James Park, several policies must be improved:

- Socioeconomic data privacy for all residents must be instituted in every city and county system.

- Companies must be prohibited from screening job applicants based on socioeconomic status, historical track record, discrimination compounding or credit history.
- The city and county must not provide negative credit prediction data such as possible future bankruptcies about residents. Instead, if a bankruptcy proceeding is legitimate, it must only appear in credit reports and the public record after it has actually occurred.
- Pedophiles and sex offenders must not be housed in areas where families and children are present, including Saint James Park adjacent to the Family Court building.
- Homeless people cannot loiter and sleep in public areas or on private property they do not own.
- Mentally ill homeless people must have in-patient housing and care.
- Homeless and impoverished behaviors involving trash, nudity, vulgarity and panhandling must be eliminated, along with noise, rooting through dumpsters, selling drugs and selling sex.
- Homeless adults 18 years of age and over must be placed in care, housed and trained for work.
- Homeless children under 18 years of age must be placed in care, housed and schooled.
- Waiting and charity feeding of homeless and impoverished people must occur inside a building.
- Parks, sidewalks and streets must be cleaned regularly and maintained at high quality.
- Law enforcement must reduce noise whenever possible.
- City and county decisions about the environment must be put to a vote of residents.
- Neighborhood development must be guided by a steering committee of residents using a process that pulls in resident participation in decision-making on an ongoing basis with decisions requiring a vote of residents.
- The project, venue and businesses must be 100% locally owned and hired.

**Response X.1:** The commenter raised concerns of homelessness, social safety, and related socioeconomic issues observed in the area and in the City in recent years. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment X.2:** Auditorium venues are known for attracting homeless and criminal people to the location during and outside of actual performances. If the new Saint James Park Levitt Pavilion venue follows the model of similar venues in the Bay Area, similar impacts will result:

- Increased crime such as robbery, vandalism, drug sales and sex sales
- Increased traffic preventing residents from using streets and parking on the street
- Increased traffic creating a risk for families going to and from the park on foot
- Increased substance, domestic and child abuse for residents
- Increased unintentional property damage
- Increased privacy risk to survivors of domestic violence seeking help at DVIC on the park
- Increased health risk due to out-of-area travelers
- Increased health risk due to restrooms, food and picnic waste, and Café and barbeque cooking
- Increased use of controlled substances such as alcohol and marijuana at the park
- Decreased health of residents due to noise, lack of sleep, harassment and hypervigilance
- Decreased professional productivity for residents at work and school
- Decreased wages, career advancement, academic advancement and scholarships
- Decreased family quality of life for residents
- Negative impact discriminatory compounding creating exponential negative impact
- Lower-than-predicted use of Levitt Pavilion by people requiring special access
- Lower-than-predicted use of Levitt Pavilion due to the traffic and parking difficulty

- Lower-than-predicted use of Levitt Pavilion due to the crime and health risks
- Lower-than-predicted use of Levitt Pavilion due to low acoustic quality
- Lower-than-predicted use of Levitt Pavilion due to wastewater and unhealthy residues

**Response X.2:** The Draft EIR addressed issues related to the proposed project as applicable such as noise (acoustic), traffic, and water quality as mentioned in the comment above. Most of the concerns in this comment do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment X.3:** Please consider these suggestions to mitigate some of the gaps in the EIR and plan for Saint James Park:

- Move Levitt Pavilion to the corner of East Saint James Street and First Street instead of at Third Street in Saint James Park.
  - o First Street is closer to all arrival areas: both sides of the light rail station and the public parking garage. This makes it possible for people requiring special access to have short travel distances to Levitt Pavilion.
  - o First Street has more regular law enforcement patrols, reducing crime.
  - o First Street is closer to the highway, reducing traffic in the neighborhoods where families go to and from Saint James Park on foot.
  - o First Street has fewer traffic accidents, while Third Street and East Saint James Street have had regular visibility issues and multiple intersection traffic accidents at the park.
  - o On First Street, large public buildings block the noise from impacting residences. On Third Street, residences are in direct sound wave impact from Levitt Pavilion. There is precedent for the city paying the cost of noise-reducing windows and structures for residences, so moving to First Street reduces costs.
  - o Highly technical acoustic and echo canceling equipment is required at Third Street because Levitt Pavilion is so close to the flat walls of surrounding buildings, causing echo that interferes with performances and reduces the quality of the audience's experience. At First Street, open spaces and distances to buildings mitigate this effect and remove the cost of special equipment that is not needed there.
  - o At First Street, wastewater collection and filtration, potentially producing unhealthy residue, is not underneath the audience's grass. At Third Street, the audience sits on saturated grass where wastewater is collected and filtered. If a pattern is discovered, the city is liable for damages to families impacted by repeated exposure to unhealthy wastewater and filtration residues. It is best to remove the unhealthy impact on people and the potential for lawsuits.
  - o First Street does not endanger the safety and privacy of families seeking DVIC services. Levitt Pavilion Security requires area surveillance including the nearest traffic intersection. The San Jose Domestic Violence Intervention Collaborative (DVIC) services office is at the corner of East Saint James and Third Street. If Levitt Pavilion and the intersection were under constant surveillance, families could be discouraged from seeking help and could face abuser retaliation and violence if they did seek help. For more information, see the San Jose Domestic Violence Intervention Collaborative services office: <https://dvintervention.org/dvic-services>
- Add catch nets to the playground's raised walkways for child safety.

- Complete the planning for the effective removal of wastewater and filtration residues.
- Find an alternative to board-formed concrete on Levitt Pavilion, Docent Classroom, Picnic Pavilion, Cafe and elsewhere. In previous uses, board-formed concrete nearby at the San Jose Police Equestrian Stables did not achieve mean time before failure against rotting, requiring the demolishing of the structure.
- Complete the planning for the control of insects that could spread to the neighborhood.
- Complete the planning for park maintenance, healthfulness, good smells and physical safety.
- Complete the planning for physical and electronic crowd control, event check-in and self-guided tours such as the monument walk in the park.
- Expand the Victorian Garden and monuments as part of the purpose of the Saint James Square Historic District, including horticulture and art.
- Include the park in Local Arts activities and allow artists to showcase work in the park, especially around and on the somewhat boring buildings.
- Improve the policies as suggested above, including the removal of pedophiles and other criminals housed on and adjacent to Saint James Park.
- Preserve and honor the Lil' Man Memorial as a memorial artistic space somewhere in Saint James Park. Lil Man is the first homeless person to die of the coronavirus at the Santa Clara County Fairgrounds in San Jose after hundreds of homeless people were moved there to prevent the spread of the virus. Lil' Man was a 14-year-old African-American boy who enjoyed painting elephants and took care of himself alone in his homelessness in our neighborhood. He wore a backpack with the name "Lil' Man" along with a fuzzy pink child's pajama top wrapped around his shoulders. He was a resilient personality who retained inner sensitivity and optimism.

Thank you so much for considering these comments and suggestions. I and other residents look forward to a much-improved Saint James Park.

**Response X.3:** The suggestions noted above are in regard to the project itself and do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Y. Jean Dresden (dated July 5, 2020)**

**Comment Y.1:** Thank-you for the opportunity to comment on this EIR. The draft EIR clearly highlights the severe impacts to noise and cultural/historic resources. Yet there are also gaps in the analysis that leave the reader wondering "why" those statements were claimed.

1. Multiple constituencies were analyzed, focusing primarily on the nearby residents, office building users, church goers, and car/truck drivers. What about the primary users of the park? How will they be affected by the change in the park? According to the General Plan, "parks should be carefully designed and located to address local community demographics, needs, and interests." (Envision 2040, page 48). There is no discussion of the impacts of the changes on current users. There appears to be a studied effort to avoid mention of the homeless and transient population that uses the park to socialize, get food and social services, and sometimes camp. No mention is made of the redesign on the organization that use the park to provide social services— permitted or not. There is no discussion on the impacts to the community groups who have programmed youth activities. How are these users expected to be impacted during construction? During concerts? Will these activities shift

to other neighborhood parks? In the impact discussion (page 152), a key question is asked, “Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?” The EIR does not address the impact of this project on three groups of users, homeless, providers of services to the homeless, and the Third Street Community Center group. Will they be displaced? If so, what will be the impacts to the other existing neighborhood and regional parks or other recreational facilities? And how are those impacts quantified. It is notable that the EIR mentions the word homeless just once—in order to describe a building.

**Response Y.1:** By law CEQA does not address impacts to a project or project site (which included current site users) but only addresses impacts to the environment from the project. As such, any effects on current park or future park users is not within the purview of CEQA and is not addressed in the Draft EIR.

The potential relocation of homeless persons currently residing or receiving services in St. James Park to another park location within the City is speculative and is not included within CEQA. In addition, the project includes facilities to support on-going programmed youth activities. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment Y.2:** 2. Noise Impacts.

The analysis shows there are significant noise impacts to the residents and building users—even if the output is restricted to an average of 85 dBA Leq at 100 feet from the stage. Importantly, the EIR states, “To the maximum extent feasible”. (p138). What is not mentioned in the EIR but within in Noise Appendix is that Bollard Acoustical Consulting (BAC) reported:

BAC’s experience in conducting sound level measurements for performing arts venues where amplified speech and music is employed has been that noise levels of 100 dBA at a position 100 feet from the front of the stage are not uncommon for concerts with up to 5,000 persons in attendance. (Noise and Vibration Impact Analysis, page 27)

Based on BAC’s observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters.

In spite of the recommendations presented above, at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study.

The Noise section of the EIR used 85dBA in the analysis even though the appendix admitted that 85 dBA was not feasible for larger concerts. They indicated 100 dBA was more likely. Why wasn’t the analysis conducted for the 100 dBA? Why wasn’t the full impact of the noise reported?

**Response Y.2:** The noise assessment is incorporated by reference into the Draft EIR and was included as Appendix F to the Draft EIR. The comment raises two issues related to the noise levels analyzed in the Draft EIR. First is the 100 dBA level which in the noise assessment BAC stated “BAC’s experience in conducting sound

level measurements for performing art venues where amplified speech and music is employed has been that noise levels of 100 dBA at a position 100 feet from the front of the stage are not uncommon for concerts with up to 5,000 persons in attendance.” This is not a threshold for establishing an impact. It is an observation of noise levels at comparable venues. Second is the 85 dBA, which is the average noise level limit the noise assessment determined would be appropriate for this venue at a reference distance of 100 feet from the stage to run the noise model and assess potential impacts.

The threshold used for analysis in the Draft EIR to determine if the project would have a noise impact is an increase in noise levels of 5.0 dBA or more at the buildings facing the venue consistent with General Plan policies. The noise assessment did conclude that a 5.0 dBA increase would occur with an assumed average noise level of 85 dBA as measured at 100 feet from the source. Modeling the project with an average noise level of 100 dBA would not change the conclusion of the analysis.

**Comment Y.3:** Why was 85 dBA chosen? How will it be enforced? Will the sound system have a “governor” that stops the amplified noise at 85dBA using some sort of feedback system? The Noise Appendix mentioned that there were all sorts of impacts to the estimations based on the final design of the Pavillion. It’s not clear what design they made there estimate from. Was it the original set of 35% design documents? Or was it the value engineered documents produced 6 months later? Or was it the designs that were ordered in June 2019 to bring the cost down even further? Does the cost cutting and redesigns include the sound systems? Does the lack of specificity mean that the impacts could be even worse? How much worse? What is the range? Could these people be driven from their homes? Unable to watch TV without a headset? Carry out a conversation without a microphone? Would children be able to go to sleep? Will the costcutting allow specific design mitigations? Here’s what ARUP wrote about possible design changes that would help mitigate. Why are they not part of the EIR?

According to ARIP Engineering, echoes off the back of house support building back to performers should be mitigated. This can be done by adding absorption to the face of the building, or angling the façade to direct reflections upward and away from performers. Alternatively, a stage backdrop could provide both a visual barrier between the front of house and back of house and block unwanted echoes. Curving the backdrop into a convex shape would further improve stage acoustics. (Noise and Vibration Impact Analysis page 26)

The consultants also wrote:

One approach to controlling the overhead reflections being considered is to add sound absorbing material to the opaque cladding panels over the stage area...Should the sound absorbing layer of the cladding sandwich panel not be feasible, overstage reflectors may be needed.

This quote begs the question, which design was studied? When they use “not be feasible” does that mean it can’t be constructed or that it costs too much for the established budget? What is the City’s trade-off for quality of life vs. cost, ie what does that sound absorbing material cost and why aren’t the residents worth it? For example, the Federal Rail Administration uses \$95,000 per parcel for

sound walls. If the wall costs more than that, it is called “not feasible” and residents must suffer the significant noise impacts without mitigation. See High Speed Train San Jose to Merced draft EIR.

The project engineers made design suggestions, but it is not clear whether the cost cutting will allow these recommended changes. Are they included or not? And if not, why not?

In addition to the active sound amplification system, the project engineers are recommending controlling reflections of sound off the undersides of the pavilion spines and back of house reflections through the inclusion of sound absorbing materials in the project construction

**Response Y.3:** The Noise Assessment (Appendix F of the Draft EIR) states on page 25 that “According to information provided by ARUP Engineers, the sound system employed for the performing arts pavilion will consist of state-of-the-art cardioid subwoofers and vertical line arrays at the stage area, and distributed loudspeakers throughout or around the audience area.” Figure 7 in the Noise Assessment shows a conceptual plan indicating the locations for vertical line arrays and distributed sound systems. As mentioned in previous comments, whether or not the recommendations would reduce the identified noise impact to less than significant is unlikely as they are secondary recommendations and not included as specific mitigation measures. As previously mentioned, while not included in as specific mitigation, these recommendations will be incorporated into the operational agreement between City and future operating vendors.

**Comment Y.4:** BAC offered specific mitigations that are NOT included in the EIR. For what reason is that? The EIR included a time limit of 10 pm and no other mitigation.

Since the EIR analyzed the noise impacts at 85 dBA, how will stage managers know that they are not exceeding the 85 dBA Leq analyzed? How will it be monitored? If it is not monitored, how does this allow the residents to use their homes? Their backyards? How can parishioners of Trinity Church be confident that they can hear their priest at an evening service? Or participate in church committee or recovery meetings?

Why are BAC’s mitigation recommendations cited in the Noise and Vibration Appendix not included in the EIR?

Specifically, BAC wrote:

Stage managers should be required to mount a sound level meter with continuous A-weighted sound pressure level display adjacent to the mixing booth so there is no doubt as the current sound system output at any given time. Only by being aware of the instantaneous sound levels can the sound technicians make the appropriate adjustments to the sound mixing board. The meter should meet a minimum Type 2 compliance and be fitted with the manufacturer’s windscreen and calibrated before use.

**Response Y.4:** While not included as specific mitigation, the recommendations will be incorporated into the operation agreement between PRNS and the operating vendor.

**Comment Y.5:** Some EIRs and IS/MNDs have included mitigations for construction impacts expressed as contact names and procedures, including a 24-hour contact number. Sometimes, the contact name/number is part of the requirements of the ongoing operations. Why is there nothing here? Neighbors can't call SJPD since they won't respond to noise calls in the park. They can't reach parkconcerns@sanjoseca.gov during a concert. What recourse will they have? Who will turn down the noise? No one?

Some cities use their noise ordinance as a mitigation measure. As BAC pointed out,

The noise standards of the City of San Jose are not well suited to assessing or preventing the potential noise impacts associated with amplified sound events at Saint James Park. This is because the General Plan standards, being based on a 24-hour average, do not provide a good indication of public reaction to short, loud activities. Conversely, the Municipal Code provisions are very subjective, which makes enforcement difficult.

BAC recommended a specific mitigation,

BAC recommends the City consider adopting numeric noise standards specific to outdoor amplified sound levels such as that generated during events at Saint James Park. Such standards should consider including a provision specifically limiting low-frequency sound to reasonable limits.

Why is this not included as a mitigation within the EIR?

Ultimately will the residents and parishioners be expected to address the noise issue by filing separately and serially noise nuisance small claims court cases? Will the City be providing them training in how to file those cases?

**Response Y.5:** Standard Permit Conditions for minimizing noise during construction period in Section 3.13.2.1 of the Draft EIR includes a condition to require posting of the contact of a coordinator. Contact during operation would be dependent on the event and organization responsible for the event and would be part of the operation agreement. Refer to Response Y.4 for incorporation of measures.

**Comment Y.6: HISTORY**

The Cultural Resources section clearly indicates that St. James Park will not be historic anymore. While many paragraphs are used to highlight the difference between the consultant's view and the City's Historic Preservation Officer's view, nowhere is there an explanation for why the City picked the consultant's view. It is highly unusual to present both views in such detail. Why were both views presented? Why could they not come to agreement? Could the City Council decide to pick the HPO's view? Is that appropriate for a group of untrained elected officials to make a decision on whether something is historic? Why not ask for a third professional report? The Consultant's view is summarized on page 73. The bold sentence indicated does not make sense. Is there a word missing?

The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior's Standards (Rehabilitation) regarding the proposed structures and overall design. Pursuant to CEQA Guidelines Section 15064.5(b)(3), generally a project that

follows the Secretary of the Interior's Standards is considered to have a less than significant impact on a historical resource. Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property. Because the project would not reduce the significance, change eligibility, remove character-defining features, or compromise integrity, the project would have a significant impact on the historic integrity of the park and the district.

Since the City has selected the consultant's view that the park's historic classification would be significantly altered, there is a gap in the analysis. How would this change the status of the historic district? The park is the unifying glue, but would the remaining buildings still qualify as a national register historic district? And if in the opinion of the consultant, the park no longer qualifies as historic, what impact does that have on the remaining older buildings within the district? Which are contributing structures to a historic district and would be no longer in the absence of a historic district? Which qualify for city landmarks? Which are city landmarks already? Which qualify for the national register on their own? Which are already on the national register of historic properties on their own? Bluntly, which will be ripe for redevelopment as towers?

**Response Y.6:** As is sometimes the case in assessing environmental impacts, there can be a disagreement among experts. Both the City's consultant and the City's Historic Preservation Officer are qualified experts and, based on the evidence, came to different conclusions. In weighing the expert opinions of both parties, the analysis in the Draft EIR concluded that the impact to the historic integrity of the park and the district were significant. This conclusion has no bearing on the significance of the other contributing structures within the historic district. The loss of historic integrity with regards to the park is the loss or change of remaining character-defining features and consistency with applicable design standards. The park will remain a park and will maintain its relationship to the historically significant buildings that surround the park.

The City Council role is to determine if the analysis is adequate for the purposes of making a decision to approve or deny the project.

As stated on page 73 of the Draft EIR, implementation of the project as proposed would result in the park no longer being a contributing property to the historic district at a national level. While the analysis did also find that the integrity of the district would be impacted, the impact would not result in the loss of the district's historic classification.

The EIR cannot speculate on future private development proposals.

The commenter is correct, there is a typo on page 73 of the Draft EIR. The proposed edit is provided in Section 5.0 of this report. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment Y.7: ALTERNATIVES**

Within the alternatives, Discovery Meadows was discussed and dismissed the site as “not underutilized.”

The Discovery Meadow Alternative Location would meet all of the project objectives (by revitalizing St. James Park and providing a performing arts pavilion), except objective 7 that specifies transforming an underutilized neighborhood park into a prime destination where music concerts occur. Discovery Meadow is not underutilized.

What metric was used to determine that Discovery Meadow is not underutilized? How many permits are issued each year? For how many days? Generating how much money in fees, in “economic multipliers”? What’s the five-year profile? How does that compare to Plaza de Cesar Chavez? How many people are in the park in the evening in the summer? How many other than the Adobe Volleyball players?

**Response Y.7:** Number of events is only one indicator of a utilized space. Based on recent data provided by the Department of PRNS, from 2017-2018 and 2018-2019 St. James Park had a higher number of events than Discovery Meadow due to staff efforts of activating the park and encouraging residents to use and attend the events. Even with fewer events, the Discovery Meadow contains different scales of events and encourage more attendance per event. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

Fiscal Year	St. James		Plaza de Cesar Chavez		Discovery Meadow		Estimated Attendance without Xmas in the Park
	Event Days	Estimated Attendance	Event Days	Estimated Attendance	Event Days	Estimated Attendance	
2017-2018	163	67,195	225	669,165	22	124,560	219,165
2018-2019	156	19,062	223	999,769	23	182,980	349,769

**Comment Y.8: OBJECTIVES**

One of the project’s stated objectives is:

- 7. Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;

There are some advocates for the unhoused who would state that St. James Park is NOT underutilized. It is a key community gathering place for the unhoused. It provides a safe place for them to hang out all day, socialize, and build community. They receive services at the park. It is true that St James is not heavily used by people with homes/apartments. They would tell the City to not dismiss the unhoused as though they do not exist. The park is utilized, but perhaps not in the way that the City fathers would prefer.

**Response Y.8:** The commenter disagrees with a project objective of the EIR. Refer to Response Y.7 above for discussion of underutilization. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment Y.9:** COVID

This EIR was released after the COVID19 pandemic had started. Research from Gensler and other groups have shown that people are using parks differently. A mention of this seems appropriate for the transmittal memo when this EIR is revised.

**Response Y.9:** The project has been proposed and under assessment since 2016. It is not clear what the commenter means by people using parks differently. It would be speculative to make assumptions the long-term usage of St. James Park or any other recreational area relative to current changes in behavior because of the pandemic. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Z. Thomas Bernal (July 6, 2020)**

**Comment Z.1:** I object to The Levitt Pavilion proposed for St. James Park. I am an interested party under the national Environmental Protection Act (NEPA Section 106) and therefore require written notice of any proposed changes to the Park and District that are in the National Register of Historic Places; and that written notice must be received by me prior to any initial consideration by the City of San Jose Planning and/or Building departments, to any proposed changes; I require written notice at any time the City receives any permit requests for a variance involving Saint James Park and/or Saint James Park Historic District. I demand official reviews of any proposed changes to the Park and/or District by the National Historic Preservation Office in Washington DC, the State Historic Preservation Officer In Sacramento, and the City Historic Landmarks Commission in San Jose before any vote is considered by the planning department and by the city council.

**Response Z.1:** All required noticing has been completed for the project. All required noticing of local residents has been completed for the project. The comment states that the project should be reviewed by the National Historic Preservation Office as required under Section 106 of the National Historic Preservation Act (NHPA). Section 106 of the NHPA only applies to federal agencies or if there is federal funding for the project. The project does not involve a federal agency and is not receiving federal funding; therefore, a Section 106 consultation is not required by this project.

The State Office of Historic Preservation received a copy of the Draft EIR for review and did not provide comment. The project was brought to the City's Historic Landmark Commission (HLC) to receive comments on the Draft EIR in June 2020. As the project would be required to obtain a Historic Preservation Permit (HP Permit), the project is required to go back to the HLC for recommendation on the HP Permit, prior to the certification of the Final EIR. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**AA. William "Bill" Gates (dated July 6, 2020)**

**Comment AA.1:** The dramatic increases of events at St. James Park, envisioned by the Draft EIR, Dated May, 2020, must be consistent with the City of San Jose General Plan. The General Plan designation "Open Space, Park & Habitat", Chapter 5, Page 18 reads: "Lands in this designation are

typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas”. This designation is intended for “low intensity uses” and the St. James “Capital Vision” is therefore inconsistent with the General plan in that uses contemplate up to 5,000 people attending up to 300 events per year in the park.

**Response AA.1:** This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**BB. Jeff Rampe (dated July 6, 2020)**

**Comment BB.1:** Thank you for taking the time to review the feedback from concerned stakeholders affected by the St. James Park Capital Vision & Levitt Pavilion project.

I live on the second floor of the St James Place Complex with a view from my windows of the park. I have lived there since 2004, and during that time I have become accustomed to many of the regular downtown sounds. The light rail, constant traffic, landing aircraft, and screeching sirens from first responders do not bother me. I tolerate one incessantly barking dog during the day while I’m working and late-night screaming fits from one of the park’s regular transient inhabitants. These sounds penetrate my closed windows, but thankfully, they are typically short lived events.

When I see a proposal for a music venue in this park, situated adjacent to my home, I am concerned. When the proposal includes a schedule of 300 events a year, I am alarmed. The noise alone from one event is a significant disruption, but 300 events worth of noise and everything associated with that is a sustained attack on the quality of life of all the residents surrounding the park.

I am pleased to see the proposal for expanding the children’s play area and dog park. These features should contribute to sustained usage of the park and benefit the residents of the neighborhood. The parts of the proposal related to the music venue and concert schedule introduce changes that will significantly degrade the quality of life of the surrounding neighbors.

**Response BB.1:** The comment is in regards of general operation of the proposed pavilion and concerns for operational noise. Refer to Responses R.3 and R.4. This comment does not raise any issues with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment BB.2:** Noise

The Noise and Vibration Assessment (PP16-037 Appendix F - Noise and Vibration Assessment) identifies several recommendations, but without incorporating these as the standard requirements AND implementing strict enforcement, the adverse impact is potentially significant.

“The use of subwoofers at this venue should be discouraged.” It should not be allowed at this venue.

“The Parks department should contact the local law enforcement agencies following the concerts to determine if any noise complaints were registered during the concerts. All legitimate complaints should be investigated and additional sound controls evaluated and implemented as appropriate.” Sound controls must be implemented BEFORE any event takes place. This should be the standard for any event in the city. There is no real accountability if the action is taken after the fact.

“In spite of the recommendations presented above, at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts.” The residents of this area expect certainty.

“As a result, this analysis concludes that interior spaces of noise-sensitive uses located in the immediate project vicinity could be exposed to substantial increases in ambient noise levels during amplified music events. Therefore, this impact is considered potentially significant.”

The Sriracha Festival on Aug. 30, 2014 was an 8-hour event that serves as an example when guidance above was not followed and enforcement of any standard was significantly delayed to the detriment of the residents on the park. The stage was positioned in the same location as the proposed Levitt Pavilion stage. The unrelenting onslaught of loud music vibrating our windows and resonating within our living rooms and bedrooms forced many residents to flee their homes to avoid the unwelcomed intrusion. Any planned events must account for the impact to the residents, and city should have the will enforce adherence to the regulations that affect the park and events held within the park. This will to enforce regulations in the park is in question due to the history of allowing routine violators in the park to go unchecked.

**Response BB.2:** Whether or not the recommendations of the noise assessment would reduce the identified noise impact to less than significant is unlikely as they were not included as specific mitigation measures by the consultant. Nevertheless, many of these recommendations will be incorporated into the operation agreement between PRNS and the operating vendor. Conditions of approval and mitigation measures have been identified on page 140 of the Draft EIR. Even with these measures, the Draft EIR concluded that the noise impacts from large events would be significant and unavoidable.

**Comment BB.3:** Homeless

The proposal does not sufficiently address homeless mitigation. It is well known that Saint James Park is a magnet for the downtown homeless population. While activation of the park is expected to reduce the presence of homeless people during certain times, it is only through temporarily displacing these people into the surrounding neighborhoods. A comprehensive project needs to include effective solutions in eliminating the homeless population in the park and in downtown.

Crime

The city has imposed traffic restrictions on certain days such as Cinco de Mayo to limit the number of outsiders coming into downtown and to reduce crime. This project proposal takes the opposite approach and welcomes anyone to come into the downtown area on a regular basis. How would the city handle proposed events during Cinco de Mayo and other similar celebrations? This is one example of a conflict you would have to address in a thoughtful way.

**Response BB.3:** This commenter concerns about homelessness and crime issues do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment BB.4:** Traffic Analysis and Parking

“it is recommended that concert events at the pavilion be scheduled so as not to coincide with major events at the SAP Center whenever possible.” Page 5 of Transportation Analysis PP16-037 Appendix G - Transportation Analysis. With 300 events per year, this is nearly impossible.

The proposed sidewalk bulbouts would improve the situation for pedestrians in areas where there is high foot traffic. However, it must be acknowledged that this will eliminate already scarce parking for residents. Of more significance, the planned high frequency of events will further stress the scarce availability of parking for residents. It is not reasonable to expect the residents to try to find parking on streets further away, moving the parking constraint and spreading to larger affected area. Also, the Saint John & 4th St garage is not a dependable alternative for residents. In this proposal, this disruption would occur almost daily. Special consideration must be given to residents. An example of that could be issuing permits and restricting parking on certain streets such as those north of Saint James St. Also, granting permittees the ability to park at metered spaces without a fee would preserve parking access for those who live near the park.

**Response BB.4:** As previously stated in other response, the discussion of parking in the Draft EIR and the Transportation Analysis is to address potential operational issues and to provide relevant information to the decision makers. Consistency with the City’s parking standards is not an issue considered under CEQA and lack of sufficient parking does not result in a CEQA transportation impact. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft EIR. Street parking is considered public parking unless further restricted by parking permits, regulated by the Department of Transportation.

**Comment BB.5:** Trees

It is evident that the proposal utilizes the existing tree layout, but a project intended to be durable and long lived, should set aside those constraints. Within the report from the Arborist (PP116-037 Appendix C - Arborists Report), it is recorded that many of the trees in the park need maintenance or need to be replaced. There are 60 of the 248 trees in Poor or Bad condition. This is an opportunity to reconfigure the layout of the park and replace trees like the London Planes and California Sycamores, which bomb our air and sidewalks with allergy inducing tree pollen in massive amounts, with more tolerable and aesthetically pleasing tress such as the Jacaranda and Japanese Maple.

**Response BB.5:** As discussed on page 53 of the Draft EIR, the project proposes to retain 151 trees on-site, including the 23 heritage trees. The remaining 97 trees will be removed, and 181 new trees will be planted. As discussed in Section 3.5 of the Draft EIR, historically the park had an extensive tree canopy and the retention of the tree canopy is important to the historic integrity of the park. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR

**Comment BB.6:** As a whole, this project report does not adequately consider the impact to the day-to-day lives of the residents in the surrounding area. It does not address crime and homelessness which will be amplified by an active concert schedule and added structures to enable encampments.

I want to see the proposal to use Saint James Park as a music venue to be abandoned in favor of using existing stages within the city or a more suitable park location such as Plaza de César Chávez. The disruption and negative impacts of the music program outweigh the purported benefits. Strengthening the community aspect of Saint James Park through enhancements to the children's play area and dog park is a welcome improvement. Please continue with that investment.

As other residents have stated, I look forward to continuing the dialogue between the city and the community to revise the proposal to deliver the essential improvements that enhance the quality of life of the residents surrounding this neighborhood park.

**Response BB.6:** The intent and purpose of CEQA is to identify, disclose, and, if possible, mitigate the significant impacts a proposed project would have on the physical environment. While quality of life is a consideration in the decision-making process, it is not an element of CEQA and is, therefore, not discussed in the Draft EIR. Section 7.0 of the Draft EIR (page 188) discusses location and design alternatives under consideration for the project. It also includes a discussion of alternatives which were considered and rejected, including the use of Plaza de Cesar Chavez. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**CC. San Jose Downtown Association (dated July 6, 2020)**

**Comment CC.1:** The San Jose Downtown Association (SJDA) provides the following comments for the draft Environmental Impact Report for the redesign and capital improvements to St. James Park. We appreciate the level of detail and consideration staff have put into the draft EIR, including the incorporation of many elements we addressed during the scoping process in 2016, and hope that the full redesign of St. James Park will come to fruition.

**CONSTRUCTION & PHASING**

We were surprised that the draft EIR did not include phased construction of the project as a part of the Project Alternatives. It is clear that funding for this capital project is still not secured. Understanding how a phased project will impact overall project costs, as well as the success of the park's reactivation is a vital component of this project. Additionally, ensuring that all phases of the project are completed is of significant importance.

**Response CC.1:** The potential to phase the project, and what that might look like is unknown at this time and cannot be anticipated. At the time of this review, the project is anticipated to complete the project in one phase with a time frame of approximately 12 to 24 consecutive months. If the project is approved and it is determined that phasing is required, subsequent environmental review would be needed to ensure there would be no new impacts or impacts of greater severity than what was identified in the Draft EIR. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment CC.2: CIRCULATION**

While we appreciate the attempt to reunify the two halves of the park by removing car and bus traffic

from 2nd Street, we are concerned that there is still no comprehensive traffic and circulation study for the downtown core. This study would allow projects like the St. James Park redesign to take into consideration all impacts of street closures and rerouting traffic, including impacts to future public and private development projects. The northern edges of downtown San Jose have several planned and potential development sites within walking distance of St. James Park. With much greater densities and circulation demands in downtown's future, understanding how closing 2nd Street to vehicular traffic would impact the park's redesign and the St. James Park neighborhood is critical. We do not know how the EIR can properly address these conditions until the Greater Downtown San Jose Access and Circulation study data is available.

**Response CC.2:** As part of the Draft EIR, a Transportation Analysis (Appendix G of the Draft EIR) was completed to analysis the project's Vehicle Miles Traveled impacts under City Council Policy 5-1. In addition, the report also includes in operational analysis of the currently proposed project, including the proposed street closures and enhancements. Based on the methodology, the transportation effects of a proposed project would be to its immediate surrounding streets and extends to nearby corridors. Based on the proposed project, and as stated in Appendix G (page 26 and Figure 9), the report disclosed that the project could result in volume shifts to Market Street and 4th Street. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

### **Comment CC.3: ACTIVATION & OPERATIONS**

We appreciate that the draft EIR considers 12 project objectives, ranging from operational to design and historic considerations. Three objectives stand out as major opportunities for this project:

Item #4. Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship; St. James Park Capital Vision and Performing Arts Pavilion 14 Draft EIR City of San José May 2020;

Item #5. Develop a cultural asset conducive to creating a thriving destination and building community through music;

Item #6. Improve maintenance, operations, security services, and other public services in order to ensure a well maintained, clean and safe facility.

#### Partnership

At this time, governance of a fully redesigned St. James Park has yet to be identified. Part of the clarity needed is around activation and use of the park. The draft EIR correctly indicates that public-private partnerships are an integral part of this equation. If the project's construction is phased, these partnerships become more valuable than ever.

#### Cultural Asset

With the inclusion of a Levitt Pavilion to host larger, more formal events, we were heartened to see that consideration was given to infrastructure needed for smaller, more intimate and spontaneous events. In order for St. James Park to truly be revitalized, regular activation is necessary. Consistency of activation as well as communications around these opportunities should also be considered.

## Operations and Maintenance

The draft EIR discusses many fundamental changes to St. James Park from an operations and maintenance standpoint. What is proposed requires a complete shift in how the park is currently maintained, especially in light of the proposed level of activation and events. Understanding the governance structure and on-going maintenance plans for St. James Park needs to be addressed. Completing this capital project without a clear governance structure and maintenance plan creates unnecessary risk to the overall success of the project's long term goal to get people into the park on a regular basis. One area where these operational challenges can be addressed is the inclusion of community and social services at the park to engage the homeless individuals already present in St. James Park. A redesign of the park alone cannot address these complex social challenges.

SJDA thanks PRNS for their leadership in the redesign and activation of St. James Park, as well as PCBE for soliciting community feedback on the EIR process.

**Response CC.3:** These comments do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

## **DD. San Jose Historic Landmarks Commission (dated July 6, 2020)**

**Comment DD.1:** I am writing to you as the Chair and empowered representative of the City of San Jose's Historic Landmarks Commission (HLC), with the HLC's comments regarding the potential historical impacts of the above-referenced project. The proposed scope of work is within the Saint James Square City Landmark and National Register Historic District (HD84-36), and immediately adjacent to multiple individual City Landmark Structures.

Per the City's Historic Preservation Ordinance, and the Historic Preservation Goals and Policies of the Envision San Jose 2040 General Plan, the HLC is the City's quasi-judicial body tasked with the preservation of the City's historic built environment. The HLC provides project design comments and recommendations through Commission meetings and the smaller Design Review Committee (DRC). Over the course of the planned revitalization of St. James Park, the DRC and HLC have been provided with project updates. The Draft EIR formally came before the HLC on June 3rd, 2020.

At the June 3rd, 2020, HLC meeting, in a 6-0-1 decision, the Commission voted to authorize the Chair to forward the Commission's comments to the Director of Planning, Building and Code Enforcement. The consensus of the Commission was that, while many of the comments provided previously by the DRC and HLC have been addressed, there are additional comments and details that remain unresolved.

Our additional comments include, but are not limited to, the following:

1. The HLC applauds the project's intention to revive St. James Park as a social focal point for the City. This is an appropriate acknowledgement of the role that the original 1868 park played during the 19th and most of the 20th centuries.

2. Maintaining the historic perimeter, in both the spirit of the 'Memorial Walk' and the retention of the statues and memorials, is of the utmost importance. The restoration of formal gardens would approach false historicism; instead, the proposed 'Memorial Walk' embraces the history and

placemaking of St. James Park, while acknowledging that the best means by which to engage the surrounding residents with the park has evolved in the last one hundred and fifty years.

3. The park's utility and historical integrity were dealt a severe blow when it was bisected by the VTA tracks. While we applaud many aspects of the current proposal, we continue to feel that the park would be better served by the relocation of the VTA tracks.

**Response DD.1:** These comments do not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment DD.2:** 4. The self-professed mandate of the Levitt Pavilion project is 'Building Community Through Music', with an annual minimum of (50) free concerts. While the ability of music to draw people together is undeniable, this cannot be allowed to come at the expense of other visitors to the historic park, residents and tenants of the surrounding City Landmark structures, and the integrity of the Saint James Square City Landmark and National Register Historic District as a whole. Therefore, we consider the establishment of a decibel limit for all public performances in the park to be an essential mitigation measure, one that should be strictly and consistently enforced.

**Response DD.2:** As previously stated in Response Y.4 and Section 3.13 (Noise) of the EIR, the project would be required to implement project conditions and mitigation measures to minimize operational impacts. However, even with the conditions and measures, the project would still have an impact to surrounding sensitive land uses during large concert events.

**Comment DD.3:** 5. The quantity of trees proposed for the reconfigured park is an appropriate nod to the original intent of the park, and a welcome attempt to encourage uses in addition to the concert venue.

**Response DD.3:** This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment DD.4:** 6. The impact of the proposed development on mitigation measures provided as a part of previous alterations to St. James Park should be considered in detail as part of both the project analysis and the revised park's built form. The existing fountain is an appropriate example. While not original, it was installed to mitigate the substantial impacts on the park of previous changes to the park, the most ill-advised of which were the placement of 2nd Street and the VTA tracks. Any capital vision for the park should address the park's history of mitigations and alterations.

**Response DD.4:** Consistent with the Secretary of Interior Standards and the City's Guidelines, previous alterations to the park are considered if they occurred during the period of significance and are character-defining features of the park. The analysis in the Draft EIR (Section 3.5 and Appendix D) took into account all iterations of the park during the defined period of significance. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment DD.5:** 7. The emphasis placed on the ‘Memorial Walk’ as a nod to the previous formal gardens should be reflected in the materials and finishes. The use of brick or a macadamized surface would be the most appropriate choice. Should a surface such as stamped concrete, which would require less maintenance, be selected, the pattern and color should be such that it acknowledges this more historically accurate materials. A mix of low maintenance materials at the areas of heaviest circulation – including access points for maintenance vehicles – could be appropriately balanced by the use of more historically accurate materials along the more pedestrian portions of the ‘Memorial Walk’.

8. Embracing the modern reality of the need for a children’s play area presents the opportunity for a nod to the history of the park as well. One need only look to Theodore Lenzen park to see how this can quite easily be accomplished. The replication of canned fruit labels and signage along the perimeter fence gives a depth and meaning to the enclosure, far beyond the non-descript powder-coated aluminum. It provides insight into the context of San Jose as part of the Valley of Heart’s Delight, and the storied history of the canneries. A similar approach should be taken as part of the capital vision; any play area within St. James Park should clearly acknowledge its surroundings, rather than be composed solely of anonymous play structures that could just as readily be found in any number of community parks. Street cars were common in the downtown area from the 1880s through the 1930s. The inclusion of a miniaturized streetcar would provide a special ‘destination’ element to the play area, while prompting further discussion by visitors of the historical roots of downtown.

9. Multiple points of entry to the park is a welcome part of the capital vision. Placing historic markers at these points of entry would allow the circulation pattern to not only encourage entry into St. James Park, but provide additional background on the historic contributing structures lining the park. These include the Santa Clara County Courthouse, the First Church of Christ, Scientist, the Unitarian Church, Trinity Episcopal Church, the Sainte Claire Club, and Scottish Rite Temple. The placement of these buildings around the perimeter of the park was a conscious, deliberate choice; St. James Park as a public square, and gathering place for worshippers and congregants, is an aspect of its history that should be embraced and elaborated upon by the proposed signage and historic markers.

10. In Las Gatos, the historical markers in Vasona Park tell history in stages, addressing the Ohlone period, the Spanish / Mexican era, the early US period, and beyond. A similarly well-thought-out series of markers would be a welcome addition to Saint James Park. Furthermore, the capital vision should embrace San Jose’s self-proclaimed status as the ‘Capital of Silicon Valley’, and include QR codes to provide additional pictures, resources, or augmented reality (AR) engagement for those who are interested. Some potential ideas for historical markers are as follows:

- a. St. James Park was once owned by James Frazier Reed, one of the City’s founders. Reed later sold the back to the City for the same price he had paid for it initially.
- b. In the 1850s, the land was used as a hog farm and drill field.
- c. Street cars from the train depot built in 1864 brought many visitors to the park. The Bassett Street depot closed in 1935, moving to Cahill Street, the current home of the National Landmark Diridon Station.

d. The Naglee monument was designed by Paul Phillippe Cret, a preeminent early 20th century architect, and the head of the architecture school at the University of Pennsylvania, which remains to this day one of the nation's most highly-considered architecture schools. Henry Naglee's monument should be retained as part of the capital vision, with its inscription of Naglee's accomplishments.

e. At the entrance to St. James Park opposite Trinity Episcopal Church (81 North Second Street), an appropriate marker would acknowledge Reverend Peter Williams Cassey as the 'founding father of Black San Jose'. In 1862, Reverend Cassey established a secondary school for San Jose's black students.

f. In 1887, the City hired Rudolf Ulrich to remove some of the trees to afford more sunlight to the flower beds.

g. 'The Valley of Heart's Delight' was the term used to describe Santa Clara Valley during the late 19th and early 20th centuries. Farmers, canners, and ancillary industries formed the heart of San Jose's economic and civic identity during much of that time; from the 1880s until 1950, Santa Clara Valley would claim to be the 'Garden Spot of the State'.

h. The McKinley Monument should include a historical marker describing McKinley's speech of May 13, 1901. The community gathered the funds needed to commission a statue or monument after McKinley was assassinated later that year. Sculptor Paul Schmidt created the McKinley statue, in addition to dozens of other significant works in San Francisco and elsewhere.

i. The nearby Hotel Vendome, built in 1888, was commissioned after the small San Jose business community felt that the City lacked a first-class, resort hotel. Initially, the Vendome Corporation sought approval to locate the new hotel in St. James Park itself, before settling on the twelve-acre estate of Josiah Belden, one of San Jose's early mayors, on North First Street. It catered to upper class visitors from 1889 until 1930.

j. An historical marker recounting the lurching of Brook Hart's kidnapers and murderers in 1933 should be duly considered. The marker should be placed close to the Courthouse, noting that the kidnapers were held in the courthouse before being brought out to the park and lynched.

k. Some of the source material for these proposed markers can be found in the following, all of which should be part of the background and context for the design of any revisions to St. James Park:

- i. Signposts Revisited (Patricia Loomis)
- ii. Reflections of the Past (Charlene Duval)
- iii. Sunshine, Fruit, and Flowers (San Jose Mercury, 1890)
- iv. Historical Highlights of Santa Clara Valley (Jack Douglas)
- v. [www.sjpl.org](http://www.sjpl.org) (McKinley Monument background info)
- vi. [www.vendome.org](http://www.vendome.org)

As a project within both a City Landmark District and National Register Historic District, and surrounded by multiple individual City Landmarks, the importance of properly addressing the potential impacts of this project on historic resources cannot be overstated. Given the scope of the

proposal, this is a once-in-a-generation, if not once-in-a-lifetime, undertaking in the heart of one of San Jose's most historic areas. Therefore, adherence to, and compliance with, both the Secretary of Interior Standards and the City's Historic Preservation Ordinance must be a primary tenet of the design scheme. Towards that end, the HLC looks forward to further collaboration with the design team and City Staff, to ensure that the details and specifications for the proposed revitalization of St. James Park maintain this high standard.

**Response DD.5:** The comment pertains to redesign ideas and reconfiguration of certain elements in the proposed design. The comment mentioned that adherence to the Secretary of Interior Standards and City's ordinance must be a primary aspect of the design scheme. The Draft EIR identified a Significant and Unavoidable Impact to historic resources based on an assessment of the design against applicable federal, state, and local standards and guidelines. However, this comment does not raise any issues with the adequacy of the Draft EIR or its findings; therefore, no further response is required.

**EE. Jacqueline Snell (dated July 6, 2020)**

**Comment EE.1:** This letter is in response to the recently released EIR addressing the city's plans for St. James Park. I am the owner of a condo across the street from the park with a unit facing Saint James Street.

I am too angry to write a calm, formal letter as I think my neighbors have. Normally I would deal with this by not sending the letter. Good advice: write it but don't send it. Unfortunately, I promised my neighbors I would write a letter.

Making Saint James Park a draw for the region, rather than for the city is foolhardy. Do you really think 5,000 people can fit in Saint James Park? Is it standing room only? For many years residents were promised an improved park, suitable for the neighborhood. Now this has ballooned into something meant to draw people from the region with no consideration for local residents. Noise: I am extremely concerned about the noise involved in having a music Pavilion in the park. Ending concerts at 10 pm is of no use to residents. The Sriracha festival was so loud it made it impossible to stay home. That was during the day, not the evening. The new plan is likely to run me out of my home nearly every weekend. I fear you will not only force me to move but also ruin my property value. Early in the process you promised us triple-pane windows but I don't see that anywhere in the budget. Are all the new condos and apartments going up in this immediate area putting in triple-pane windows?

Traffic/parking: Even now an audience of 5000 would mean backing traffic up onto Guadalupe Parkway. It is ridiculous to think this area can handle the traffic or the parking. Saint James Street is the main thorough fare exiting Highway 87, how can it also handle traffic for an additional 5000 people? It will be even worse once the Apple complex is in use. I expect you are hoping most people will take light rail. Even if true, where will people drive to get onto light rail? You are asking for an extended downtown area to be impacted by traffic, parking, and garbage problems.

Downtown Character: It is a travesty to turn a tranquil residential historic district into a loud, congested, mess, unsuitable for residential living. Claiming that there is no other place to put a pavilion is more than hard to believe. Put it near Avaya stadium where there is ample parking and the

nearby airport already makes the area unsuitable for residential living. One of the reasons I bought my condo was because I could see trees out of all my windows. One of my friends calls it my tree house. What will I see on the back side of the pavilion, graffiti?

I presume a rock concert venue will include selling alcoholic beverages further destroying our neighborhood.

**Response EE.1:** As mentioned in previous responses such as O.3 of this document, the discussion of parking in Section 3.17.3 of the Draft EIR and the Transportation Analysis is to address potential operational issues and to provide relevant information to the decision makers. Consistency with the City's parking standards is not an issue considered under CEQA and lack of sufficient parking does not result in a CEQA transportation impact. This comment does not raise any other issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment EE.2:** Taxes?: Perhaps you expect to make more money from the Pavilion than from property taxes but the fundraising that Levitt requires make that seem doubtful. That would not rightly be part of an Environmental Impact Report but where can we San Jose residents see those calculations?

**Response EE.2:** The intent and purpose of CEQA is to identify, disclose, and, if possible, mitigate the significant impacts a proposed project would have on the physical environment. While economics is a consideration in the decision-making process, it is not an element of CEQA and is, therefore, not discussed in the Draft EIR. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment EE.3:** I have lived in this neighborhood for 12 years. My impression was that the original instigation for redesigning the park was to change the image of downtown San Jose from homeless/drug trafficking central to something more respectable. Is party central much of an improvement? This has gotten out of hand.

Please give us a nice Greek theatre on the opposite corner of the park which would mean across the street from the post office and businesses. Please don't drive me out of my home and ruin my property value, too.

**Response EE.3:** The commenter is proposing a different use than the proposed pavilion, This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

## **FF. Preservation Action Council of San Jose (dated July 7, 2020)**

**Comment FF.1:** Thank you for the opportunity to provide comments on the St. James Park Draft EIR. PAC\* SJ is limiting its comments at this time to the EIR's discussion of impacts to existing historic resources within St. James Park and its surrounding historic district. We generally concur with the conclusion that the pavilion project as proposed would cause a substantial adverse change in

the significance of a historical resource (the surrounding historic district) pursuant to CEQA Guidelines Section 15064.5, yet we also believe that the impacts to the existing historic fabric of the park itself are appropriately minimal and that the proposed park rehabilitation represents a reasonable and historically sensitive mitigation of these corresponding adverse impacts.

**Response FF.1:** The commenter stated agreement with the conclusion of the Draft EIR. This comment does not raise any issues under CEQA or with the adequacy of the Draft EIR; therefore, no further response is required.

**Comment FF.2:** Our biggest concern is one of scoping and phasing. Though not addressed directly in the EIR, we are concerned that budget considerations could foreseeably lead to a de-coupling of the pavilion construction phase from the other park improvements. If this were to happen, PAC\* SJ believes strongly that any approvals for the pavilion must be contingent upon the completion (or the guaranteed funding for) the other the other proposed park elements, especially the “historic edge” landscaping plan and monument walk. Given that design development of the pavilion itself is not complete, we are not commenting on its appropriateness at this time. Final design documents should be reviewed and approved by the Historic Landmarks Commission.

**Response FF.2:** The potential to phase the project, and what that might look like is unknown at this time and cannot be anticipated. At the time of this review, the project is anticipated to complete the project in one phase with a time frame of approximately 12 to 24 consecutive months. If the project is approved and it is determined that phasing is required, subsequent environmental review would be needed to ensure there would be no new impacts or impacts of greater severity than what was identified in the Draft EIR.

**GG. April Hope Halberstadt (dated July 16, 2020)**

**Comment GG.1:** The Draft EIR documents fail to mention the names or the importance of the artists who have created the existing monuments that are currently located within St. James Park. There is also no discussion of the significance of the events leading to the placement of these public reminders of important events in San José’s past.

**McKinley Statue** was designed by Rupert Schmid (Schmidt), California’s most prominent sculptor of the late 20<sup>th</sup> century. Schmid created dozens of important works in both marble and bronze. One of this most popular works is California Venus, now in the collection of the Oakland Museum. McKinley was the first sitting president to visit San José, and the community was greatly impressed with his remarks. Local resident were devastated when he was assassinated shortly after his visit. The monument was created by public subscription which included some major donations from civic groups.

**Response GG.1:** A discussion of the President’s visit to San José (with accompanying photos of the President’s visit and the existing statue), his subsequent assassination, and the artist who created the statue is provide on pages 24-25 of Appendix D of the Draft EIR. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment GG.2:** **Naglee Monument** was designed by Paul Philippe Cret and the bronze sculpture was created by artist Robert Tait McKenzie. Both the designer and the artist were on the faculty of the University of Pennsylvania. Both men were notable artists of international stature and are still highly regarded.

Brig. General Henry Morris Naglee was born in the Philadelphia area but was a California pioneer, arriving in 1847. Naglee is credited with establishing California's first bank, building the first permanent business building in San Francisco, organizing what became the California National Guard and creating the California brandy industry. He was San José's first engineer with a degree in civil engineering from the United States Military Academy at West Point.

His primary contributions to San José include the development of the properties in the areas we now consider Downtown San José. Naglee Avenue marks the northern boundary of his property holdings. He was instrumental in acquiring Alum Rock Park. As an experimental horticulturalist, he is credited with introducing hundreds of trees to Santa Clara Valley. His personal garden of 140 acres was a local showplace and was open to the public. The Naglee Monument was presented to the City of San José in 1915 by Naglee's oldest daughter, Marie Naglee Robins.

**Response GG.2:** A brief history of Henry Morris Naglee and the monetary gift provided by Mr. Naglee's daughters to the City to establish a memorial for their father is provided on pages 26-27 of Appendix D of the Draft EIR. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment GG.3:** **The Hart Kidnapping and Lynching** currently has no public monument. The tree from which two men were hanged was reportedly destroyed by souvenir hunters who tore off pieces of the bark. The incident is one of the most disturbing in the history of peaceful San José, an incident which still troubles the local conscience. The incident was a very surprising and spontaneous reaction to the initial crime, the kidnapping and murder of a young man from a prominent family.

**Response GG.3:** The murder of Brooke Hart and the subsequent lynching of the accused is discussed on page 30 of Appendix D of the Draft EIR. This comment does not provide new information that would change the analysis already disclosed in the Draft EIR.

**Comment GG.4:** The City of San José has an opportunity to use public art as a pathway to promote resolution and community healing. There are elements of this tragedy that still trouble the consciences of compassionate human beings. Many San José residents are still uneasy about the lynching, decades afterwards. How could this unspeakable and lawless event happen in San José, a peaceful community? Feelings of shame and confusion are often expressed. Public recognition of the tragedy would offer opportunity for meditation, resolution and for healing.

**Response GG.4:** This comment does not raise any issues with the adequacy of the Draft EIR under CEQA; therefore, no further response is required.

## SECTION 5.0 DRAFT EIR TEXT REVISIONS

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This section contains revisions to the text of the St. James Park Capital Vision and Performing Arts Pavilion Project Draft EIR dated May 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 2 Section 1.2.2 Draft EIR Public Review and Comment Period; the zip code referenced will be **REVISED** as follows:

95112~~3~~

Page 13 Section 2.3.4 Construction; the paragraph will be **REVISED** as follows:

Construction is anticipated to last between 12 to 24 months and would be completed in one phase. If, however, phasing of the project would be required in the future due to budget supplemental environmental review would be required to ensure that the project would not result in new construction impacts. The project would not require substantial grading or excavation. Staging for project construction would occur within the park. The City would coordinate with VTA regarding the temporary closure of the platform within the park, as required, to ensure the safety of passengers. The VTA platform would remain open for the majority of construction, closing when necessary upgrades to the platform itself are required. When the platform is closed, the nearest platform is located within two blocks, approximately 1,000 feet from the St. James platform.

Page 73 Section 3.5.2.1 Project Impacts; the text of the last paragraph will be **REVISED** as follows:

The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior's Standards (Rehabilitation) regarding the proposed structures and overall design. Pursuant to CEQA Guidelines Section 15064.5(b)(3), generally a project that follows the Secretary of the Interior's Standards is considered to have a less than significant impact on a historical resource. Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property. Because the project would ~~not~~ reduce the significance, change eligibility, remove character-defining features, and/or compromise integrity, the project would have a significant impact on the historic integrity of the park and the district.

Page 115 Section 3.10.1.2 Existing Conditions, Dam Failure; the paragraph will be **REVISED** as follows:

Based on the SCVWD dam failure inundation hazard maps, the project site is ~~not~~ within the Lexington Reservoir inundation hazard zone, but is within and the Anderson Dam failure inundation hazard zone.

Page 116 Section 3.10.1.2 Existing Conditions, Groundwater; the paragraph will be **REVISED** as follows:

The project site is located within the Santa Clara Groundwater Sub-basin made up of two aquifers. Regionally, groundwater flow is estimated to generally flow to the north, towards San Francisco Bay. Groundwater in the region's deep aquifer begins between 95 to 250 feet bgs.<sup>71</sup> Groundwater in the Region's shallow aquifer occurs between five to 30 feet bgs.<sup>72</sup> Groundwater on the project site is approximately 0 to 10 feet bgs based on the Valley Water 2016 Groundwater Management Plan. Groundwater levels would fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. Valley Water manages the groundwater basin and uses local and imported surface water to replenish groundwater through direct recharge facilities, including ponds and creeks.<sup>73</sup> The project site does not contain ponds or creeks or other recharge facilities. The project site is approximately 34 percent impervious, and is mostly surrounded by impervious surfaces and does not contribute to the recharging of the groundwater aquifer. The project site is in the Santa Clara Plan Confined Area within the greater Santa Clara Subbasin, where the vertical flow of groundwater is restricted by a low permeability aquitard.

Page 118      Section 3.10.2.1 Project Impacts; the third paragraph will be **REVISED** as follows:

The proposed project does not include installation of new groundwater wells and would not deplete groundwater supplies. The project site is located within the Santa Clara Plain ~~Recharge area~~ Confined Area within of the greater Santa Clara Valley Basin Subbasin where groundwater occurs under ~~un~~confined conditions. The site is not, however, within or adjacent to a SCVWD groundwater recharge facility. The proposed project would be required to treat post-construction runoff using LID treatment controls (e.g., bioretention facilities) in compliance with the MRP; therefore, while the proposed project would result in an increase in impervious surfaces on the site, the project's design would allow for runoff to be directed toward areas that support groundwater recharge and impacts related to groundwater would be less than significant. **(Less than Significant Impact)**

Page 119      Section 3.10.2.1 Project Impacts; the last paragraph will be **REVISED** as follows:

In the event of a flood or inundation from Anderson or Lexington Dam at the site, the project would not risk release of pollutants because the small quantities of cleaning supplies, herbicides, and pesticides stored on-site would be managed in accordance with existing laws and regulations that ensure proper containment. **(Less than Significant Impact)**

Page 137      Section 3.13.2.1 Project Impacts; the text under the Performing Arts Pavilion heading will be **REVISED** text as follows:

#### Performing Arts Pavilion

The proposed project would construct a performing arts pavilion in the northwest corner of the project site. A schedule of events for the performing arts pavilion is unavailable at this time. For the purposes of this Draft EIR, it is assumed that the project would host between 50 and 300 events annually. Noise generation from the performing arts pavilion would vary significantly depending on the nature of the event, sound amplification needs, and the size of the crowd. In addition, reactions from nearby residents would vary depending on the time of day, duration of the event, and frequency of events.

Based on previous noise studies for the City's Dia de los Muertos Festival in St. James Park (see Appendix F and standard of 45 dBA DNL). Therefore, the project would have a significant noise impact during use of the pavilion for music event.

**Impact NOI-1:** ~~Operation of the proposed performing arts pavilion would result in interior noise levels above the City's residential interior noise standard. (Significant Impact)~~

**Project Conditions:**

The project would implement the project conditions noted below to better manage the noise from the performing arts pavilion and a mitigation measure to reduce the noise impact.

- ~~• The performing arts pavilion sound system design shall maximize the use of state-of-the-art technology to focus sound system output in the crowd areas and limit spillover of music into the community.~~
- ~~• The first two large concerts (in excess of 1,000 people) held at the performing arts pavilion shall be completed by 8:00 PM to provide an opportunity to evaluate facility noise generation, including crowd noise, at the nearest residences and other sensitive receptors.~~
- ~~• To the maximum extent feasible, sound system output shall be limited to an average of 85 dBA Leq averaged over a five-minute period at a position located 100 feet from the amphitheater stage. This level could be increased if it can be demonstrated through noise level measurements that the design of the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.~~

Figure 3.13 2), a reference noise level of 85 dBA at 100 feet from the stage of the performing arts pavilion was used to simulate a music event. St. James Place, located behind the performing arts pavilion across East St. James Street, is the nearest sensitive-receptor. While St. James Place would be within 100 feet of the performing arts pavilion, due to the directionality of the speakers, the estimated interior noise level during a music event simulation would be approximately 45 to 50 dBA. Conversely, Trinity Cathedral is located about 600 feet from the performing arts pavilion, but since the speakers would be facing towards the cathedral, interior noise levels are expected to also be approximately 45 to 50 dBA during a music event. With no music, locations have existing interior noise levels of 40 to 45 dBA. The proposed project would result in an increase of up to five dBA DNL above existing levels, which would exceed the City's residential interior noise standard of 45 dBA DNL. Therefore, the project would have a significant noise impact during use of the pavilion for music event.

Page 140      Section 3.13.2.1 Project Impacts; the conclusion paragraph after MM NOI-1.1 will be **REVISED** follows:

Implementation of the project conditions and mitigation measure MM NOI-1.1 would help reduce music event noise in the project area; however, it does not ensure that the project would not result in a substantial increase in exterior ambient and interior noise levels at the nearest noise-sensitive receptors. While not all events at the performing arts pavilion would generate significant noise levels, it is reasonable to conclude that multiple events a year would generate significant noise levels given

the proximity of residences and other sensitive land uses to the pavilion. As a result, noise impacts resulting from music events at the proposed performing arts pavilion would be significant and unavoidable. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Page 175 Section 3.18.1.2 Existing Conditions; the paragraph will be **REVISED** as follows:

The project site is located approximately ~~three miles west~~ 0.5 miles east of the Guadalupe River ~~and approximately 2.2 miles east of Saratoga Creek~~, which ~~are~~ is considered a highly sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.<sup>96</sup> In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Page 196 Section 7.5.4 Discovery Meadow Alternative Pavilion Location; the conclusion will be **REVISED** as follows:

The Discovery Meadow Alternative Location would avoid the project's impacts from operational noise ~~and to historic resources~~. This alternative would result in similar or same impacts to all other environmental resources. The Discovery Meadow Alternative Location would meet all of the project objectives except for objective 7 of transforming an underutilized neighborhood park into a prime destination where music concerts occur.

Page 197 Section 7.5.5 Design Alternative; the paragraph under Comparison of Environmental Impacts will be **REVISED** as follows:

Being of similar size as the proposed project, the project would likely to result in similar impacts under air quality, noise, and biological impacts. The Redesign Alternative could potentially result in lesser impacts to the historic and operational noise impacts.

Page 198 Section 7.5.5 Design Alternative; the conclusion will be **REVISED** as follows:

The Design Alternative would avoid the project's significant and unavoidable cultural and historic operational noise impacts. The alternative would result in the same or similar impacts as the proposed project to all other environmental resources. The Design Alternative would not meet all the objectives as highlighted above.

Page 199 Table 7.5-1: Summary of Project Alternative Impacts; the Cultural Resources conclusion under the Discovery Meadow Alternative Location will be **REVISED** as follows:

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## **Appendix A: Draft EIR Comment Letters**

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**From:** Connolly, Mark <[Mark.Connolly@PLN.SCCGOV.ORG](mailto:Mark.Connolly@PLN.SCCGOV.ORG)>  
**Sent:** Wednesday, May 20, 2020 12:23:32 PM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** PP16-037 EIR NOI

[External Email]

Good morning-

Thank you, for the opportunity to review the NOA. The project site has the SJC Airport Influence Area boarder running along the west sided along First Street, any specific development west of first street needs to be reviewed for compliance with the ALUC policies. However, the FAA Part 77 Surfaces cross the site at a 212 AMSL horizontal surface height and are applicable to future development no matter what. Any structures over 75 feet tall (permanent or temporary), need to be reviewed with FAA obstruction procedures.

Thank you,



**Mark J. Connolly** | Senior Planner, Deputy Zoning Administrator  
Airport Land Use Commission Planning Program Manager  
Department of Planning and Development  
County of Santa Clara  
70 West Hedding Street, East Wing, 7<sup>th</sup> Floor | San José, CA 95110  
Phone: (408) 299-5786

In light of COVID-19 response measures from the Governor of the State of California and the County Public Health Department, commencing **Tuesday, March 17 through Tuesday, May 31, 2020** the Department of Planning and Development will only be providing Essential Public Services that are necessary to protect the health, safety, and welfare of our community.

To facilitate these measures, all Non-essential staff will be under a "Shelter In Place" directive, working remotely from home. If you need an emergency permit, please call (408) 299-5700 and your call or message will be addressed as soon as possible. For non-emergency inquiries, please fill out the form linked [here](#). The non-emergency inquiry will be reviewed daily and will be responded to on a case-by-case basis. Please note: our response to your non-emergency inquiry could be delayed.

Please visit our [website](#).

Click [here](#) to look up unincorporated property zoning information.

Questions on the status of your permit? Please e-mail: [PLN-PermitCenter@pln.sccgov.org](mailto:PLN-PermitCenter@pln.sccgov.org)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



July 6, 2020

City of San José Department of Transportation  
200 E. Santa Clara St., 3<sup>rd</sup> Floor  
San José, CA 95113

Attn: Thai-Chau Le  
By Email: [Thai-Chau.Le@sanJoseca.gov](mailto:Thai-Chau.Le@sanJoseca.gov)

Dear Thai-Chau,

VTA appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the St. James Park Capital Vision and Performing Arts Pavilion project. VTA has reviewed the document and has the following comments:

#### 1984 Master Agreement for the Downtown Transit Mall

The City of San José and the Santa Clara County Transit District (later amalgamated into VTA) entered into the Master Agreement for the Downtown Transit Mall ("Master Agreement") in 1984 in order to specify the construction, ownership, maintenance, and financing roles between the City and VTA. The DEIR does not reference the Master Agreement.

VTA has been working closely with the City to coordinate a park redesign that is mutually acceptable and is consistent with the Master Agreement. As proposed, the redesigned park does not change light rail operations and does not modify the light rail track; however, the project reconstructs the southbound St. James Station platform. Regarding buses, the project includes the closure of the Second Street to all traffic including private vehicles and transit buses, including the closure of the VTA bus lane and requiring a rerouting of VTA Bus Routes 72 and 73. The closure of the VTA bus lane on Second Street and the subsequent rerouting of VTA buses does not conform with the terms of the Master Agreement. Given that the park redesign requires rerouting of VTA buses, the Master Agreement would have to be amended to facilitate the project.

VTA is open to amending the Master Agreement to address this proposed project. Any such amendment to the Master Agreement would have to be approved by the City and VTA prior to the approval of the project by City Council.

#### Crossing Modification

The project intends to enable a new official pedestrian crossing of the light rail tracks where no official crossing exists today. Per the VTA Land Use and Development Review Policy (Sec 4.B. Strategy), VTA typically does not support new at-grade crossings of light rail and VTA would only support this proposed at-grade pedestrian crossing if it enables an intuitive, safer, and channelized connection across the park and reduces opportunities for informal crossings.

Per the DEIR, in order to establish new at-grade pedestrian crossings of the light rail tracks authorization must be granted by the California Public Utilities Commission (CPUC). This is to comply with *General Order 88-B Rules for Altering Public Highway-Rail Crossings*. VTA is prepared to work closely with the City of San José to coordinate the appropriate approvals from VTA and the CPUC.

#### Work within VTA Properties

As noted in the DEIR, due to the proximity of this project to VTA property (e.g., the reconstruction of the southbound St. James Station platform), the project will require a Construction Access Permit (CAP) and Restricted Access Permit (RAP) from VTA.

#### Downtown Transportation Plan

The DEIR does not reference the Downtown Transportation Plan (DTP), which is a City of San José transportation plan for Downtown San José and the Diridon Area. VTA's understanding is that the DTP, currently underway, will help shape "big transportation moves" to achieve a resilient and world-class Downtown San José. The DTP has a relationship to the St. James Park redesign project because it could alter the assumptions made in the DEIR. For example, the DTP could analyze and implement service-only lanes or other significant transit and transportation efforts including an update to the circulation of streets surrounding St. James Park from one-way streets (existing) to two-way streets. Such changes could alter VTA's suggested rerouting of bus and light rail lines including Routes 72 and 73 when the park is under construction.

VTA recommends that the DEIR reference the DTP since one object of the DEIR is to disclose the relationships between this project to others in the Downtown San José area.

#### Bicycle/Pedestrian Accommodations

VTA applauds the level of detail the DEIR goes into regarding bicycle and pedestrian access around the project. However, the types of bikeway classifications listed throughout the document are incorrect. There are four classes of bikeways recognized by Caltrans, but the DEIR notes only three. VTA recommends the DEIR figures be updated to show the addition of Class IV separated bikeways throughout the downtown area.

VTA recommends the document clarify an inconsistency in Appendix G on page 44 that reads, "Note that the project would not remove any existing bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities." This is inconsistent with the statement in the next paragraph that says "The project would have an adverse effect on the newly installed bicycle lanes because the project would widen the sidewalk along the St. John Street frontage to provide a consistent curb line with the existing blocks to the east and west. Although the parallel parking will be retained, the westbound Class II bicycle lane would be converted back to a Class III bicycle route with Sharrows."

City of San José

St. James Park Capital Vision and Performing Arts Pavilion Project

Page 3 of 4

VTA commends the DEIR for noting policies around pedestrian and bicycle accommodations during construction. VTA requests the project/City work with VTA in case of bus stop closure or pedestrian/bicycle access to/from a transit stop is impeded due to construction. VTA requires two weeks' lead time for any bus rerouting. Notification for rerouting can be sent to [rerouteteam@vta.org](mailto:rerouteteam@vta.org).

#### VTA Transit Service

The DEIR is using an outdated version of the VTA Bus and Light Rail Operating Plan. VTA recently adopted and began operating a service plan in December 2019. While VTA is currently operating a temporary emergency service network due to the ongoing pandemic, the Final EIR/EIS (first amendment of the draft EIR) should reflect the new transit service plan. More information can be found on our website at <http://newtransitplan.vta.org/>.

In terms of long-term transit operations in the project area, VTA's highest priority is safety and VTA looks forward to continuing to work with the City of San José on making light rail operations through the redeveloped park safe and reliable. We also look forward to working closely with the City on future operations during events. With heavy event ridership anticipated for both the Northbound and Southbound platforms at the St James Light Rail Station, VTA will likely need to organize specific event day transit services, similar to events at SAP and Levi's Stadium.

#### Specific Notes and Comments

- Page 160 - Update VTA Light Rail text to reflect new service plan
- Page 162 - Update transit map on figure 3.17-3 to reflect new service plan
- Page 163 - Update table 3.17-1 to reflect new service plan
- Page 165 – update the routes currently serving the area
- Appendix G Page 17 Update figure 4 – update to reflect new service plan
- Appendix G Page 18 Update table 3 and text – update to reflect new service plan

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.

Sincerely,



Lola Torney

City of San José

St. James Park Capital Vision and Performing Arts Pavilion Project

Page 4 of 4

Transportation Planner III

SJ1613



File: 33405  
Guadalupe River

July 6, 2020

Ms. Thai-Chau Le  
City of San José  
Department of Planning, Building, and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San José, CA 95112

Subject: DEIR for the St. James Park Capital Vision and Performing Arts Pavilion Project

Dear Ms., Le:

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed St. James Park Capital Vision and Performing Arts Pavilion Project located in the downtown area of the City of San José (City), received by Valley Water on May 20, 2020.

Per our review of the DEIR, we have the following comments:

1. Section 3.10.1.2 Existing Conditions, Dam Failure on page 115 states that the project site is not within the Lexington Reservoir inundation hazard zone; however, the project site is within both the Lenihan Dam on Lexington Reservoir and Anderson Dam failure inundation zones. This section should be revised accordingly.
2. Section 3.10.1.2 Existing Conditions, Groundwater on page 116 describes the range of depths to groundwater within the region. This section should also include the depth to groundwater specific to the project site, which is approximately 0 to 10 feet below ground surface. Please refer to Figure 2-16 on page 2-17 of the Valley Water 2016 Groundwater Management Plan (enclosed).
3. Section 3.10.1.2 Existing Conditions, Groundwater on page 116 states that the project site does not contribute to the recharging of the groundwater aquifer due to impervious surfaces. It should also be added that the project site is in the Santa Clara Plain Confined Area within the greater Santa Clara Subbasin, where the vertical flow of groundwater is restricted by a low permeability aquitard. Please refer to Figure 2-1 on page 2-1 and Section 2.1.2 Recharge Areas on page 2-2 of the Valley Water 2016 Groundwater Management Plan (enclosed).
4. Section 3.10.2.1 Project Impacts, Post-Construction on page 118 states that the project site is located in the Santa Clara Plain Recharge Area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions; however, the project site is located in the Santa Clara Plain Confined Area within the greater Santa Clara Subbasin. This section should be revised accordingly.



Page 2

July 6, 2020

Ms. Le

DEIR for the St. James Park Capital Vision and Performing Arts Pavilion Project

5. Section 3.18.1.2 Existing Conditions on page 175 states that the project site is located approximately 3 miles west of the Guadalupe River and 2.2 miles east of Saratoga Creek. This should be revised to reflect the site is located approximately 0.5 mile east of the Guadalupe River. Saratoga Creek should be removed from this discussion since the project site drains to the Guadalupe River, not Saratoga Creek.
6. Valley Water encourages irrigation, the fountain, and splash pad to use recycled water, if available, to ensure water supply availability and sustainability to the community. Even if recycled water is not available, we recommend the project include guidelines for the fountain and splash pad to have a system to capture, clean, and reuse water. The DEIR notes that City policies encourage connecting to recycled water but does not state how the project will comply with these policies.

If you have any questions, or need further information, you can reach me at (408) 630-2955, or by e-mail at [JAlvarado@valleywater.org](mailto:JAlvarado@valleywater.org). Please reference Valley Water File No. 33405 on future correspondence regarding this project.

Sincerely,

DocuSigned by:

  
FA950AD6E49F4B7...

Jourdan Alvarado  
Assistant Engineer II  
Community Projects Review Unit

Enclosures: Valley Water 2016 Groundwater Management Plan

cc: U. Chatwani, C. Haggerty, J. Alvarado, M. Martin, File

# Chapter 2 – Santa Clara Subbasin Description

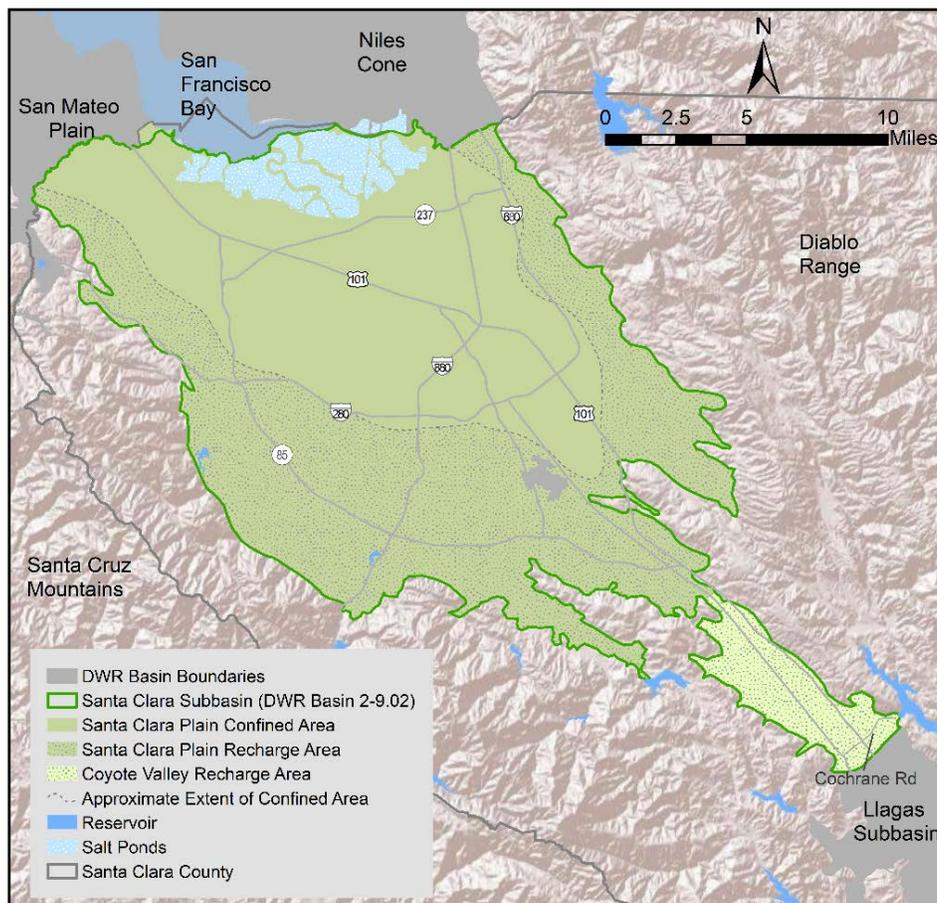
## CHAPTER 2 – SANTA CLARA SUBBASIN DESCRIPTION

This chapter describes the Santa Clara Subbasin, including the physical setting and characteristics, and conditions related to groundwater elevation, water quality, land subsidence, groundwater/surface water interaction, and salt water intrusion.

### 2.1 BASIN SETTING

The Santa Clara Subbasin (DWR Basin 2-9.02), which includes the Santa Clara Plain and Coyote Valley, is located within the California Coast Ranges physiographic province between the San Andreas and Hayward Faults at the southern end of the San Francisco Bay (Figure 2-1). The subbasin underlies a relatively flat valley and consists of unconsolidated alluvial sediments. The Santa Clara Subbasin is part of Basin 2-9, which extends beyond Santa Clara County into San Mateo, Alameda, and Contra Costa counties and beneath San Francisco Bay, which is fringed and underlain by the estuarine San Francisco Bay mud.<sup>20</sup> Due to different hydrogeologic, land use and water supply management characteristics, the District further subdivides the Santa Clara Subbasin into two groundwater management areas: the Santa Clara Plain and the Coyote Valley.

Figure 2-1. Santa Clara Subbasin



<sup>20</sup> USGS, Physical Subdivision and Description of the Water-Bearing Sediments of the Santa Clara Valley, California, 2015.

## Chapter 2 – Santa Clara Subbasin Description

### 2.1.1 Lateral Subbasin Boundaries

The Santa Clara Subbasin covers a surface area of 297 square miles and forms a northwest-trending, elongated valley bounded by the Santa Cruz Mountains to the west and the Diablo Range to the east. The basis for the lateral boundary delineation shown in Figure 2-1 is the geologic, hydrologic and topographic features in the subbasin. The western and eastern subbasin boundaries are the geologic contact between permeable to semi-permeable alluvial sediments within the Santa Clara Valley and the impermeable bedrock of the adjacent mountain ranges. These impermeable sediments include the Mesozoic marine formations and the Franciscan Assemblage of the Santa Cruz Mountains, and Franciscan greywacke and serpentinite bodies of the Diablo Range. The northern boundary with the San Francisco Bay is hydrologic. To the northwest and northeast, the subbasin borders the San Mateo and Niles Cone Subbasin, respectively, at institutional boundaries formed by county boundaries. The southern boundary with the Llagas Subbasin is the Coyote Creek alluvial fan in the Morgan Hill area, which forms a topographic and hydrologic divide between the groundwater and surface water flowing to the San Francisco Bay and water flowing to the Monterey Bay. The groundwater divide is approximately located at Cochrane Road in Morgan Hill. Based on observed water level data, the boundary moves as much as a mile to the north or south depending on local groundwater conditions.

The Santa Clara Plain covers 280 square miles, extending from southern San Francisco Bay to the Coyote Narrows, near Metcalf Road. The Coyote Valley extends from the Coyote Narrows to the boundary with the Llagas Subbasin. The Coyote Valley is much smaller than the Santa Clara Plain, covering a surface area of 17 square miles.

### 2.1.2 Recharge Areas

Recharge within the Santa Clara Subbasin generally occurs along the margins and southern portion of the subbasin where coarse-grained sediments predominate. The recharge area includes the alluvial fan and fluvial deposits along the edge of the subbasin where high lateral and vertical permeability allow surface water to infiltrate the aquifers. The percolation of surface water in recharge areas replenishes unconfined groundwater within the recharge area and contributes to the recharge of principal aquifers in the confined area through subsurface flow.

The Santa Clara Plain has two hydrogeologic areas, the recharge (unconfined) and confined areas. The confined area is located in the central portion where a laterally extensive, low permeability aquitard that restricts the vertical flow of groundwater and contaminants. The confined area boundary is approximate and is a simplification of natural conditions based on the extent of artesian wells.<sup>21</sup> There is no laterally extensive aquitard in the Coyote Valley, with generally high lateral and vertical permeability throughout the area.

### 2.1.3 Principal Aquifers and Aquitards

The Santa Clara Subbasin is a trough-like depression filled with Quaternary alluvium deposits of unconsolidated gravel, sand, silt and clay that eroded from adjacent mountain ranges by flowing water and were deposited into the valley (Figure 2-2). The alluvium comprises interfingering alluvial fans, stream deposits and terrace deposits.

Helley and Lajoie divided the valley fill alluvium into two major Quaternary deposits: Holocene (younger than 10,000 years old) and Pleistocene deposits (from 1.8 Million to 10,000 years old).<sup>22</sup> The Holocene deposits consist of the most recent sediments deposited along major stream courses and bay mud deposits along the San Francisco Bay. The Holocene alluvial sediment consists of mainly of clay, silt and sand occurring in discontinuous lenses. The majority of the subbasin alluvium is older, Pleistocene deposits of unconsolidated and interfingered lenses of clay,

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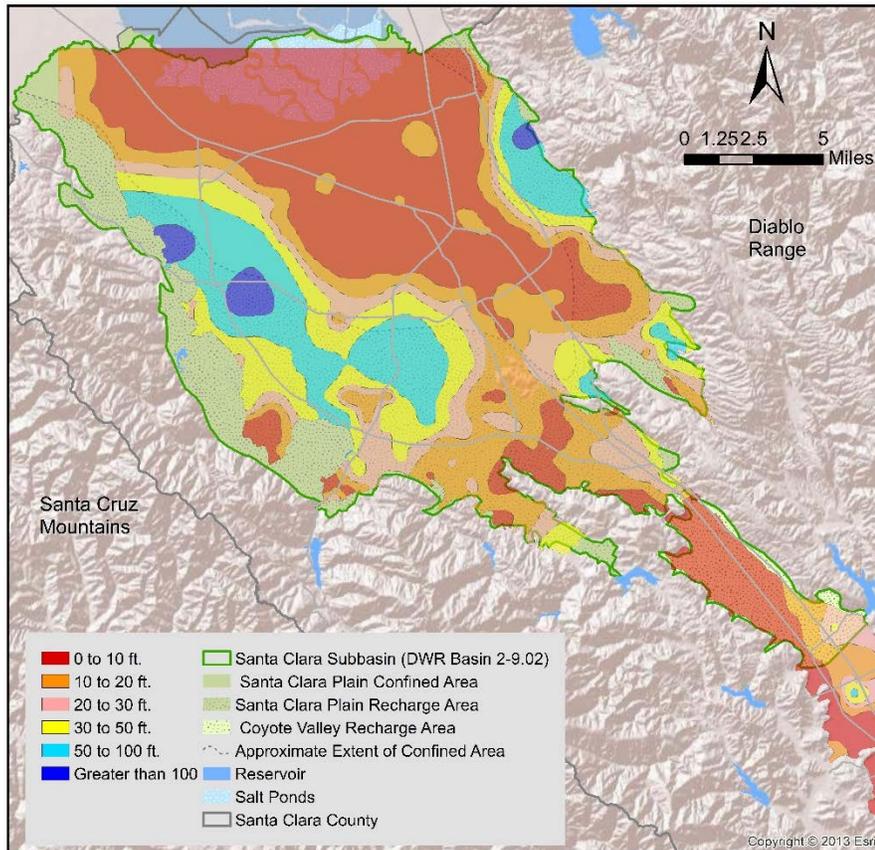
<sup>21</sup> Clark, Ground Water in Santa Clara Valley, California, 1924.

<sup>22</sup> Helley and Lajoie, Flatland Deposits of the San Francisco Bay Region, California: Their Geology and Engineering Properties and Their Importance to Comprehensive Planning, 1979.

## Chapter 2 – Santa Clara Subbasin Description

Figure 2-16 is a generalized depth to first groundwater map, showing the shallowest groundwater conditions encountered at leaking underground storage tank sites. Areas exhibiting shallow groundwater would be more likely to display surface water/groundwater interaction.

**Figure 2-16. Depth to First Groundwater in the Santa Clara Subbasin**



Based on the most shallow water encountered at leaking underground storage tank sites as of 2003.

The District’s managed recharge program relies on losing stream reaches, where water is moving out of the stream into the subsurface (Figure 2-14). Although these areas are net losing reaches, some reaches may intermittently gain during the wet season.<sup>44</sup>

The natural stream flow in these sections of creeks is enhanced through the District’s release of local and imported water. Although many of these creeks were normally dry during the summer, the District’s recharge program has resulted in extending the period of flow in the creeks. Data from the Coyote Creek Edenvale gauge, before and after the construction of Anderson Dam indicates that prior to the dam’s construction, there was no flow was observed a majority of the time from May to November. After reservoir construction, flow was observed a majority of the time during the same months. Also, the number of months where daily flow was observed in Coyote Creek increased post-construction. This indicates that stream flows have increased due to District reservoir operations.

<sup>44</sup> Hanson, Hydrologic Framework of the Santa Clara Valley, 2015.

**From:** [REDACTED]  
**To:** [Le, Thai-Chau](mailto:Thai-Chau.Le@sanjoseca.gov); [REDACTED]  
**Subject:** Re: St James Park  
**Date:** Tuesday, May 19, 2020 12:07:10 PM

---

[External Email]

never moind  
i found it

On Tue, May 19, 2020 at 12:04 PM martha O'Connell [REDACTED] wrote:

what page please  
I don't want to read all these pages on line  
I wear very strong corrective glasses so help me do to the pages

On Tue, May 19, 2020 at 11:50 AM Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)> wrote:  
Hi Martha,

Removal includes most of the existing features at the site right now such as benches, trees, lawn areas, fountain and similar features. The project is proposing reconfiguration of the whole park and you can see the difference in the DEIR in Figure 2.2-3 (what is there) and Figure 2.3-1 (what is proposed). Section 2.0 of the DEIR also provide a more thorough description of what is being proposed and the reconfiguration of the park itself.

The direct link to the DEIR is here: <https://www.sanjoseca.gov/Home/ShowDocument?id=58695>  
Other associated technical reports are here: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/st-james-park-capital-vision-levitt-pavilion>

Please let me know if you have any other comments or concerns upon your review of the documents.

Best regards,  
Thai

---

**From:** Martha O'Connell [mailto:[REDACTED]]  
**Sent:** Tuesday, May 19, 2020 9:44 AM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>; martha O'Connell [REDACTED]  
**Subject:** St James Park

[External Email]

just got the email on St James Park

I do not understand this:

“the project would result in the demolition and removal of most of the existing improvements at the park,”

What is going to be removed?

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** [REDACTED]  
**To:** [Parks and Recreation Commission 1; Hurley, Melrose](#)  
**Cc:** [Le, Thai-Chau; Parks and Recreation Commission 3](#)  
**Subject:** Re: Notice of Availability of a Draft EIR for St. James Park Capital Vision and Performing Arts Pavilion Project and Public Comment Period (PP16-037)  
**Date:** Wednesday, May 20, 2020 11:29:56 AM

---

[External Email]

Hi,

I believe this may be of interest to the other Park & Rec. Commissioners as well: please share.  
Thanks!

~Larry Ames  
P&R Cmsnr, D3

\*\*\*\*\*

-----Original Message-----

From: Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>  
Sent: Tue, May 19, 2020 8:22 am  
Subject: Notice of Availability of a Draft EIR for St. James Park Capital Vision and Performing Arts Pavilion Project and Public Comment Period (PP16-037)

**NOTICE OF AVAILABILITY (NOA) OF  
A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR ST. JAMES PARK CAPITAL VISION  
AND PERFORMING ARTS PAVILION PROJECT  
AND PUBLIC COMMENT PERIOD**

**Project Description:** The project includes both physical and programmatic changes to St. James Park, an approximately 7.5-acre urban park in downtown San Jose. The project proposes to renovate and revitalize St. James Park by implementing both physical and programmatic changes. The project would result in the demolition and removal of most of the existing improvements at the park, with the exception of the monuments and heritage trees. The physical improvements proposed include:

- Performing Arts Pavilion
- Café and Restroom Building
- Picnic Pavilion and Naglee Picnic Grove
- Two Dog Parks
- McKinley Meadow
- Plaza
- Playground

- Fountain
- Park Office Building
- Security Lighting
- Landscaping
- Perimeter Garden Fencing
- Transportation Network Modifications and Pedestrian Improvements including a Monument Walk
- Utility Improvements

The project proposes to maintain the existing park use (passive park uses and events) and have additional programmatic elements, including events at the Performing Arts Pavilion. The Performing Arts Pavilion could accommodate a variety of events, such as film festivals, concerts, and dance and theatre performances. It is assumed that 50 to 300 events (with up to 72 large concerts/events) would be held annually at the Performing Arts Pavilion, with larger events accommodating up to 5,000 attendees. In addition, the project proposes to allow commercial uses including the proposed café, food, beverage, and merchandise vendors associated with events at the Performing Arts Pavilion, street performers, and a farmer’s market, which may require an event or development permit.

**Location:** St. James Park is located in downtown San José. The approximately 7.5-acre park is square shaped and bounded by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east. North 2nd Street bisects the park.

**Council District:** 3

**File Nos.:** PP16-037

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

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José’s “Active EIRs” website at [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs). Usually hard copies would be available at the following locations:

- Department of Planning, Building, and Code Enforcement  
200 East Santa Clara St., 3rd Floor  
San José, CA 95113  
(408) 535-3555
- Dr. MLK Jr. Main Library  
150 E. San Fernando St.,  
San José, CA 95112  
(408) 277-4822

**In response to the COVID-19 and Shelter-in-Place policy, hard copies are no longer available at the typical locations, such as those listed above. Therefore, if requested, a hard copy will be mailed to you. Please allow time for printing and delivery.**

The public review period for this Public Review Draft EIR begins on **May 19, 2020 and ends on July 6, 2020**. Written comments must be received at the Planning Department by **5:00 p.m. on July 6, 2020** to be addressed as part of the formal EIR review process. Comments and questions should be referred to Thai-Chau Le in the Department of Planning, Building and Code Enforcement via e-mail: [Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov), or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement, above (send to the attention of Thai-Chau Le).

For the official record, please your written comment letter and reference **File Nos. PP16-037**.

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

Best regards,  
Thai

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

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

-----Original Message-----

From: Jonathan Gordon [REDACTED]  
Sent: Wednesday, May 20, 2020 10:45 AM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
Subject: St James Park Draft EIR Comment

[External Email]

My only comment is that this project is fantastic for the city and downtown residents and I urge staff to move forward with it as fast as possible.

Thanks,  
Jonathan

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** Carol Valentine [REDACTED]  
**Sent:** Thursday, May 21, 2020 8:25 AM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** my public coment re plans for St James Park development

[External Email]

As a long/ time resident of downtown San Jose, and active member of my SKNAC neighborhood association I have long been aware of issues affecting our downtown. The plan to add the proposed improvements to St James park seems like a very good idea. I am especially excited about actually having public access to restrooms at that location. I would love to have the city maintain restrooms as the present lack of public restrooms in San Jose has been a real health hazard. The proposed buildings to provide performance events, and places for people to access locally grown food all sound like great enhancements to the quality of life for San Jose residents. I really hope this project can go forward.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

From: Bob Carlson [REDACTED]  
Sent: Saturday, June 6, 2020 11:00:29 PM  
To: Tim Quigley [REDACTED]  
Cc: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>; [REDACTED]  
Peralez, Raul <[Raul.Peralez@sanjoseca.gov](mailto:Raul.Peralez@sanjoseca.gov)>; [REDACTED]  
[REDACTED]  
rown, Bridget <[Bridget.Brown@sanjoseca.gov](mailto:Bridget.Brown@sanjoseca.gov)>; Tran, David  
<[david.tran@sanjoseca.gov](mailto:david.tran@sanjoseca.gov)>  
Subject: St James Park Concerns & Questions

[External Email]

Tim,

Nicely and accurately written.

In addition to your comments, it should be noted that Saint James Place, in the spirit of being a good neighbor and community citizen, is just completing a major building modernization, which cost the owners substantial money.

Also, each time an event has been held at the proposed pavilion location, the noise level has violated city codes, without any city enforcement.

Bob Carlson  
HOA Treasurer  
f MacBook11Mini  
[REDACTED]

From: Tim Quigley <[timquigley@aol.com](mailto:timquigley@aol.com)>  
Date: June 6, 2020 at 9:03:58 PM PDT  
To: "[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)" <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
Cc: [REDACTED] "[raul.peralez@sanjoseca.gov](mailto:raul.peralez@sanjoseca.gov)"  
<[raul.peralez@sanjoseca.gov](mailto:raul.peralez@sanjoseca.gov)>, [REDACTED]  
[REDACTED]  
Subject: St James Park EIR Concerns and Questions  
Reply-To: Tim Quigley [REDACTED]

Dear Thai-Chau,

Many of us at St James Place Condominiums had had concerns from the outset of this redevelopment process and have expressed them repeatedly at the numerous community planning conversations to no apparent avail. Other park users and park development enthusiasts live/work at least a block off the park and are not personally or financially affected by this plan. As the only longstanding residents ACTUALLY LIVING on the park and the most knowledgeable of all things having to do with St James Park users, it would seem that our concerns would be addressed more satisfactorily.

YET, no good or even satisfactory reason has been offered for the following questions:

1. Why does the Pavillon have to be placed on St James Park? Guadalupe Park area adjacent to the SAP Arena is a short distance away and would offer a much better and less disruptive venue to local area residents for the placement of an Entertainment Pavillon which is intended to be used **NOW** up to **300** times a year (**72** which will now be large concerts/events). At the outset, the estimate was **50** times a year, btw.

2. If St James Park is to be the site of the pavillion, why has the developer insisted that it be placed at the North East Corner adjacent to the original and oldest housing complex (St James Place) directly on St James Park? There is now a second housing complex adjacent to the Park, The James, which is at the South West Corner and plans have long been in process for Swenson and a partner developer to build a third high rise complex of two towers on the North West Corner. What reason can city management offer for not placing the Pavilion on the south east corner of the park and not inconvenience any one of the three housing complexes, especially the oldest housing complex building. The south east corner is adjacent to a city parking lot, a private parking lot, an empty law office and an office building. The decision should be obvious. And the Pavillion Design can easily accommodate and not affect the Naglee Monument?

3. From the outset, St James Place owners have been concerned with the projected noise levels. We are a now almost 35 year old housing complex. The building code requirements for window insulation (single pane) have changed significantly in the intervening years. 70% of our 32 units are owner occupied. And many of these owners are retired and on fixed incomes. The HOA does not have the financial reserve capacity to absorb the estimated \$1,000,000 expense of bringing our window installations up to today's code (triple pane). When this conversation started, the estimate was **50** concerts a year (about one a week)....NOT **300** concerts/events (about one every 1.2 days) of which **72** large concerts/events (one every 5 days). What is the city going to do in this regard?

When I purchased my condo 16 years ago, I researched the city long term plan for the park. The plan for the north east corner called for the removal of the old temporary St James Park Senior Center. With the eventual removal of that old antiquated facility, the plan was to replace it with a typical neighbor community park. With that assurance, I purchased my unit.

What the city is now planning is not a typical neighbor community park.

Thanks a million for your attention to our concerns.

See you on Tuesday evening.

Sincerely,

Tim Quigley

St James Place

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



From: Tim Quigley [REDACTED]  
Sent: Saturday, June 6, 2020 9:03:52 PM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
Cc: [REDACTED] Perez, Raul <[Raul.Perez@sanjoseca.gov](mailto:Raul.Perez@sanjoseca.gov)>;  
[REDACTED]  
Subject: St James Park EIR Concerns and Questions

[External Email]

Dear Thai-Chau,

Many of us at St James Place Condominiums had had concerns from the outset of this redevelopment process and have expressed them repeatedly at the numerous community planning conversations to no apparent avail. Other park users and park development enthusiasts live/work at least a block off the park and are not personally or financially affected by this plan. As the only longstanding residents ACTUALLY LIVING on the park and the most knowledgeable of all things having to do with St James Park users, it would seem that our concerns would be addressed more satisfactorily.

YET, no good or even satisfactory reason has been offered for the following questions:

1. Why does the Pavillon have to be placed on St James Park? Guadalupe Park area adjacent to the SAP Arena is a short distance away and would offer a much better and less disruptive venue to local area residents for the placement of an Entertainment Pavillon which is intended to be used **NOW** up to **300** times a year (**72** which will now be large concerts/events). At the outset, the estimate was **50** times a year, btw.
2. If St James Park is to be the site of the pavillion, why has the developer insisted that it be placed at the North East Corner adjacent to the original and oldest housing complex (St James Place) directly on St James Park? There is now a second housing complex adjacent to the Park, The St James, which is at the South West Corner and plans have long been in process for Swenson and a partner developer to build a third high rise complex of two towers on the North West Corner. What reason can city management offer for not placing the Pavilion on the south east corner of the park and not inconvenience any one of the three housing complexes, especially the oldest housing complex building. The south east corner is adjacent to a city parking lot, a private parking lot, an empty law office and an office building. The decision should be obvious. And the Pavillon Design can easily accommodate and not affect the Naglee Monument?
3. From the outset, St James Place owners have been concerned with the projected noise levels. We are a now almost 35 year old housing complex. The building code requirements for window insulation (single pane) have changed significantly in the intervening years. 70% of our 32 units are owner occupied. And many of these owners are retired and on fixed incomes. The HOA does not have the financial reserve capacity to absorb the estimated \$1,000,000 expense of bringing our window installations up to today's code (triple pane). When this conversation started, the estimate was **50** concerts a year (about one a week)....NOT **300** concerts/events (about one every 1.2 days) of which **72** large concerts/events (one every 5 days). What is the city going to do in this regard?

When I purchased my condo 16 years ago, I researched the city long term plan for the park. The plan for the north east corner called for the removal of the old temporary St James Park Senior Center. With the

eventual removal of that old antiquated facility, the plan was to replace it with a typical neighbor community park. With that assurance, I purchased my unit.

What the city is now planning is not a typical neighbor community park.

Thanks a million for your attention to our concerns.

See you on Tuesday evening.

Sincerely,

Tim Quigley

██████████  
St James Place

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

[REDACTED]  
**Sent:** Sunday, June 7, 2020 10:23 PM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** St James Park

[External Email]

I am writing to support the redevelopment of St James Park. A beautiful, safe and lively park would transform the area. My family and I live four blocks away from the park and hope that the redevelopment will reach its fullest potential, which includes Levitt Pavilion. We live downtown for the cultural resources and entertainment options that are within walking distance. Noise from concerts or festivals are of no concern.

Diego Nieto

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** [REDACTED]  
**Sent:** Monday, June 8, 2020 1:36 PM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** Fwd: St. James Park

[External Email]

Trouble w/ E address

-----Original Message-----  
**To:** [thai-chu.le@sanjoseca.gov](mailto:thai-chu.le@sanjoseca.gov) <[thai-chu.le@sanjoseca.gov](mailto:thai-chu.le@sanjoseca.gov)>  
**Sent:** Mon, Jun 8, 2020 1:27 pm  
**Subject:** St. James Park

Thai,

I don't know why I'm bothering to submit this "public input" about St. James Park. The Council will do as it damned well pleases, regardless of what I or others say. However, here are my thoughts:

1. \$60 million to redo St. James is a huge waste and misdirection of limited resources; (and I suspect the price tag will ultimately exceed \$100 million)
2. The City is over \$300 million behind (and growing) in deferred maintenance of all our other parks;
3. The proposed redevelopment does not follow the National guidelines for Historical Parks;
4. The out-of-town company contracted to redesign the park has little or no idea of its historical significance, or our community cultural values; ("Monument Walk": What a joke)
5. The McKinley and Naglee monuments are offensive, or should be, to our predominantly Hispanic, and minority Native American, communities, and should be removed. The McKinley statue in Arcata has already been removed;

6. There should be an archaeological study done. There is reason to believe  
the park may be a sacred site for the Ohlones.

7. The Parks & Recreation Director told the Park Commission that the reason  
for the redevelopment of the park is to:

(A). Get rid of the undesirables hanging out there;

The "undesirables" have been there forever, and always will be; and there's not that many of them. There's a Constitutional issue involved, and there's more than that hanging out all over the City.

(B). to promote and attract downtown businesses.

Using funds to promote business, that rightly should go to other parks and facilities, is a misuse of resources.

If the City was genuinely interested in improving the park, then they should remove 2nd Street and the trolley that divides the park. Put one or both under the park, like N. First Street, between Devine and Julian; or reroute both.

The park is fine, just the way it is. Leave it alone.

"It's haunted and bad luck". -- Clyde Arbuckle, frmr City Historian

Chuck Dougherty, Ph.D.  
Professor Emeritus  
Park Commissioner (Frmr)

**From:** [REDACTED]  
**Sent:** Monday, June 8, 2020 6:40 AM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** Saint James park

[External Email]

I had stumbled on the internet of a plan for Saint James park. The future plans are great. I personally believe that this is done to create togetherness with the local businesses. In ways to create it more affordable. There are a lot of great businesses in San Jose.. Machine shops...landscaping..pool and designs..and even better these local businesses would in my opinion be more than happy to invest time and labor in creating a park that puts there name on the map. A park where it benefits the community. This is about rebuilding our city and everyone should do there part of it. When I was working at Samsung as a night chef. I would always take the light rail and exit Saint James park. The amount of homeless breaks my heart. I was always bringing food to them. They were always waiting and they were full of smiles and respect. They care for the park same as we do. There times are rougher then most. This is a way to teach hands on skills.This gives good opportunity to have there support and helping hands.. Make this an opportunity to do different. Thank you and I love love to help and be apart of this change . my name is tahra venec chavez

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Raul Peralez and  
Ed Bautista:

This letter is in response to the recently released EIR addressing the the city's plans for St. James Park. My participation in meetings as a representative of St. James Place, the oldest residential building across the street from the park, has allowed me to give voice to the concerns of residents about events in the park. These concerns come from experiences of dealing with noise levels, traffic congestion, human waste, and parking problems that have come from some of these events. One thing at the root of our concerns is the dated sound insulation that the windows in our building provide. With some of these events we are unwilling attendees of the performance because it invades our very homes with its noise and vibrations (the absolute worst experience was from the infamous Sriracha Festival, an hours long pounding of our senses).

There are three points in the report that lack any mitigation or are supported by weak explanations. One addresses the park as a historical resource that is provided to the city and the adjoining residents. Many of us bought into the building when the promises of park development at that time were goals of restoring it to its original purpose as a green space and horticultural collection. Over the years park planning has changed, often undercutting the expectations of our building's residents. Many of us were pioneers in moving to the downtown during the years of redevelopment, and we endured some difficult growing pains in the process. I have lived in this building for over 32 years. At the time the promise was of a restored park.

A second point has to do with the park's visual character. The proposed pavilion is directly in front of our building, giving us a view that is far from the park we hoped as a neighbor. This would for all time be what we see from our homes, and that doesn't even address the other concerns that would come from the events held in the pavilion. We did not buy our homes to have the back of a performance space as our primary view. The visual character of the park would be changed in a way that we consider detrimental.

Most importantly, the noise from some events has been an assault on the quality of life in our own homes. The report clearly states that the noise would exceed acceptable limits during some events. We have been told that to mitigate noise concerns events would end at 10:00. Our lives before 10:00 have worth and should be a major consideration. There is a history of the city promising upgrades of our windows to new standards. Such work has been done for residences near the airport. The city seems to have conveniently forgotten that important mitigation.

For us the proposed changes in the park only bring dread. It all becomes a threat to our quality of life.

Matt Stevens, [REDACTED]



June 24, 2020

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

**RE: St. James Park DEIR**

The Friends of Levitt Pavilion San Jose (FLPSJ) is the local non-profit organization that was formed to work with the City of San Jose and the Levitt Foundation. FLPSJ's mission is building community through music by establishing a performing arts venue, the Levitt Pavilion, in St. James Park.

The circulation of the DEIR is the next step in this journey. We are pleased to support the proposed rehabilitation of the park, including the construction of a Levitt Pavilion.

We support the project objectives that include increasing everyday use and enjoyment of the park by making it a prime destination for downtown residents and the larger community.

Another project objective that we support is making the park a safe, fun, and family friendly destination that compliments the surrounding historic district.

We understand there are potential impacts regarding historic resources as well as noise. We are pleased there are recommendations included in the DEIR that will mitigate these impacts to the lowest levels possible.

Thank you for the opportunity to comment on the proposed St. James Park rehabilitation project. We look forward to working with the community as this project moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Holden", on a light-colored background.

Rick Holden  
Chair, Friends of Levitt Pavilion San Jose



GATES EISENHART DAWSON

●●● Attorneys at Law

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Fax: 831.324.4119

July 1, 2020

**SENT VIA EMAIL (Thai-Chau.Le@SanJoseca.gov) AND U.S. MAIL**

Ms. Thai-Chau Le, Planner IV  
City of San José  
Department of Planning, Building and Code Enforcement  
200 E. Santa Clara Street, Tower 3  
San Jose, CA 95113

*Re: Draft Environmental Impact Report, St. James Park Capital Vision and Performing Arts Pavilion Project, SCH# 2016052074*

Dear Ms. Le:

We represent the Sainte Claire Club, a 501(c)(3) located at 65 East St. James Street in San José, across the street from St. James Park. The Sainte Claire Club was founded in 1888 by local businessmen and ranchers and is the oldest existing men's social club in California. Sainte Claire Club members and their guests use the Sainte Claire Club both day and night. The Sainte Claire Club has been at its current location since 1894; the club endeavors to maintain its history and legacy for its members, guests, and the citizens of San José. A significant part of the Sainte Claire Club's history is Saint James Park, which is jeopardized by the proposal the city is currently considering to change the use of Saint James Park from a park into a location for commercial uses - a "Performing Arts Pavilion and Café" (the "Leavitt Pavilion"). Such a change would be contrary to existing federal, state and local land use rules.

At least one other potential location for the Leavitt Pavilion, namely Discovery Meadow, is superior. Choosing Discovery Meadow as the project site would demonstrably **not** involve **any** "significant and unavoidable impacts." As stated in the Draft EIR at page 195, "There are no sensitive receptors located near Discovery Meadow."

The Sainte Claire Historic Preservation Foundation, an affiliated non-profit organization, is concurrently submitting a separate response to the following sections of the Draft EIR: (1) "Significant and Unavoidable" impacts; (2) AES-1, *design not consistent with the Secretary of Interior's Standards for Rehabilitation*; and (3) CUL-1, *project would cause adverse change in historical resource*.

The Sainte Claire Club responds to the following sections of the Draft EIR:

- 1) **Impact on noise.** “Significant and Unavoidable” impact NO1-1, *generation of ... increase in ambient noise levels ... in excess of standards.* The **actual** increase in noise levels would be much more significant than stated in the Draft EIR. The actual volume and frequency of the noise from Leavitt Pavilion events should be determined from the other Leavitt Pavilions. This data, along with the actual amount of noise that will be generated by the Leavitt Pavilion at the proposed Leavitt Pavilion site, should then be used in determining the efficacy of any proposed mitigation measures.
- 2) **Impact on traffic.** The impact on transportation traffic should be deemed “significant” because the non-significant finding in the draft EIR is based on the erroneous assumption that events would not be held at the SAP Center at the same time as events would be held at the Leavitt Pavilion. Traffic and transportation impacts should be determined for the times when the SAP Center is in use, not just the statement that “the [Leavitt Pavilion] project would not have adequate parking.”
- 3) **Lack of adequate toilet facilities.** There is no mention of the public health and safety danger of non-existent/inadequate toilet facilities for the concerts/events. This public health and safety danger, and the resulting direct environmental effect of 5000 concert goers consuming alcohol without toilet facilities, should be addressed.
- 4) **Lack of fencing.** There is no mention of the fact that, in order to have 200 paid concerts per year a fence will have to be constructed around some or all of Saint James Park, thereby excluding the general public. This must be addressed.

### **1) The Unavoidable Noise Impact in Excess of Standards**

The proposed project will create unavoidable noise in excess of standards. The Draft EIR, at Page v, *Summary of Project*, states that the project is intended to “renovate and revitalize St. James Park by implementing both physical and programmatic changes....The physical improvements proposed include: Performing Arts Pavilion Café and Restroom Building.... [the] project proposes to ... have additional programmatic elements, including events at the performing arts pavilion. The performing arts pavilion would be capable of accommodating a variety of events, such as film festival[s], concerts, and dance and theatre performances. It is assumed that 50 to 300 events (with up to 72 large concerts/events) would be held annually at the performing arts pavilion, with 20 to 5,000 attendees. In addition, the project proposes to allow commercial uses ...café, food and beverage vendors associated with events ... and merchandise vendors....” The aforementioned “physical” and “programmatic changes” to St. James Park is the erection and planned operation of the Leavitt Pavilion and associated structure.

The Leavitt Pavilion events will generate frequent noise “in excess of standards.” The amount and frequency of the noise “in excess of standards” is not clearly and adequately addressed in a manner sufficient for the City to make an informed decision. Moreover, the suggested noise mitigation measures are based on pure speculation. This deficiency can be easily remedied.

The noise issue is discussed at length in Appendix F to the Draft EIR, which is the Environmental Noise & Vibration Assessment prepared by Bollard Acoustical Consultants, Inc., (the “Bollard Report”) revised July 30, 2019.

The Bollard Report does conclude that while certain proposed mitigation measures “would reduce the potential for adverse public reaction to amplified music events proposed at the...Pavilion...these measures would not ensure that the project does not result in a substantial increase in ambient noise levels within the noise sensitive interior spaces of the nearest residences, churches and social club... As a result, despite implementation of the mitigation measures which would reduce the severity of the impact, this impact would remain *significant and unavoidable*.” (Bollard Report, Page 41 [emphasis in original]).

The Bollard Report cautions that “... at this time it is **unknown** if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, **this assumption** is used to assess potential noise impacts related to the use of the performing arts venue for this study.” (Bollard Report Page 28 [emphasis added].) In other words, the Bollard Report uses an “assumption,” as opposed to **any** empirical data, to determine “potential noise impacts” for up to 300 concerts per year using subwoofers and an array of speakers for up to 5000 people, 132 feet away from the Sainte Claire Club, and **still** comes up with *significant and unavoidable* impact.

The only tangible example used in the Bollard Report is a Día De Los Muertos festival held on October 24, 2014 and an “amplified event simulation.” The Día De Los Muertos festival had “average and maximum noise levels up to 93 dBA and 100 dBA, measured ... at a position 100 feet directly in front of the main stage.” One of the nearest “sensitive receptors” was the Sainte Claire and the noise levels “ranged from 44 to 57 dBA  $L_{eq}$  and 46-67 dBA  $L_{max}$  while music was played at the main stage.” The problem with this example is that the “main stage” of the Día De Los Muertos festival was 180 feet from the Sainte Claire Club. Using the proposed location of the Leavitt Pavilion, and using the Noise Attenuation With Distance calculations found on page 9 of the Bollard Report, the amount of electronically amplified concert noise that would be heard at the Sainte Claire Club with the same volume from the proposed location of the Leavitt Pavilion would be **at least** 90 dBA to 95 dBA some 300 nights per year.

A more accurate example of what the concert sound would be at the Sainte Claire Club is the Sriracha Concert held on August 30, 2014. The Sainte Claire Club was aware that the Sriracha Concert was going to take place and monitored the sound with decibel meters inside and outside the Sainte Claire Club. The Sriracha Concert soundstage was **significantly** farther away from the Sainte Claire than the proposed Leavitt Pavilion soundstage. Nevertheless, during the Sriracha Concert, the sound **inside** the Sainte Claire Club was between 70 and 74 dBA. The sound **outside** the Sainte Claire Club was between 87.5 dBA and 107.5 dBA. As set out in the Bollard Report at page 7, **this noise level is comparable to being next to a lawn mower (on the low side) and a chainsaw (on the high side) up to 300 nights per year.**

The draft EIR is deficient because it is incomplete. Actual sound measurements should be undertaken at the location of the proposed Leavitt Pavilion using acoustic data from the operational Leavitt Pavilions in order to determine a range for the acoustical tests at the proposed Leavitt Pavilion site. Without this information, any conclusions about the degree of the noise impact will be, at best, conjectural. Any proposed mitigation efforts based on such conjecture will continue to be meaningless.

## **2) The Traffic Impact Would be Significant**

The Draft EIR erroneously does not deem the Traffic/Transportation impact as significant and, accordingly, does not suggest any mitigation measures. This is based on the Transportation analysis prepared by Hexagon Transportation Consultants, Inc. (the “Hexagon Report”) dated July 30, 2019, which is Appendix G to the Draft EIR.

The Hexagon Report states at page 50 that “the project does include a performing arts pavilion that would hold various concerts throughout the year” but does not specify the frequency of the “various concerts.” The Hexagon Report acknowledges that events should not be scheduled at the proposed Leavitt Pavilion at the same time there are events scheduled at the SAP Center because the Market Street Garage is used by attendees at the SAP Center. The draft EIR acknowledges, at page 172, “If there were overlap on major events in the park and elsewhere downtown, the project would not have adequate parking.”

Despite the desire specified in the Draft EIR at page 164 for “multi-modal travel, consistent with the goals and policies of the City’s General Plan to reduce vehicle trip generation and VMT,” the fact is that most concertgoers get to concerts by driving their cars and trucks to the concert, not by bus or bicycle. The same goes for people attending events at the SAP Center.

The Hexagon Report’s solution to the inadequate parking problem at page V is “... that since the Market Street and Third Street Garages are also utilized by some people that attend events at the SAP Center, it is recommended that concert events at the pavilion be scheduled so as not to coincide with major events at the SAP Center whenever possible.” The problem with this recommendation is the following: **what happens when there are concert events at the Leavitt Pavilion and the SAP Center scheduled at the same time?** The first part of the answer is “inadequate parking.” The draft EIR does not consider the second part of the answer. That is, what is the effect of inadequate parking? In order for the EIR to be complete, this question must be posed and answered.

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**At Least Two Significant Impacts of the Project Are Not Even Considered in the Draft EIR; Both Must Be Considered**

As you know, CEQA requires that an EIR contain detailed information to be provided to the agency and the public regarding the proposed project's likely environmental effects. This detailed information should be accurate and complete. The draft EIR is not complete because it ignores at least two likely significant effects that will be caused by the Leavitt Pavilion events.

The final EIR should address the following, likely significant, impacts of the Leavitt Pavilion events:

**3) The Lack of Adequate Toilet Facilities for Leavitt Pavilion Events and the Resulting Impact on Aesthetics, Public Health, and Public Safety are Not Considered**

The draft EIR does not address, or even deem an “area of concern,” the following significant and foreseeable impact on Saint James Park and the surrounding area: the lack of adequate toilet facilities for the 20 to 5,000 persons attending 50 to 300 events at the pavilion per year.

The draft EIR, at page 7 section 2.3.1.2, mentions a proposed “...approximately 1,250-square building consisting of a café and public restrooms...west of the performing arts pavilion in the northeast corner of the park,” directly in front of the Sainte Claire Club, but does not indicate the number of number of proposed restrooms or how that number could accommodate 5,000 concert attendees.

This deficiency in the draft EIR must be addressed. As you know, an EIR must provide the public with detailed information about the effect a proposed project will have on the environment and ways to minimize any significant effects that may be caused by a project. In order to do this, an EIR must contain a sufficient degree of analysis to provide decisionmakers with information that enables them to make a decision that intelligently accounts for environmental consequences. Thus, an EIR must first identify the significant effects that a proposed project will have on the environment. The draft EIR fails to do this.

There are various standards pertaining to the number of public toilets necessary for public gatherings, with or with or without alcohol being served at the public gathering. These standards range from one toilet for every 50 persons to one toilet for more than 50 persons, depending on gender, the length of the event, and whether alcohol is served. Under the 50-person standard, a 5,000-person event would need 100 toilets. Without adequate toilets, the attendees will need 100 “porta-potties.” The use of that number or porta-potties, or anything close to that number, requires an environmental review. The alternative, no porta-potties or an inadequate number of porta-potties, would (1) significantly exacerbate the currently serious public health problems in Saint James Park caused by open urination and defecation and (2) further spread this nuisance to the areas surrounding the proposed Leavitt Pavilion including the lawn and building of the Sainte Claire Club.

Parenthetically, it appears that the responsible persons at Leavitt Pavilion are fully aware of this issue because it also appears that the Leavitt personnel construct pavilions without adequate toilet facilities and subsequently solicit donations from the public to construct adequate toilet facilities.

The EIR should first deem this issue an area of concern, then deem it “significant,” and, finally, determine the specific number of available toilets at the Leavitt Café and specify the additional number of porta-potties that will be necessary for the events, both large and small.

#### **4) The Impact of the Fencing Off Saint James Park is Not Considered**

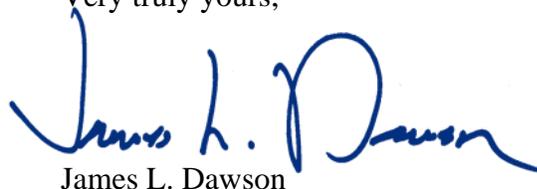
The Draft EIR also does not address, or even deem an “area of concern,” fact that some sort of barrier will need to be erected to keep non-paying attendees outside the perimeter of paid events. It appears that the plan is for the Leavitt Pavilion to have 200 or so paid events every year, or one every day and half. This means that the part of Saint James Park to be used for the concerts would, as a practical matter, be fenced off most of the time and the general public would be excluded. This fact should be acknowledged and addressed.

#### **Conclusion**

The Sainte Claire Club supports the St. James Park Capital Vision Project **without** the Performing Arts Pavilion component. The Leavitt Pavilion and associated cafe and public restrooms building, and the activities associated with the Leavitt Pavilion, would have unavoidable and serious effects on noise, traffic congestion, public health and access to St. James Park.

St. James Park is a unique historical asset that should not be transformed into an entertainment location for concerts when Discovery Meadow is an available location for the Leavitt Pavilion.

Very truly yours,



James L. Dawson



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July 1, 2020

**SENT VIA EMAIL AND U.S. MAIL**

Ms. Thai-Chau Le, Planner IV  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 E. Santa Clara Street, Tower 3  
San Jose, CA 95113

*Re: Response to Draft Environmental Impact Report*

Dear Ms. Le:

This letter is submitted on behalf of my client, the Sainte Claire Historic Preservation Foundation, an IRC 501(c)(3) Nonprofit Charitable Organization, in response to the Draft Environmental Impact Report regarding the “St. James Park Capital Vision and Performing Arts Pavilion Project” (“the Project”), dated May, 2020.

The City of San Jose proposes to renovate St. James Park by implementing physical changes that would result in the demolition of the landscaping and most of the existing improvements at the park. In doing so, the Project must comply with the following:

- 1) The U.S. Secretary of Interior’s Standards for the Treatment of Historic Properties;
- 2) The California Environmental Quality Control Act (CEQA);
- 3) The San Jose Envision 2040 General Plan Goals and Policies for historic districts;
- 4) The 2004 Draft San Jose Downtown Historic Guidelines; and
- 5) The St. James Square Historic District Design Guidelines of 1989.

The Project is neither in compliance with nor consistent with any of the above, as indicated by the Draft EIR and the conclusions of numerous experts, retained by the City of San Jose, to assess the Project. In addition, the Project violates numerous City of San Jose Ordinances contained in Chapter 13.48, entitled “Historic Preservation.”

The EIR describes several structures designed as an outdoor music and performance venue for up to 5,000 spectators at a time. The structures described include four new buildings, one of which is 1,800 square feet and another which measures 1,250 square feet, and a Performing Arts Pavilion comprised of an approximately 4,000 square foot stage and a canopy 18 to 35 feet tall.

At the outset, the City must determine whether each element of the Project complies with all applicable ordinances, standards, regulations, and guidelines. The outcomes of these assessments are binary; each element of the Project either meets applicable legal standards or it does not. Our review of the various documents prepared by the City's consultants, including (1) Archives and Architecture, LLC's "Rehabilitation Project Assessment, St. James Park" and (2) "Historic Resource Project Assessment; St. James Park Capital Vision and Performing Arts Pavilion Project," reveals that the Project elements do not comply with applicable standards. Namely, the consultants' assessments describe the Project elements as being "not fully consistent with," "not fully compatible with," and "not fully meeting" the applicable standards. These descriptors are analogous to describing a person as "a bit dead," or "a tad pregnant." Either a person is dead or alive or is pregnant or not. Since this Project does not meet the requirements of our laws and guidelines, and it must be described as such; adding qualifiers does not remedy the Project's flaws, and allowing the Project to continue on that basis ignores their importance of laws, standards and guidelines and violates the rights of the public to enjoy a valuable and historic asset.

**The Secretary of the Interior's Standards for the Treatment of Historic Properties.**

St. James Park and the square of properties surrounding it ("the Square") are historically significant civic, religious, and private structures (collectively "St. James Square Historic District"). In 1979, the St. James Square Historic District was listed in the National Register of Historic Places. As a result of that designation, the District comes under the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties ("the Standards").

The Standards include a series of requirements for (1) the maintenance, repair, and replacement of historic properties, and for (2) the design of new additions or alterations to historic properties. The Standards are common sense, historic preservation "best practices" which help to protect our nation's irreplaceable cultural resources. The Standards for "Rehabilitation" include 10 principles for "the act or process of making possible a compatible use for a property through repair alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values." These Standards are not met.

In focusing on the Secretary's Standards, the EIR clearly states:

- "Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation." (Page 26.)
- "Absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level." (Page 26.)
- "The proposed design would impact or not fully restore the pathways which are a character-defining feature." (Page 72, Table 3.5-2.)
- "The proposed design of the monument walk would alter the historic spatial relationships and only partially reconstruct the historic use pattern." (Page 73, Table 3.5-2.)
- "The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior's Standards (Rehabilitation) regarding the proposed

structures and overall design ... the project would have a significant impact on the historic integrity of the park and the district.” (Page 73)

- “The City’s historic consultant and Historic Preservation Officer have a difference in expert opinion on the impact of the project on the integrity of St. James Park as a historic resource and as a contributor to the historic district. Consistent with the findings of the historic consultant, *the City has concluded that the project, as designed, could result in substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.*” (Page 74 [emphasis added])

It is interesting to note that while the EIR indicates the Project’s “significant and unavoidable impact,” the City’s paid consultant appears to ignore these findings.

In the above James Park Rehabilitation Project Assessment,” under the section titled “Secretary of the Interior’s Standards Review” (Page 14), the consultant states that the Project “cannot yet be found fully consistent with Standard 2 for the project’s potential impact on character-defining features of the park.” Further, despite the Project not being consistent with the Standards, the consultant nevertheless states that “there are several historic materials remaining.” These statements obviously miss the point of the Secretary’s Standards, as does the additional comment that while the historical diagonal pathways may be missing in the Project design, some of them will be “reinterpreted” within the larger park setting. (Page 15.)

The City’s consultant goes on to state that the new “building designs are *reasonably consistent*” with the Secretary’s Standards that require the design to be a physical record of the original time, place, and use. (Page 16 [emphasis added]) The fact that the design and modern materials don’t blend with the surrounding buildings in the park Square is ignored by stating they “would be understood as designs from a different era than the surrounding contributing buildings.” Further, the consultant points out that the “proposed support buildings are modern buildings influenced by the International Style.” (Page 16.) In reality, the proposed support buildings basically continue the rectangular brick, mortar, and glass buildings demonstrating a “style” identical to buildings built in City parks for the past 75 years.

The Standard principle that design and new construction “will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment” was ignored by the consultant. To state that the proposed design “partially” meets the Secretary’s Standards because “*some* of the proposed new features and elements within the park are interpretive rather than substantiated” is preposterous. (Page 17.) Also, stating that “*much* of the proposed design of the project is respectful of the historic park design and surrounding historic district, and the replacements and new elements are *mostly compatible-yet-differentiated*” flies in the face of the Standard. (Page 18.)

Finally, and straining all credulity, are statements in the consultant’s document indicating certain aspects of the Project are an “interpretation of the earlier design” (Page 18); that the new buildings, although differentiated from the historic buildings in size, form, materials, and colors “make the buildings blend into the park setting, rather than match the historic surrounding

buildings” (Page 23) and that, while the support building designs do not meet the Secretary’s “precise guidelines,” the buildings merely serve as “support elements” and “are consistently twenty-first-century designs and would be subordinate to the historic district contributors.” (Page 25.)

### **Historic Resource Project Assessment.**

The Historic Resource Project Assessment (HRPA) was completed “for the City’s use in conducting review of the project to renovate, rehabilitate and enhance the park under applicable public planning processes....” (Page 6.)

Significant statements in the Assessment include the following:

- “The park support buildings were *not found to be fully compatible* in design, materials, massing or scale, so they could affect the overall integrity of the Square as a whole, and there are some new design elements that might impact the park or the Square or both.” (HRPA, Page 47 [emphasis added].)
- “If additional character-defining features are lost, while remaining a part of the St. James Square National Register District, *it will be considered a “Nonconforming Property.”*” (HRPA, Page 48 [emphasis added].)
- “As currently designed, the proposed project, as noted in the attached Rehabilitation Project Review, *is not fully compatible with* the St. James Square Historic District Guidelines and *does not fully meet the intent* of the Envision San Jose 2040 General Plan goals and policies; therefore, *the proposed project cannot be found to have a “less than significant” impact on the historic district* or individual contributing resource of the park.” (HRPA, Page 48 [emphasis added].)
- “Recommendation 1: ‘*Redesign the project to comply* with the Secretary of the Interior’s Standards for the Treatment of Historic Properties with the St. James Square Historic District Design Guidelines, and with the intent General Plan Goals and Policies. The historic integrity of St. James Square Historic District would be preserved with a project design that is *more fully compatible* with General Plan Goals and Policies.’” (HRPA, Page 49 [emphasis added].)
- “Alternative recommendations associated with this report include clarifying, and possibly revising the colors of the park structures, including the Levitt Pavilion canopy...” (HRPA, Page 49.)
- “The alternatives also include revisions to the support buildings to be more in keeping with the massing and materials of the landscaping elements.” (HRPA, Page 49.)

The above statements in the assessment again demonstrate that the Project does not comply with the Standards and therefore, it should not move forward.

### **St. James Square Historic Guidelines.**

The Draft EIR, Page 68, Table 3.5-1: Summary of Project Consistency with St. James Square Historic Guidelines contains the following statements which demonstrate that the Project will cause irreparable harm to the historic value of the Square:

- “As discussed in Table 3.5-1, the City’s historic consultant concluded that the project is not in substantial conformance with the general character and surface treatment (specifically fenestration, materials, detailing and color) guidelines. (Draft EIR, Page 71.) These materials are as follows: Brick & Plaster, Wood & Plaster, Stone, Wood, Terra Cotta, Clay Roof Tiles, Asphalt Shingles.” (Rehabilitation Project Assessment, Page 26.)
- “The landscape structures such as the Levitt Pavilion canopy, playground equipment and transit covers *do not list any materials within this list*. The four support buildings include wood elements and trim, as well as tinted broad-formed cast-concrete. Although these materials are “appropriate to the architecture and style for which they are used,” they are not on the list or “typical of those used on historic buildings.” (Rehabilitation Project Assessment, Page 26 [emphasis added].)
- “The project would cause a substantial change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.” (Draft EIR, Page 74)

It is obvious, through a reading of the above, that the Project is not in conformance with the St. James Square Historic Guidelines.

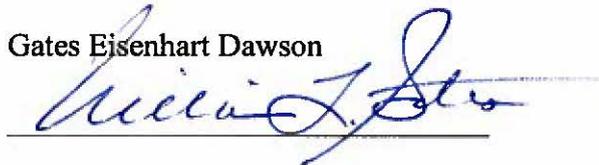
**Draft EIR Determination: “Significant Unavoidable Impact.”**

“Nevertheless, absent a redesign of the project that would be fully consistent with the Secretary of the Interior’s Standards for Rehabilitation, *there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level.*” (Draft EIR, Page 26 [emphasis added].)

It is abundantly clear that the St. James Park Capital and Performing Arts Pavilion project is inappropriate due to its many operational and historic impacts. The Project is especially ill-advised at St. James Park when, according to the Draft EIR, a superior location exists. “The Discovery Meadow Alternative Location would avoid the projects impacts from operational noise and to historic resources” (Draft EIR, Page 196).

Respectfully Submitted,

Gates Eisenhart Dawson



William L. Gates

**Gordon McDonald, AIA**



July 1, 2020

Ms. Thai-Chau Le, Planner IV  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

*RE: Draft EIR For the St. James Park Capital Vision  
and Performing Arts Pavilion Project, SCH#2016052074*

Dear Ms. Le:

Thank you for the opportunity to respond to the Draft EIR noted above. After reading the document, as a retired architect and resident of Saint James Place, it concerns me deeply that the City is willing to not only sacrifice historic St. James Park, but the rights of its St. James Square Historic District citizens as well. The adverse impact of this project as proposed will forever destroy the centerpiece (St. James Park) of the St. James Square Historic District while also damaging the lives and property of those who have resided at Saint James Place for so many years.

I have summarized my responses below for your review:

**I. Summary of Significant Impacts**

**a. Impacts on Aesthetics**

- i. **Impact AES-1: Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation (see attached Standards for Rehabilitation). Draft EIR Determination: Significant Unavoidable Impact. (Draft EIR Page 26)***
- ii. The project includes mitigation measures (MM CUL-1.1 through CUL-1.5, Section 3.5 Cultural Resource) to protect existing historic elements of the park from being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration. Nevertheless, absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level. **(Significant Unavoidable Impact) (Draft EIR Page 26)***

This project threatens the aesthetic character of our historic district. Renderings for the pavilion structure appear completely out of line with the surrounding aesthetics, and while I understand the goal is not to compete with these historic characteristics and to introduce a more modern contemporary core to the park, this design is so contrasting

that it completely distracts from the historic charm of St. James Square. It is noted in the Draft EIR that it diminishes the Park to the point it no longer will qualify as the historic centerpiece of the St. James Square Historic District.

**b. Impacts on Cultural Resources (Historical)**

- i. **Impact CUL-1:** *The project would cause a substantial change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Draft EIR Determination: **Significant Unavoidable Impact**. Refer to Draft EIR pages vi – x “**Summary of Significant Impacts and Mitigation Measures**”*
- ii. *The project includes mitigation measures (MM CUL-1.1 through CUL-1.5, Section 3.5 Cultural Resource) to protect existing historic elements of the park from being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration.*
  - I. *According to **the design alternative evaluated for the Draft EIR**, “in order to reduce the impact of the proposed project, the design of the park would need to be modified to allow for a complete reintroduction of the diagonal paths and reorientation of the perimeter path to be more consistent with the original pathway. A redesign of the new park buildings would also be needed to meet the design standards. To allow for the diagonal paths, the pavilion would need to be removed from the project plan as there would be no space to accommodate the pavilion with the diagonal paths.” (Draft EIR Page 197).*
- iii. *In 1979, St. James Square was listed on the NRHP as a historic district. The park was included in the listing as a contributor to the district, and “is the central and key component of that district of which without the district would lose its essence” (EIR page 66).*
- iv. *“Implementation of the project would change the visual character of the site and the buildings and, as designed, would be constructed in a manner that would impact the historic significance of the park and the St. James Historic District” (refer to Section 3.5 Cultural Resources). (Draft EIR Page 26)*
- v. *“The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior’s Standards (Rehabilitation) regarding the proposed structures and overall design. [...] Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property.” (Draft EIR Page 73)*
- vi. *“The park itself is a contributor to the St. James Square Historic District at both the local and national levels, but with additional removal of features due to this project, and the potential insertion of structures and uses not compatible with the historic nature of the setting, the park would no longer be a contributor to the National Register Historic District but rather be considered non-conforming to that listing.” (Appendix D Historic Resource Project Assessment Page 9).*
- vii. *“the park support buildings were not found to be fully compatible in design, materials, massing or scale, so they could affect the overall integrity of the Square as a whole, and there are some new design elements that might impact the park or the square or both.” (Appendix D Historic Resource Project Assessment Page 47). (If this is true of support buildings, why is it not true of the rest of the project?)*
- viii. *“As currently designed, the proposed project, as noted in the attached Rehabilitation Project Review, is not fully compatible with the St. James Square*

*Historic District Guidelines and does not fully meet the intent of the Envision San José 2040 General Plan goals and policies” (Appendix D Historic Resource Project Assessment Page 48)*

- ix. *“The park as it exists today has lost many of the features associated with the period of significance that were identified in the NRHP and City Landmark listings. Changes including the construction (and subsequent removal) of the community center which resulted in a loss of trees and pathways, the addition of the exercise area, playground, dog park, picnic area, and storage structure, as well as the extension of North 2nd Street through the park in 1955” (Draft EIR page 64).*

The mitigation measures for cultural/historic resources callously neglect to incorporate any design changes to solve the above issues. While I understand that a complete redesign of the project may seem unreasonable to the City, a new design of performing arts pavilion and support buildings (reducing the size of the pavilion and support buildings in conjunction while exploring a more complimentary design), would allow the space for reintroduction of the historic diagonal and perimeter paths. A modified design could also significantly reduce the number of attendees to events and therefore prevent future damage to the facilities and vegetation caused by over-crowding at shows of up to 5,000 people. Restoring St. James Park to a new historic beauty as the centerpiece of the St. James Square Historic District should be the ultimate goal of this project.

The Draft EIR’s reasoning that the park has lost its historical features over times is misstated and would be better argued that these historic features were allowed to disappear under layers of dirt and politics. Most of the changes noted are temporary as the result of a lack of park maintenance. The fact that 2<sup>nd</sup> street already bisected the park when the District was added to the National Register of Historic Places in 1979, discredits the opinion in the Draft EIR that this was a major cause of the park’s diminishing historical character. Is the City not attempting to exercise a “Neglect and Demolish” redevelopment tactic when it has been their responsibility to maintain and secure the park? Does the City operate under a separate set of regulations than its citizens? For example, why did the City demand that the developers of Park View Towers at 252 North First Street keep the historic First Church of Christ Scientist in their project (at great expense to the project developers), but City leadership allows themselves the unfettered right to destroy the historic characteristics of St. James Park and its District? Additionally, the Historic Landmarks Commission at its most recent meeting on June 3<sup>rd</sup> recommend 170 Park Center Plaza Building for historic designation, causing the developers significant extra costs, but failed to object on June 3<sup>rd</sup>, 2020 to the destruction of the historic designation of St. James Park? To this point, why is Steven Polcyn sitting on the Historic Landmarks Commission while serving on the Friends of Levitt Board not a conflict of interest (City of San Jose, Code of Ethics, 1.2.1)?

Have there not been several conflicts of interest on this project from the very beginning? Why do City staff as well as appointed and elected officials (whether honorary or not) currently sit on the Friends of Levitt Pavilion San Jose Board thereby exercising influence on the decisions of a non-profit charitable entity? Is this Board truly a representative of the local community interests without favor or pressure from the City?

What is causing the City to ignore the more logical choice of Discovery Meadows for this large performing arts pavilion? It would cost the taxpayers much less money (is the City using the restricted capital improvement funds designated for parks, which should have a balance of over \$120 million?). Furthermore, should the public be made aware that the City is planning to use a very large portion (\$41 million or more) of this “Park Fund” to renovate just one of its parks? Would it not be a wiser fiduciary decision by the City to use this amount to renovate several other blighted parks in San Jose, while also restoring historical St. James Park and activating it in a more harmonious way with neighborhood?

Building a concert pavilion for up to 5,000 people in St. James Park is causing the City to spend millions of dollars in taxpayer funds in infrastructure changes alone to close 2<sup>nd</sup> street to vehicle traffic and other modifications to streets and parking around the park. The price is way too costly when you also consider the loss of a historic park and the environmental destruction of the neighborhood surrounding the Park.

**c. Impacts on Noise and Vibration**

- i. **Impact NOI-1:** The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Operation of the proposed performing arts pavilion would result in interior noise levels above the City’s residential interior noise standard. **Significant and Unavoidable Impact with Mitigation Incorporated.***
- ii. **MM NOI-1.1:** “Amplified music events at the performing arts pavilion shall **end by 10:00 p.m.**”*
- iii. In regards to mitigating noise impacts, alternatives considered in the Draft EIR were “Alternative Pavilion Orientations/Locations On-Site” and the “Pavilion with No Concert Alternative.”*
- iv. “larger events may generate noise levels considered objectionable, particularly if the events occur frequently, late into the evening, and include higher levels of amplified sound, considerable low frequency content of that sound, and elevated crowd noise levels. Furthermore [residents or businesses] may choose not to close their windows during events [...] which would result in higher noise levels within sensitive interior spaces” (Appendix F page 37)*
- v. “To summarize, background sound pressure levels of 40-45 dBA were measured within the three nearest noise-sensitive receptors with no music present. With music present, sound pressure levels of 45-50 dBA dB were measured (both during the simulation and during the aforementioned festival). Therefore, the increase in sound levels which can be expected within these receptors resulting from amplified music played at the pavilion at a reference level of 85 dBA at 100 feet from the speakers is approximately 5 dBA. **An increase of 5 dBA is considered a clearly noticeable increase for similar noise sources. However, for differing noise sources, such as music versus background noise within a residence, the increase would be considerably more noticeable. Although audibility is not a test of significance under CEQA, a 5 dB increase in interior noise levels where a source consisting primarily of music is responsible for the increase would typically be considered significant”** (Appendix F Page 39)*
- vi. “at this time **it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA** at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise*

*impacts related to the use of the performing arts venue for this study” (Appendix F Page 28)*

- vii. Pavilion project conditions were developed based on recommendations from Bollard Acoustical Consultants, Inc. However, the following recommendations from BAC were not incorporated into the project conditions. These recommendations were based on BAC’s 2014 study “for amplified music events held at the Saint James Park, and based on the sensitivity of the existing residential uses located directly north of the proposed pavilion, the Sainte Claire Club located west of the pavilion, and the Trinity Cathedral located opposite the proposed pavilion” (Appendix F Page 27). This 2014 study included the Dia De Los Muertos Festival.
  - 1. “The use of subwoofers at this venue should be discouraged” (Appendix F, Page 27)*
  - 2. “Based on BAC’s observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters” (Appendix F, Page 27)*
  - 3. The currently proposed pavilion is a “light and airy” design of the currently proposed pavilion without a back wall and lacking sound absorbing panels. BAC recommended sound absorbing material or reflectors.**
- viii. Project condition: to the extent feasible, “sound system output shall be limited to an average of 85 dBA Leq averaged over a five-minute period at a position located 100 feet from the amphitheater stage. This level could be increased if it can be demonstrated through noise level measurements that the design of the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.”*
- ix. San Jose General Plan Noise Element Goal EC-1.3 Mitigate noise generation of new nonresidential land uses to **55 dBA DNL at the property line** when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.*

The 10:00 p.m. cutoff for amplified music events is much too late for residents at St. James Place who live within 150 feet of the proposed pavilion. The pavilion service road is even closer to St. James Place and will be active with loading of equipment and clean-up staff for hours after each show. The EIR also calls for an event attendees drop-off/pick-up area in front of St. James Place and the Sainte Claire Club causing additional hours of noise. What is the City planning as a means to protect the residents of St. James Place and the Sainte Claire Club from this constant noise? Several years ago, the residents of St. James Place were promised new sound-proof windows by a City official? Does this promise by the City apply equally to all residences and businesses in the St. James Square Historic District? Many St. James Place residents enjoy opening their windows in the day and evening to enjoy the breeze, however this project threatens their freedom to do so for up 300 days a year. As stated in the Appendix F of the Draft EIR, residents may “choose not to close their windows during events [...] which would result in higher noise levels within sensitive interior spaces” (Appendix F page 37). It is worth noting that I couldn’t find another Levitt Pavilion or other performing arts pavilion (designed for up 5,000 people) that was built with 200 feet of a residential building.

I would also like to ask why the alternative of not allowing amplified music was not considered? It would seem that this could mitigate much of the noise impact from this project and at least deserves consideration. The Draft EIR also failed to consider the

recommendation of the sound and vibration study to eliminate the use of subwoofers at the pavilion or incorporate sound absorbing materials. The proposed pavilion design also lacks a back wall so undoubtedly unwanted noise will impact St. James Place and the Sainte Claire Club. Additionally, the project does not have sufficient measures proposed to restrict sound and enforce compliance with said restrictions during events. These issues certainly raise the question again, why not place this performing arts pavilion in Discovery Meadow as the alternate site option in the Draft EIR (page 195) demonstrates as a more compatible location.

The Draft EIR also notes that this project will work around the schedule of Trinity Cathedral so as not to disrupt their functions with concerts/loud events (page 140). Will the same consideration be given to the First Unitarian Church, Sainte Claire Club and other residents and businesses surrounding the park? Or, was Reverend Byrd of Trinity Cathedral, who served on the Steering Committee for this project, given special considerations by the City for his service and support?

#### **d. Impacts on Transportation**

- i. East St. James Street Loading/Passenger Drop-off/Pick-up*
- ii. 2<sup>nd</sup> Street will be closed to vehicular traffic where it bisects the park. VTA will continue operating on the track that runs through the park.*
- iii. Due to the closing of 2<sup>nd</sup> street through the park and the decoupling of St. James and Julian streets between Market and Fourth Street, **traffic around the park would be subject to an increase in volume.***
- iv. **St. James Street would be two-way in front of the pavilion.***
- v. **“If there were overlap on major events in the park and elsewhere downtown, the project would not have adequate parking.”** (Draft EIR Page 172)*
- vi. Light Rail Transit (LRT) “on North 2nd Street would remain unchanged under the proposed project. As part of the project, permits from VTA and the California Public Utilities Commission (CPUC) would be obtained [...] Improvements to the existing VTA LRT platform would be implemented for greater safety and pedestrian circulation during park events. The City of San José would coordinate with VTA to appropriately identify and implement safety measures.” (Draft EIR Page 11)*

The proposed East St. James Street Loading/Passenger Drop-off/Pick-up, which is across the street from St. James Place, will result in increased traffic and noise. The closing of 2<sup>nd</sup> Street will further increase traffic on St. James Street. Furthermore, because Saint James Street would be two-way directly in back of the Pavilion, passengers will load/unload on both sides of the street creating a greater impact to traffic congestion and gridlock.

The parking analysis for the Draft EIR was completed under the assumption that no other major events would take place in Downtown San Jose concurrently with a large event at the Pavilion in St. James Park. This is a highly unlikely scenario, especially considering proximity to SAP Pavilion and other large event venues downtown. Therefore, it is safe to assume that this project will not have adequate parking, therefore causing more traffic congestion and frustration around St. James park and the immediate downtown area.

I also question Light Rail safety in the park. Is a loud concert event with heavy pedestrian foot traffic compatible with light rail activity a few feet away? It seems this

poses a great threat to public safety even with a five-foot fence around the portions of the track. Several near accidents involving VTA and pedestrians have occurred during music events at the Park over the past several years. In most cases the light rail operator was honking the horn, but the pedestrians were distracted and couldn't hear the horn over the noise level created by the music from the event. Does a 5,000 person capacity music venue located on VTA tracks even meet state and local government safety regulations?

Overall, the transportation analysis (appendix G) of this Draft EIR uses many questionable best-case assumptions of the activity downtown during the scheduling of up to 300 events in the Park when considering the potential impact of this project and is therefore flawed.

I appreciate your review of my comments. If the City would like to meet with the residents of St. James Place, we are ready and willing to discuss the changes that must happen to make this project successful.

Respectfully submitted,



Gordon McDonald, AIA

**From:** Olivia Heir [REDACTED]  
**Sent:** Thursday, July 2, 2020 11:16 AM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** Response to Draft EIR - St. James Park Capital Vision and Performing Arts Pavilion Project, SCH# 2016052074

[External Email]

Olivia Heir  
[REDACTED]

July 2, 2020

Ms. Thai-Chau Le, Planner IV  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

Dear Ms. Le,

Thank you for reviewing my comments in response to the Draft Environmental Impact Report for the St. James Park Capital Vision and Performing Arts Pavilion Project. I work at the Sainte Claire Club, located directly across the street from St. James Park, and also serve as Board Secretary for the Sainte Claire Historic Preservation Foundation. I hold an undergraduate degree from U.C. Santa Barbara in Environmental Studies with an emphasis in Urban Planning, a Certificate in Green Building and Sustainable Design from U.C.S.B., and a Master of Science in Environmental Management from the University of San Francisco. Therefore, I do feel qualified to share my concerns in regards to the negative impacts of this project on the St. James Square Historic District.

I have been working in close proximity to St. James Park for approximately eight years. During this time, I have witnessed the impacts of past festivals and concerts where crowd control and noise created unbearable conditions around the District. I typically work into the evening/night as we host events and dinners, and the noise from just these past events was extremely loud inside the Sainte Claire Club building. Hosting up to 300 events at St. James Park, with up to 72 "large" concerts and events with up to 5,000 attendees is unsettling, especially considering the failures of some of past events at the park where attendance was under 1,000.

As noted in the Draft EIR, St. James Square was listed on the National Register of Historic Places in 1979 with the park being "the central and key component of that district of which without the district would lose its essence" (Draft EIR page 66). Additionally, the City of San Jose designated St. James Square, which includes the Park, as a City Landmark District in 1984. As stated in the Draft EIR "implementation of the project would change the visual character of the site and the buildings and, as designed, would be constructed in a manner that would impact the historic significance of the park and the St. James Historic District" (Draft EIR page 26). The Historic Resource Project Assessment (Appendix D) states that "with additional removal of features due to this project, and the potential insertion of structures and uses not compatible with the historic nature of the setting, the park would no longer be a contributor to the National Register Historic District but rather be considered non-conforming to that

listing” (Appendix D page 9). Additionally, the proposed project does not conform with the St. James Square Historic District Guidelines and is not fully consistent with the Envision San Jose 2040 General Plan goals and policies (Appendix D, Page 48).

The Historic Resource Project Assessment explicitly recommends a “redesign of the project to comply to comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, with the St. James Square Historic District Design Guidelines, and with the intent of General Plan Goals and Policies. The historic integrity of St. James Square Historic District would be preserved with a project design that is more fully compatible with General Plan Goals and Policies.” (Appendix D Historic Resource Project Assessment Page 49). However, this recommendation is not incorporated into the Draft EIR. Under mitigation measures for this impact, the Draft EIR simply states that “absent a redesign of the project that would be fully consistent with the Secretary of the Interior’s Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level” (Draft EIR Page 26). According to the design alternative evaluated for the Draft EIR, “in order to reduce the impact of the proposed project, the design of the park would need to be modified to allow for a complete reintroduction of the diagonal paths and reorientation of the perimeter path to be more consistent with the original pathway. A redesign of the new park buildings would also be needed to meet the design standards. To allow for the diagonal paths, the pavilion would need to be removed from the project plan as there would be no space to accommodate the pavilion with the diagonal paths.” (Draft EIR Page 197). Is this really the only design alternative that would lessen impacts? Or would a less extensive redesign of certain elements allow with more conformance of historic guidelines? It seems that grouping these elements of redesign together is an attempt to make them infeasible. Calling the impacts to cultural resources “unavoidable” does not seem justified, especially to those who have invested so much in maintaining their historical designation as part of the St James Square Historic District.

The disregard for the historic district shown throughout the Draft EIR is alarming. The City has held strict regard for the Historic District when evaluating other projects within the District but now that the City is proposing a project within the park, the “key element” of the District, concern for the historic character seems to have been carelessly dismissed.

The Draft EIR does attempt to justify this disregard for the park’s historic character by stating that “the park as it exists today has lost many of the features associated with the period of significance that were identified in the NRHP and City Landmark listings. Changes including the construction (and subsequent removal) of the community center which resulted in a loss of trees and pathways, the addition of the exercise area, playground, dog park, picnic area, and storage structure, as well as the extension of North 2nd Street through the park in 1955” (Draft EIR page 64). St. James Square was added to the NRHP in 1979, well after 2<sup>nd</sup> street was extended through the park in 1955, so this cannot be considered “a lost feature” since NRHP designation. Additionally, on page 63, the Draft EIR refers to the “temporary” nature of the dog park and storage structure.

The significant noise impact of this project asserts that “operation of the proposed performing arts pavilion would result in interior noise levels above the City’s residential interior noise standard” (Draft EIR Page 137). “To avoid this impact, exterior noise levels during a music event must be lowered by five dBA at St. James Place Apartments and Trinity Cathedral relative to the estimated maximum event noise level. A five dBA reduction would put interior noise levels at both locations at 45 dBA DNL or less, which meets the City’s residential interior noise standard, and the project would not result in a significant noise impact consistent with General Plan Policy EC-1.2” (Draft EIR Page 192). The Draft EIR does not set specific noise limits and does not include a detailed plan to ensure compliance with noise restrictions. If the Draft EIR included these noise restrictions and plans to control noise, it would seem that the significant noise impact would no longer be an “unavoidable impact with mitigation incorporated” (Draft EIR Page 140). The only mitigation measure actually included in the Draft EIR with regard to noise is MM NOI-1.1: “amplified music events at the performing arts pavilion shall end by 10:00 p.m.” (Draft EIR Page 140). What does 10:00 p.m. mitigate? Do the many residents living in close proximity to the park all go to bed well after 10:00 p.m.? Will the noise that continues after amplified music ends, including the event clean-up, tear-down and loading of cargo trucks, be insignificant? In my experience with event production logistics, an event with as many as 5,000 people would have noise continuing for many hours after the event ends.

The results of the noise and vibration assessment (Appendix F) are uncertain and state that “at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study” (Appendix F Page 28). How can noise impacts be accurately analyzed without concrete data? Even with these assumptions, it was found that “the increase in sound levels which can be expected within these receptors resulting from amplified music played at the pavilion at a reference level of 85 dBA at 100 feet from the speakers is approximately 5 dBA [which] is considered a clearly noticeable increase for similar noise sources. However, for differing noise sources, such as music versus background noise within a residence, the increase would be considerably more noticeable [...] a 5 dB increase in interior noise levels where a source consisting primarily of music is responsible for the increase would typically be considered significant” (Appendix F Page 39).

The project conditions listed on page 138 of the Draft EIR note that sound restrictions could be loosened if it is demonstrated that “the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.” Why 70 dBA? Does this sound limit ensure that interior noise levels will not exceed 45 dBA as required by the California Building Code and the City of San Jose’s General Plan Noise Element? San Jose General Plan Noise Element Goal EC-1.3 is to mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Additionally, the project conditions included in the Draft EIR did not include or even mention the following recommendations made in the noise and vibration assessment:

1. “The use of subwoofers at this venue should be discouraged” (Appendix F, Page 27)
2. “Based on BAC’s observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters” (Appendix F, Page 27)
3. BAC recommended sound absorbing material to the opaque panels over the stage, and if sound absorbing material is not feasible, sound reflectors were recommended. The Draft EIR makes no mention of sound absorbing material or reflectors, nor does it address the lack of a back façade to the stage.

In regards to mitigating noise impacts, the only alternatives considered in the Draft EIR were “Alternative Pavilion Orientations/Locations On-Site” and the “Pavilion with No Concert Alternative.” Why was an alternate pavilion design or programmatic alternative not evaluated (for example, the alternative of having no amplified music)? Per CEQA Guidelines, the EIR should identify alternatives that “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.”

In the vibration analysis portion of the Draft EIR, the focus is on the limit of 0.2 inches/sec PPV, which is the standard for buildings of conventional construction. However, the Draft EIR does not assert whether the continuous vibration levels will be below the 0.08 inches/sec PPV levels required for buildings that are historic. There are several historic buildings located directly adjacent to the park, including the Sainte Claire Club.

I would also ask why the Draft EIR notes that special concessions will be made for Trinity Cathedral’s schedule. Page 140 of the Draft EIR states that “due to the likely difficulty of providing additional acoustical isolation to the interior space of the Trinity Church, the designated noise contact shall work with the Church representatives to minimize interference with church functions to the maximum extent possible.” Will these concessions also be made for other entities such as the historic Sainte Claire Club, First Unitarian Church and Corinthian Ballroom all of which host day and evening events (including weddings) when large concerts in the park would be detrimental?

Also worth noting, the address provided in the Draft EIR for which to send public comments notes the incorrect zip code for City Hall (it lists 95112 instead of 95113). This is concerning as some of the public comments mailed to you may not have been received.

Again, thank you for taking the time to review my comments and concerns.

Sincerely,  
Olivia Heir

On Thu, Jul 2, 2020 at 11:34 AM Maria Petersen [REDACTED] wrote:  
(Also mailed)

June 29, 2020

Mayor Sam Liccardo  
City Planner Ms. Thai-Chau Le  
Council Member Raul Peralez  
Council Members of the City of San Jose  
[200 East Santa Clara Street, Tower 3](#)  
[San Jose CA 95113-1905](#)

Dear Mayor Liccardo, Council Member Peralez, City Planner Thai-Chau Le, and San Jose City Council Members,

I purchased my home at [REDACTED] in 2004 only because I was attracted to the quiet, green, tree-filled park in the historic square across the street. **There is a reason why city planners throughout history have been creating parks in the midst of buildings:** to provide psychological and physical health to the surrounding community and to enhance property values.

The purpose of Saint James Park is to provide such health. It is meant to be a quiet, green, natural oasis in the middle of a walled-in square of civic, business and residential buildings, in the middle of a city. Why destroy it with jarring noise, crowds of people several times a week, increased trash, vermin, and traffic? Why cut the trees?

Saint James Square dates back to the late 1800s. Its centerpiece is the park, which is included in the National Register of Historic Places. Its historical aspect increases the attractiveness and value of the surrounding homes and businesses. Why ruin the character and aesthetics of Saint James Square with a pavilion that resembles a large modern bus stop?

**What are the consequences of having a pavilion and many concerts in Saint James Park?** City Planners will ruin the health of the residents who live nearby due lack of sleep and ruined eardrums from very loud concerts. Our community will see a decline in tranquility and psychological health. The City Planners will make it unsafe to live here because homeless people will use the empty structures at night to sleep and drug pushers will use the structures to transact their businesses. I guarantee they will come here at night. San Jose will lose revenue from the decrease in property taxes due to the decrease in property values from loud concerts, crowds, trash, vandalism, homelessness, drug pushers, lack of safety at night, traffic. The effects of the pandemic will make concerts and compact gatherings a health nightmare. The Bureau of Labor Statistics reports that nearly half the U.S. leisure and hospitality jobs were lost in April 2020. We do not know if there will be a resurgence of the pandemic every year. Events with large groups of people would not be able to take place. As such, it is best not to rely on Saint James Park as a means of entertainment revenue. The pavilion and other structures on the park will do damage to the character and aesthetics of the park and ruin its historical importance. Making Saint James Street a two-way street will increase traffic, traffic noise and car accidents.

**What can the City Planners do instead?** They can re-focus. Instead of damaging one of the best tranquil, historical spots in downtown San Jose, why not focus on the park's historical aspect by having historical events here (but not loud or crowded). They could plan chamber music and other small musical events that would attract a more peaceful crowd. They could plan farmer's markets and art fairs every other week that would help entrepreneurs, small businesses and those who are struggling economically. There are many other kinds of small, quiet events the City Planners could hold in the park, as long as they are spaced out during the month to give the park a chance to recover.

Also, instead of funding the construction of a pavilion, bathrooms and other structures in the park, the City Planners could fund more and plan more for the construction of housing and clinics for homeless people and drug

addicts. Reducing the number of homeless and drug users will automatically increase property values, making downtown San Jose more attractive to doing business and living here. By making San Jose more appealing, it will increase property values and tax revenues.

The current City Planners' focus on acquiring revenue from large concerts and daily events in front of a residential area is very much misguided. You will lose hard working, middle class, peaceful residents, as well as retirees and businesses. If people like me cannot find peace, quiet and safety in our own homes, and if businesses cannot find hygienic and safe places to conduct their businesses, I guarantee we will move out. Property values will decline, your tax revenues will decline, and your crime and homeless rates will increase.

There has never been a more opportune moment for San Jose's City Planners to reassess their goals and shift their focus. The city needs healthy projects, not harmful ones.

With best wishes,

Maria Petersen

[REDACTED]

cc:

Robert Mezzetti II, President

Mezzetti Law Firm, Inc.

[31 East Julian Street](#)

[San Jose, CA 95112](#)

From: John Ragsdale [REDACTED]  
Sent: Thursday, July 2, 2020 10:34 AM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
Cc: The Office of Mayor Sam Liccardo <[TheOfficeofMayorSamLiccardo@sanjoseca.gov](mailto:TheOfficeofMayorSamLiccardo@sanjoseca.gov)>; Peralez, Raul <[Raul.Peralez@sanjoseca.gov](mailto:Raul.Peralez@sanjoseca.gov)>; Bob Carlson [REDACTED]; Matt Stevens [REDACTED]; Tim Quigley [REDACTED]; Maria Petersen [REDACTED]; Adrianna G [REDACTED]; [REDACTED]; Mori Craig [REDACTED]; VICKY [REDACTED]; Jeff Rampe [REDACTED]; [REDACTED]  
Subject: St. James Park Pavillion

[External Email]

Hello;

This email is in response to the July 6th public deadline for comments on the plans to build a concert pavilion in St. James Park. I am mailing physical letters today, but wanted to send an electronic copy as well.

Content of letter:

Thai-Chau Le  
City of San Jose Dept. of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

July 2, 2020

Dear Ms. Le;

I have been a resident of Saint James Place, at the corner of St. James and 3<sup>rd</sup> Streets, since 1995. I am writing to you regarding the plans to construct a concert pavilion across the street from our building in St. James Park. My unit overlooks the park, and as you can see in this picture, my view is of the exact area where the pavilion would be located.

<photo attached>

Building a concert pavilion in this location would have negative impacts on the residents of our building, as well as downtown residents in general. I would like to make the following six points for your consideration:

### Visual Impacts

The plans would destroy the visual character of the park. The large green lawn seen in the above picture is the ONLY green area in the downtown San Jose core. It is a popular place for people to walk, picnic, exercise, take wedding photos before ceremonies across the street, and even nap on a sunny day. Placing a concrete monstrosity in this green area would ruin the bucolic nature of the park which has been in existence since the 1800s and is on the National Register of Historic Places.

## Historical Significance

St. James Park is an historic place, and has statues and monuments to local and national heroes. I was involved with a city project in the late 1990s to restore the fountain and original park design. Adding an incredibly large piece of bizarrely modern architecture into an historic park will irrevocably change the nature of the park, and it will lose its significance in San Jose's history.

## Noise

When I moved into Saint James Place in 1995, the only event taking place in St. James Park was Shakespeare in the Park once a year. This event was A) not amplified, and B) held in the Western quadrant of the park (between 1<sup>st</sup> and 2<sup>nd</sup> Streets). Over the years the concerts and use of amplified sound have exploded. The windows of this building were not designed to be soundproof. When you hold concerts in the park, even with my windows and blinds closed, things rattle on my shelves, and the sound is so loud that we cannot watch TV, listen to music, or even speak without shouting. If you move forward building this pavilion, you will have to upgrade all of our windows to be soundproofed, as the city did for neighborhoods near the airport (so there is a precedent).

Also, the plan to allow concerts until 10pm is unacceptable. I work East coast hours, 6am to 2pm. I am in bed by 8pm. I cannot have live concerts blasting a few hundred feet from me several times a week. Currently concerts do not go past 8:30pm, and suggesting a 10pm end time for concerts directly across the street from a residential building is not workable.

## Park Activation

Nothing makes my blood pressure rise more than terms the city manufacturers, such as "activating the park." Do you not care about the current activation in the park? What about the after school programs from Horace Mann Elementary School, with large groups of school children playing in the green space pictured above every afternoon? This program has even been going on during the lockdown, with social distancing respected. Why would you take away the best activation currently in the park by placing a large concrete structure that obliterates the only space currently available for activation? This is clearly placing egos over the needs of the immediate community, who rely on that green space as part of their normal lives.

## Covid-19

We are currently in the middle of a pandemic, with people afraid to leave their homes and if in public, staying at least six feet apart. I do not see concerts returning to our normal lives for years to come, and for many people, they will never be an option. Considering building an in-person concert structure in the current environment seems ludicrous. You don't know when San Jose residents will be willing to attend a live event, or if they ever will again. It seems the funding would be much better spent providing the infrastructure to allow all residents to enjoy a variety of concert and live theatre options from the comfort of their homes. We don't even have free Wifi in San Jose, at least not in my neighborhood, so that seems a better way to bring some art and culture to the masses than a concert stage in an historic park.

## Homeless Issues

There is not adequate funding to deal with the chronic homelessness in San Jose. St. James Park has become the "People's Park" of the South Bay, and the mayor and councilman copied on this letter can tell you how often residents of this building complain about vermin, crime, and garbage in and around the park. With so many homeless currently living in and around St. James Park, providing a structure for them to use will be a disaster. Would the pavilion come with additional funding for police and mental health workers to keep them out of the structure? We've had so many empty promises over the years, such as building the Villas on the Park would eliminate homeless from St. James Park, and none of these promises have come true. Unless you have a bullet-proof, fully funded, long term, plan for dealing with the homeless in St. James Park, and a commitment to the community that this new structure would not just become a new homeless shelter, you have no credibility that this issue will be addressed.

In closing, I am not opposed to change. I recognize the issues with the current park, and with some of the changes you have proposed to make the park more neighborhood-friendly would be adopted, such as closing 2<sup>nd</sup> Street (as it used to be closed when I first moved into the building). The dog park, for example, was a great addition, and is quite popular. Bringing a concert pavilion into an historic park seems the antithesis of "neighborhood activation," it certainly isn't what this neighborhood wants or needs.

Thank you for your time and attention.

John Ragsdale  
Distinguished Vice President of Research, TSIA



CC: Mayor Sam Liccardo  
City Hall, 200 East Santa Clara Street  
San Jose, CA 95113

Councilmember Raul Perez  
City Hall, 200 East Santa Clara Street  
San Jose, CA 95113

Robert Mezzetti  
Mezzetti Law Firm  
31 E. Julian Street  
San Jose, CA 95112

Shawn Atkisson  
Sainte Claire Club  
65 E Saint James St.  
San Jose, CA 95112

--

Best,  
John Ragsdale

July 4, 2020

Thai-Chau Le, Planner IV  
City of San Jose Dept. of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

## **Citizen Letter Response to St James Park Revitalization Environmental Impact Report**

Dear Mayor Liccardo, Councilmember Peralez, City Manager Sykes and Planner Le,

My life's work has been about this country, this state and this city. So unsurprisingly fifteen years ago, as I approached the 60 year milestone, I decided to simplify my life and move out of my home in Naglee Park and purchase my current condominium residence on the second floor of the St James Park Complex. I did so in January 2004 AFTER carefully researching and being satisfied the City Master Plan ensured that the park was, in fact, intended to be a neighborhood park in the long term. The thrust of the City Master Plan was to return the park to its origins, recreating a Urban Horticulture Atmosphere. A quiet healthy environment with easy access to downtown and public transportation was idyllic for my senior years. The subsequent City Master Plan revision ten years later generally reaffirmed that to me, as it spoke to revitalization of this neighborhood park. Specifically, neither revision included a major performing arts pavilion.

However, the St James Park – Capital Vision – and Performing Arts Pavilion Revitalization Project from an Environmental Impact perspective does not meet the Master Plan intent nor standard for a neighborhood friendly park. As a result, **I strongly oppose the construction of a Performing Arts Pavilion on the Park.**

Over the past seven years, Sam, Raul and I have discussed the need of for revitalizing the park for the permanent park resident population in addition to and separately - solving the issues of the homeless population, the transient population and the drug culture population around the park. Yet, however well intended the city planning efforts were at first, this neighborhood revitalization project has morphed into a city management top down directed major entertainment venue project. This has occurred in large measure because the city is not listening. It has listened more to well entrenched current and past city hall enthusiasts and lobbyists (who do not live on the park) while choosing to not hear the persistent objections coming directly from the permanent residents on the park and through their St James Park revitalization planning representative. Please, recalibrate and listen.

There are three areas in this Environmental Impact Report which demonstrate the unacceptable deficiencies of the current revitalization plan.

**First, Sound and Acoustic Attenuation.**

The Environmental Impact Report clearly states that there is no guarantee that the sound levels and duration requirements can be completely adhered to during a performance. The city management response is to state that concerts timeframes will be contracted to be limited to and terminate at 10:00PM. This is a pathetic attempt at a response.

- a. This EIR does not adequately address the impact on resident quality of life during the concert hours because of the issue of ensuring compliance to prescribed sound levels during the concert (especially bass sound levels). Historically, most concerts on this park have never stayed within parameters for an entire concert and there is rarely any active resident receptive city supervision to ensure that it does. In fact, city management is often negatively reactive to any resident concern. Additionally, for anyone who has been on the park at 10:00pm at the end of a concert, the post event crowd management issues are another ongoing concern. One only has to reflect on the infamous Sriracha Sauce concert to recall the complicit reluctance of both city management and the Downtown Association to ensure proper compliance with the event permit, until the Mayor had to personally step in.
- b. This EIR also does not address that there have been assurances both from the Mayor's office and the District 3 office that ordinances to prescribe bass acoustic parameters would be forthcoming. No action ever has been taken.
- c. This EIR also does not address that the Mayor and Council Member Peralez and staff, similar to sound attenuation precedent for dwellings in the airport guide path, have given several assurances that the city would pay the cost of replacing the windows in our condominium building for noise reduction quality of life purposes at St James Place; thereby comporting with current city sound and acoustic standards.
- d. This EIR also does not adequately address the fact that the city is oblivious to who their residents are that live on St James Park and their health and wellbeing. As an example, I have lived and worked and invested my life in San Jose since 1968. As you know, I am a 31 year retired Naval Officer, Aviator and Vietnam Veteran. What you may not know is that I am a 100% disabled Vietnam Veteran having lived, among other things, with Ischemia Heart Disease and chronic hypertension compliments of Monsanto – now – Bayer Corporation's Agent Orange defoliant spray since I was 25 years old. My last (of several) major cardiac episode was two years ago. This is relevant to our conversation because this entire project is a classic case of "mission creep". Is anyone at city hall really managing this plan?

When this proposal was first floated, its stated annual goal was for 50 musical events of varying neighborhood user friendly sizes during the year. Now, the proposal has grown to an anticipated **300** concerts per year. In practical terms, if no one at city hall has yet thought of this, that equates to **10** out of 12 **straight months a year** with a concert **EVERY SINGLE DAY!** Think about that. Are you listening? On top of that, **72** (one every five days consistently throughout the year) of these are **planned** for crowds in excess of 5000 attendees (cumulatively 360,000 per annum). The City doesn't even do

that at the city stage in front of the Fairmont Hotel! Or for that matter, at any other city park!

This is certainly NOT idyllic for this retiree in his senior years on a fixed income. Oh and of note, the Pavilion is planned to be situated within 21 yards - 65 feet -...not of my condominium.....not of my bedroom...BUT of my bed! The debilitating impact on my quality of life is incalculable! Are you listening?

## Second, **Aesthetic Nature of the Park and Neighborhood.**

The Environmental Impact Report does not properly or sufficiently address the deleterious overall degradation which this project will have on the aesthetics of the park and its surrounding neighborhood.

- a. There are now two existing multifamily residences on the park with plans for a third in the near term. Additionally, within one block of the park are seven (soon to be eight) other multifamily residences. The sheer anticipated numbers of participants at the 300 annual park events (72 of which will attract over 5000 attendees) will significantly attract (not dissuade) and impact CRIME, traffic congestion, littering, loitering, trash, drug usage, proliferation of graffiti, etc. The net effect will be a less safe neighborhood environment while straining policing resources, all of which is not adequately addressed in the report.
- b. Furthermore, the sheer volume of the concert programming will exacerbate not mitigate the homeless, transient and drug populations which frequent the park today, especially in the after hours of an event. What might be surprising to city hall, the concerts DO NOT END sharply at 10:00pm. The residual often rowdy crowds linger well into the early mornings; adding to the degradation impact on the park. Additionally, the cumulative effect of the sheer volume of the programming will present a situation wherein the park never fully recovers from each event. It has taken up to 10 days to completely recover from a single non contiguous event. Imagine the cumulative effect of **300** straight days of programming! Are you listening!

Third and finally, the **Historic Nature of the Park** will be irretrievably lost.

The EIR states, “the park will no longer qualify under the **National Registry of Historical Properties.**” Sadly, City Hall is just choosing to ignore this impact. Rather than destroying the singular state wide unique heritage of St James Park, I expect city leadership to value our

heritage and design a park revitalization project which celebrates not destroys our pioneer contribution to California history.

I look forward to continuing the city and community dialogue to assure this project is rejected and replaced by a visionary park revitalization project which respects our unique St James Park heritage and which provides a proper quality of life neighborhood park atmosphere for our park residents.

Sincerely,



Stephen T. "Tim" Quigley



Thai-Chau Le, Planner IV  
City of San Jose Dept. of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

From: Victoria Baugh [REDACTED]  
Sent: Sunday, July 5, 2020 11:12 AM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>; Peralez, Raul <[Raul.Peralez@sanjoseca.gov](mailto:Raul.Peralez@sanjoseca.gov)>; The Office of Mayor Sam Liccardo <[TheOfficeofMayorSamLiccardo@sanjoseca.gov](mailto:TheOfficeofMayorSamLiccardo@sanjoseca.gov)>  
Cc: [edbautista@sanjoseca.gov](mailto:edbautista@sanjoseca.gov); [REDACTED]  
Subject: Saint James Park Pavilion Comments

[External Email]

Thai-Chau Le, Planner IV  
City of San Jose Dept. of Planning, Building and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113

I am writing in response to the request for comment on the proposed music pavilion and music events in Saint James Park. The proposal places a music pavilion directly across the street from and in front of the oldest residential building on the park. As I understand it, there would be from 50 to 300 events planned for that pavilion yearly with from 50 to 5000 people attending. Just imagine that your neighbor across the street has loud unruly parties every other day. Those parties start in the morning and run till after 11, and the party goes trash the street and your lawn not to mention making it impossible to park due to the numbers of cars blocking normally available parking. Additionally, imagine having to listen to music/noise that exceeds the safety limits for hearing loss for hours at a time, at best weekly, and at worse every other day!

There are a number of reasons that placing the music venue in St James Park is untenable:

First. Saint James Park is considered by the community to be a **neighborhood park**. It serves those of us who live near as a place for exercise, taking the dog out, playing frisbee and soccer, taking the kids to the play area, afternoon classes with school kids for team games, seniors getting their walks in, folks using the fitness equipment, and just hanging out on pleasant day. This photo showing children playing was taken just last week. The park is a lovely green oasis surrounded by concrete that makes living across from it peaceful, pleasing and enjoyable. A pavilion located in the planned area directly across the way disrupts all of those things. The pavilion would totally change the character of the park from a neighborhood park to an entertainment center and all of the issues that accompany such, including noise, trash and litter, crime and people coming in and having no regard for the park or those who live around it. This is not speculation, this is our experience from the music venues that have been held in the park in that location. The noise consistently exceeded the levels that were supposed to be maintained and the DB levels considered safe for one's hearing. There were times that our walls and windows literally shook. Saying that the event would be over at 10 just means they stop playing at 10 - it will be closer to 11:30 before they can close up

and the people have gone. The motor cycle gangs revving up and blasting out under our bedroom window last year is a vivid memory! I can only imagine what that would be like weekly or every other day! Those of us that work and study from home would be significantly impacted. Research shows that noise pollution and sleep deprivation significantly impact the immune system and sleep deprivation has been identified as a factor in Alzheimer's. These are not small concerns, multiple people in Saint James Place have compromised immune systems and don't need any additional stress.

There are three existing multifamily residential structures adjacent to the park and one in planning that would directly impacted by the pavilion. Within one block of the park are seven other multifamily residential structures that will have significant impacts from the traffic, parking, trash and litter, crime, etc. that accompany an entertainment venue. To locate something like this in a residential historic neighborhood park simply doesn't make sense.

Second. Saint James Park is an historic park which dates back to the late 1800s and is included in the National Register of Historic Places. Its historical aspect increases the attractiveness and value of the surrounding homes and businesses. An entertainment venue as described is entirely out of character and diminishes the historic nature of the park and according to the EIR, "the park would not longer qualify under the NRHP as a constituting property". Another concern is the ability of the park to withstand the level of use described. When we have had events in the park in the past, depending on the size and length, they have left bare patches and holes in the grass which have taken days to weeks to recover. Basically the level of use described would destroy the park. In addition to the aesthetic and historical impact, having an entertainment venue in a residential neighborhood has a significant impact on the community in terms of property value and ability to sell or rent.

Third. Saint James St. is an artery that many people coming off 87 and 880 use to get across town. There are traffic issues now and when there were events in the park last year the traffic was significantly worse and parking was a nightmare. The level of use described would make it nearly impossible for the people in the community to ever have guests since parking would be unavailable for blocks as it was during the prior years events.

Forth. At one time there was a Sr Center across the way in the park. It was a haven for drug dealers and the homeless who would show up at night. There is a crime problem now, having an unguarded pavilion would make it much worse because it would provide criminals shelter from being seen.

I hope that the above objections to the project are enough to persuade the City to relocate the planned music venue to an area where it doesn't have a significant impact on an existing residential neighborhood. It would make sense to have something in the park that maintains the historic character of the park and strikes a balance between the needs of the community and something that helps to create a vibrant park. We are certainly aware of the issues that exist in the park currently, however their impact on the

community is far, far less than the potential harm done by the proposed project. We would be happy to work with the City to figure something out that would enhance the park and maintain its historic character and “community parkness.” An entertainment venue that occurs between 50 and 300 times a year with up to 5000 people destroys the ability of the neighborhood to actually use this part of the park. If the City decides to go through with this project, I request that the city compensate the owners for the loss of value of their property and buy at fair market value, the units of those people who will need to move.

Respectfully,  
Victoria Baugh





From: Bob Carlson [REDACTED]  
Sent: Sunday, July 5, 2020 1:53 PM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>; District3 <[district3@sanjoseca.gov](mailto:district3@sanjoseca.gov)>; Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>  
Cc: Brown, Bridget <[Bridget.Brown@sanjoseca.gov](mailto:Bridget.Brown@sanjoseca.gov)>; Tran, David <[david.tran@sanjoseca.gov](mailto:david.tran@sanjoseca.gov)>; William Gates [REDACTED]; Shawn Atkisson [REDACTED]; VICKY [REDACTED]; John Ragsdale [REDACTED]; Adrianna Galletta [REDACTED]; Maria Petersen [REDACTED]; Jeff Rampe [REDACTED]; Matt Stevens [REDACTED]; Mori Craig [REDACTED]; Gaby Campos [REDACTED]  
Subject: Saint James Park Pavilion Comments

[External Email]

Bob Carlson  
f MacBook11Mini

[REDACTED]

5 July 2020

Dear Mayor Liccardo, Councilman Peralez and Planner Le,

I'm Bob Carlson, have been a resident of Saint James Place and San Jose since 1999, am a Downtown Parking Board Alumni, am currently treasurer of our HOA, and I have been actively involved with safety and security here for 21 years.

### **I oppose the St. James Park Capital Vision and Performing Arts Pavilion**

Saint James Park is an Historical City Park intended to serve all, including the Immediate Community neighborhood

However, As Councilman Raul Peralez said

***"We need to strike a balance that gets us to something that's acceptable to the immediate community, but also helps us create a vibrant park and space that we have all been longing for."***

**Across Saint James Street from the Park are the two "immediate communities"**  
Saint James Place: the first residence, now one of two, in the Saint James Historic District  
Sainte Claire Club: One of the eight designated Historic Structures in the Historic District

Having made integrated circuits for my career, I am very comfortable with change.  
But change has to have a purpose.

### **This proposal misses the mark on these accounts**

- **THE PROPOSAL IGNORES THE EXISTING NEIGHBORHOOD AND ITS RESIDENTS**
- **NEIGHBORHOOD MOTTO: a neighborhood to live in, rather than pass through**
  - The City will be creating a transient neighborhood rather than a destination city for living
  - From the neighborhood 2007 SJHDNA publication: background info if you want to live in the Saint James Historical District:  
*"Residents and businesses committed to cultivating a viable and sustainable community, while maintaining the beauty, safety and Historical Integrity of our neighborhood."*
- **PARK DESTRUCTION: Just the opposite of why we want to create a vibrant park and space**
  - Physical destruction: trees and grass, the City has difficulty keeping Green Grass with the few events held now
  - Historical designation: will be lost as the park becomes an entertainment center
- **NOISE: The Saint James Historic District will not be a Viable Livable Community**
  - Too much, too consistent, too **unhealthy** NOISE LEVELS as *proven by past events*
  - 50 - 300 events per year is non stop noise
  - noise pollution and sleep deprivation significantly impact the human immune system
- **BUILDING FORM: Pavilion Structure does not complement the neighborhood**
  - it can be different but must complement
  - Historic buildings edging the park have coherence through their common siting, scale and similar characteristics
  - The pavilion structure would destroy the visual character of the park
- **TRASH AND LITTER**
  - trash and litter result each time the park is used for an event: entertainment, food feeding, etc
  - Now, instead of infrequently, at 50-300 events per year, it will be constant
- **HOMELESS ISSUES will not be made better with more places to encamp**
  - Homeless Issues abound now in the Park. How will this improve the situation?
    - We're facing an unprecedented homeless crisis throughout Downtown, City wide and Bay Area at large, Tran to Carlson
    - Encampments've been there for days and months with no action. Sanitary? Hardly! Safe? Maybe!, Carlson to Liccardo
    - All the chaos from the movie night didn't even budge them, Ragsdale to Carlson
    - As taxpayers, we have a lower priority than the homeless. Why?
- **INCREASED CRIME OPPORTUNITY. Crime already costs Saint James Place big bucks**
  - The City proposal does not reduce crime
  - Saint James Place has reinforced doors, installed cameras and just modernized the building
  - we have always appreciated your effort to make downtown safer and better for everyone! David Tran to Carlson
- **SOME PEOPLE WORK FROM HOME: working from home requires a low noise environment**
  - More essential now with COVID-19

Respectfully,  
Bob Carlson

Ladies and Gentlemen:

Thank you so much for a wonderful redesign of Saint James Park in the Saint James Square Historic District. I would like to detail some EIR and neighborhood gaps and suggestions for your consideration.

A hardworking technology expert, I was thrilled 16 years ago to finally buy my own tiny apartment on Saint James Park with the hope of starting a family here. In the past five years, the quality of this neighborhood has dropped to zero, and I am embarrassed to admit to coworkers that I live here in this homeless encampment created by Mayor Liccardo where drug sales and mobile prostitution make the environment inappropriate for families, including the city's and county's decision to house the homeless, the impoverished, newly-released criminals, pedophiles and sex offenders in buildings on the park itself and adjacent to it. It is unsafe to walk a dog on the bacteria-ridden grass in the park. Mentally ill homeless people walk the streets night and day, screaming vulgarity at imagined people. Sleep is impossible if dumpsters are out on the street with the housed and unhoused rooting through them all night. Amid the coronavirus and protests, helicopters have buzzed the building night after night. Due to location instability and the declining value of the zip code, employers algorithmically screen out job applicants who live here, making socioeconomic advancement impossible without high-wage work. The county has even pushed false bankruptcies to residents' credit reports, causing their employers to fire them even though the bankruptcies were not real and never appeared in the actual public record. I am simply sick of constant socioeconomic assault by the city and county, and their poor, unrepresented decisions against our families and livelihoods.

Before any venue can be successful at Saint James Park, several policies must be improved:

- Socioeconomic data privacy for all residents must be instituted in every city and county system.
- Companies must be prohibited from screening job applicants based on socioeconomic status, historical track record, discrimination compounding or credit history.
- The city and county must not provide negative credit prediction data such as possible future bankruptcies about residents. Instead, if a bankruptcy proceeding is legitimate, it must only appear in credit reports and the public record after it has actually occurred.
- Pedophiles and sex offenders must not be housed in areas where families and children are present, including Saint James Park adjacent to the Family Court building.
- Homeless people cannot loiter and sleep in public areas or on private property they do not own.
- Mentally ill homeless people must have in-patient housing and care.
- Homeless and impoverished behaviors involving trash, nudity, vulgarity and panhandling must be eliminated, along with noise, rooting through dumpsters, selling drugs and selling sex.
- Homeless adults 18 years of age and over must be placed in care, housed and trained for work.
- Homeless children under 18 years of age must be placed in care, housed and schooled.
- Waiting and charity feeding of homeless and impoverished people must occur inside a building.
- Parks, sidewalks and streets must be cleaned regularly and maintained at high quality.
- Law enforcement must reduce noise whenever possible.
- City and county decisions about the environment must be put to a vote of residents.
- Neighborhood development must be guided by a steering committee of residents using a process that pulls in resident participation in decision-making on an ongoing basis with decisions requiring a vote of residents.
- The project, venue and businesses must be 100% locally owned and hired.

Auditorium venues are known for attracting homeless and criminal people to the location during and outside of actual performances. If the new Saint James Park Levitt Pavilion venue follows the model of similar venues in the Bay Area, similar impacts will result:

- Increased crime such as robbery, vandalism, drug sales and sex sales
- Increased traffic preventing residents from using streets and parking on the street
- Increased traffic creating a risk for families going to and from the park on foot
- Increased substance, domestic and child abuse for residents
- Increased unintentional property damage
- Increased privacy risk to survivors of domestic violence seeking help at DVIC on the park
- Increased health risk due to out-of-area travelers
- Increased health risk due to restrooms, food and picnic waste, and Café and barbeque cooking
- Increased use of controlled substances such as alcohol and marijuana at the park
- Decreased health of residents due to noise, lack of sleep, harassment and hypervigilance
- Decreased professional productivity for residents at work and school
- Decreased wages, career advancement, academic advancement and scholarships
- Decreased family quality of life for residents
- Negative impact discriminatory compounding creating exponential negative impact
- Lower-than-predicted use of Levitt Pavilion by people requiring special access
- Lower-than-predicted use of Levitt Pavilion due to the traffic and parking difficulty
- Lower-than-predicted use of Levitt Pavilion due to the crime and health risks
- Lower-than-predicted use of Levitt Pavilion due to low acoustic quality
- Lower-than-predicted use of Levitt Pavilion due to wastewater and unhealthy residues

Please consider these suggestions to mitigate some of the gaps in the EIR and plan for Saint James Park:

- Move Levitt Pavilion to the corner of East Saint James Street and First Street instead of at Third Street in Saint James Park.
  - o First Street is closer to all arrival areas: both sides of the light rail station and the public parking garage. This makes it possible for people requiring special access to have short travel distances to Levitt Pavilion.
  - o First Street has more regular law enforcement patrols, reducing crime.
  - o First Street is closer to the highway, reducing traffic in the neighborhoods where families go to and from Saint James Park on foot.
  - o First Street has fewer traffic accidents, while Third Street and East Saint James Street have had regular visibility issues and multiple intersection traffic accidents at the park.
  - o On First Street, large public buildings block the noise from impacting residences. On Third Street, residences are in direct sound wave impact from Levitt Pavilion. There is precedent for the city paying the cost of noise-reducing windows and structures for residences, so moving to First Street reduces costs.
  - o Highly technical acoustic and echo canceling equipment is required at Third Street because Levitt Pavilion is so close to the flat walls of surrounding buildings, causing echo that interferes with performances and reduces the quality of the audience's experience. At First Street, open spaces and distances to buildings mitigate this effect and remove the cost of special equipment that is not needed there.

- At First Street, wastewater collection and filtration, potentially producing unhealthy residue, is not underneath the audience's grass. At Third Street, the audience sits on saturated grass where wastewater is collected and filtered. If a pattern is discovered, the city is liable for damages to families impacted by repeated exposure to unhealthy wastewater and filtration residues. It is best to remove the unhealthy impact on people and the potential for lawsuits.
- First Street does not endanger the safety and privacy of families seeking DVIC services. Levitt Pavilion Security requires area surveillance including the nearest traffic intersection. The San Jose Domestic Violence Intervention Collaborative (DVIC) services office is at the corner of East Saint James and Third Street. If Levitt Pavilion and the intersection were under constant surveillance, families could be discouraged from seeking help and could face abuser retaliation and violence if they did seek help. For more information, see the San Jose Domestic Violence Intervention Collaborative services office: <https://dvintervention.org/dvic-services>
- Add catch nets to the playground's raised walkways for child safety.
- Complete the planning for the effective removal of wastewater and filtration residues.
- Find an alternative to board-formed concrete on Levitt Pavilion, Docent Classroom, Picnic Pavilion, Cafe and elsewhere. In previous uses, board-formed concrete nearby at the San Jose Police Equestrian Stables did not achieve mean time before failure against rotting, requiring the demolishing of the structure.
- Complete the planning for the control of insects that could spread to the neighborhood.
- Complete the planning for park maintenance, healthfulness, good smells and physical safety.
- Complete the planning for physical and electronic crowd control, event check-in and self-guided tours such as the monument walk in the park.
- Expand the Victorian Garden and monuments as part of the purpose of the Saint James Square Historic District, including horticulture and art.
- Include the park in Local Arts activities and allow artists to showcase work in the park, especially around and on the somewhat boring buildings.
- Improve the policies as suggested above, including the removal of pedophiles and other criminals housed on and adjacent to Saint James Park.
- Preserve and honor the Lil' Man Memorial as a memorial artistic space somewhere in Saint James Park. Lil Man is the first homeless person to die of the coronavirus at the Santa Clara County Fairgrounds in San Jose after hundreds of homeless people were moved there to prevent the spread of the virus. Lil' Man was a 14-year-old African-American boy who enjoyed painting elephants and took care of himself alone in his homelessness in our neighborhood. He wore a backpack with the name "Lil' Man" along with a fuzzy pink child's pajama top wrapped around his shoulders. He was a resilient personality who retained inner sensitivity and optimism.

Thank you so much for considering these comments and suggestions. I and other residents look forward to a much-improved Saint James Park.

Tiffani Crawford, Ph.D.

A Homeowner Trying to Start a Family



July 5, 2020

Thai-Chau Le  
[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)  
City of San Jose  
Planning Building Code Enforcement  
*Via email*

*RE:* St. James Park Capital Vision and Levitt Pavilion  
PP16-037

Dear Thai-Chau Le

Thank-you for the opportunity to comment on this EIR.

The draft EIR clearly highlights the severe impacts to noise and cultural/historic resources. Yet there are also gaps in the analysis that leave the reader wondering “why” those statements were claimed.

1. Multiple constituencies were analyzed, focusing primarily on the nearby residents, office building users, church goers, and car/truck drivers. What about the primary users of the park? How will they be affected by the change in the park? According to the General Plan, “parks should be carefully designed and located to address local community demographics, needs, and interests.” (Envision 2040, page 48). There is no discussion of the impacts of the changes on current users. There appears to be a studied effort to avoid mention of the homeless and transient population that uses the park to socialize, get food and social services, and sometimes camp. No mention is made of the redesign on the organization that use the park to provide social services—permitted or not. There is no discussion on the impacts to the community groups who have programmed youth activities. How are these users expected to be impacted during construction? During concerts? Will these activities shift to other neighborhood parks? In the impact discussion (page 152), a key question is asked, “Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?” The EIR does not address the impact of this project on three groups of users, homeless, providers of services to the homeless, and the Third Street Community Center group. Will they be displaced? If so, what will be the impacts to the other existing neighborhood and regional parks or other recreational facilities? And how are those impacts quantified. It is notable that the EIR mentions the word *homeless* just once—in order to describe a building.

2. Noise Impacts.

The analysis shows there are significant noise impacts to the residents and building users—even if the output is restricted to an average of 85 dBA Leq at 100 feet from the stage. Importantly, the EIR states, “To the maximum extent feasible”. (p138). What is not mentioned in the EIR but within in Noise Appendix is that Bollard Acoustical Consulting (BAC) reported

BAC's experience in conducting sound level measurements for performing arts venues where amplified speech and music is employed has been that noise levels of 100 dBA at a position 100 feet from the front of the stage are not uncommon for concerts with up to 5,000 persons in attendance. (Noise and Vibration Impact Analysis, page 27)

Based on BAC's observations during the Dia De Los Muertos festival, and experience in monitoring other concerts over the years, it is very difficult to enforce sound level limits on concert promoters.

In spite of the recommendations presented above, at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts. Nonetheless, this assumption is used to assess potential noise impacts related to the use of the performing arts venue for this study.

The Noise section of the EIR used 85dBA in the analysis even though the appendix admitted that 85 dBA was not feasible for larger concerts. They indicated 100 dBA was more likely. Why wasn't the analysis conducted for the 100 dBA? Why wasn't the full impact of the noise reported?

Why was 85 dBA chosen? How will it be enforced? Will the sound system have a "governor" that stops the amplified noise at 85dBA using some sort of feedback system?

The Noise Appendix mentioned that there were all sorts of impacts to the estimations based on the final design of the Pavillion. It's not clear what design they made there estimate from. Was it the original set of 35% design documents? Or was it the value engineered documents produced 6 months later? Or was it the designs that were ordered in June 2019 to bring the cost down even further? Does the cost cutting and redesigns include the sound systems? Does the lack of specificity mean that the impacts could be even worse? How much worse? What is the range? Could these people be driven from their homes? Unable to watch TV without a headset? Carry out a conversation without a microphone? Would children be able to go to sleep? Will the cost-cutting allow specific design mitigations? Here's what ARUP wrote about possible design changes that would help mitigate. Why are they not part of the EIR?

According to ARIP Engineering, echoes off the back of house support building back to performers should be mitigated. This can be done by adding absorption to the face of the building, or angling the façade to direct reflections upward and away from performers. Alternatively, a stage backdrop could provide both a visual barrier between the front of house and back of house and block unwanted echoes. Curving the backdrop into a convex shape would further improve stage acoustics. (Noise and Vibration Impact Analysis page 26)

The consultants also wrote

One approach to controlling the overhead reflections being considered is to add sound absorbing material to the opaque cladding panels over the stage area...Should the sound absorbing layer of the cladding sandwich panel not be feasible, overstage reflectors may be needed.

This quote begs the question, which design was studied? When they use "not be feasible" does that mean it can't be constructed or that it costs too much for the established budget? What is the

City's trade-off for quality of life vs. cost, ie what does that sound absorbing material cost and why aren't the residents worth it?<sup>1</sup>

The project engineers made design suggestions, but it is not clear whether the cost cutting will allow these recommended changes. Are they included or not? And if not, why not?

In addition to the active sound amplification system, the project engineers are recommending controlling reflections of sound off the undersides of the pavilion spines and back of house reflections through the inclusion of sound absorbing materials in the project construction

BAC offered specific mitigations that are NOT included in the EIR. For what reason is that? The EIR included a time limit of 10 pm and no other mitigation.

Since the EIR analyzed the noise impacts at 85 dBA, how will stage managers know that they are not exceeding the 85 dBA Leq analyzed? How will it be monitored? If it is not monitored, how does this allow the residents to use their homes? Their backyards? How can parishioners of Trinity Church be confident that they can hear their priest at an evening service? Or participate in church committee or recovery meetings?

Why are BAC's mitigation recommendations cited in the Noise and Vibration Appendix not included in the EIR?

Specifically, BAC wrote:

Stage managers should be required to mount a sound level meter with continuous A-weighted sound pressure level display adjacent to the mixing booth so there is no doubt as the current sound system output at any given time. Only by being aware of the instantaneous sound levels can the sound technicians make the appropriate adjustments to the sound mixing board. The meter should meet a minimum Type 2 compliance and be fitted with the manufacturer's windscreen and calibrated before use.

Some EIRs and IS/MNDs have included mitigations for construction impacts expressed as contact names and procedures, including a 24-hour contact number. Sometimes, the contact name/number is part of the requirements of the ongoing operations. Why is there nothing here? Neighbors can't call SJPd since they won't respond to noise calls in the park. They can't reach [parkconcerns@sanjoseca.gov](mailto:parkconcerns@sanjoseca.gov) during a concert. What recourse will they have? Who will turn down the noise? No one?

Some cities use their noise ordinance as a mitigation measure. As BAC pointed out,

The noise standards of the City of San Jose are not well suited to assessing or preventing the potential noise impacts associated with amplified sound events at Saint James Park. This is because the General Plan standards, being based on a 24-hour average, do not provide a good indication of public reaction to short, loud activities. Conversely, the Municipal Code provisions are very subjective, which makes enforcement difficult.

BAC recommended a specific mitigation,

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<sup>1</sup> For example, the Federal Rail Administration uses \$95,000 per parcel for sound walls. If the wall costs more than that, it is called "not feasible" and residents must suffer the significant noise impacts without mitigation. See High Speed Train San Jose to Merced draft EIR.

BAC recommends the City consider adopting numeric noise standards specific to outdoor amplified sound levels such as that generated during events at Saint James Park. Such standards should consider including a provision specifically limiting low-frequency sound to reasonable limits.

Why is this not included as a mitigation within the EIR?

Ultimately will the residents and parishioners be expected to address the noise issue by filing separately and serially noise nuisance small claims court cases? Will the City be providing them training in how to file those cases?

## HISTORY

The Cultural Resources section clearly indicates that St. James Park will not be historic anymore. While many paragraphs are used to highlight the difference between the consultant's view and the City's Historic Preservation Officer's view, nowhere is there an explanation for why the City picked the consultant's view. It is highly unusual to present both views in such detail. Why were both views presented? Why could they not come to agreement? Could the City Council decide to pick the HPO's view? Is that appropriate for a group of untrained elected officials to make a decision on whether something is historic? Why not ask for a third professional report?

The Consultant's view is summarized on page 73. The bold sentence indicated does not make sense. Is there a word missing?

The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior's Standards (Rehabilitation) regarding the proposed structures and overall design. Pursuant to CEQA Guidelines Section 15064.5(b)(3), generally a project that follows the Secretary of the Interior's Standards is considered to have a less than significant impact on a historical resource. Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property. **Because the project would not reduce the significance, change eligibility, remove character-defining features, or compromise integrity, the project would have a significant impact on the historic integrity of the park and the district.**

Since the City has selected the consultant's view that the park's historic classification would be significantly altered, there is a gap in the analysis. How would this change the status of the historic district? The park is the unifying glue, but would the remaining buildings still qualify as a national register historic district? And if in the opinion of the consultant, the park no longer qualifies as historic, what impact does that have on the remaining older buildings within the district? Which are contributing structures to a historic district and would be no longer in the absence of a historic district? Which qualify for city landmarks? Which are city landmarks already? Which qualify for the national register on their own? Which are already on the national register of historic properties on their own? Bluntly, which will be ripe for redevelopment as towers?

## ALTERNATIVES

Within the alternatives, Discovery Meadows was discussed and dismissed the site as "not underutilized."

The Discovery Meadow Alternative Location would meet all of the project objectives (by revitalizing St. James Park and providing a performing arts pavilion), except objective 7 that specifies transforming an underutilized neighborhood park into a prime destination where music concerts occur. ***Discovery Meadow is not underutilized.***

What metric was used to determine that Discovery Meadow is not underutilized? How many permits are issued each year? For how many days? Generating how much money in fees, in “economic multipliers”? What’s the five-year profile? How does that compare to Plaza de Cesar Chavez? How many people are in the park in the evening in the summer? How many other than the Adobe Volleyball players?

## OBJECTIVES

One of the project’s stated objectives is

7. Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;

There are some advocates for the unhoused who would state that St. James Park is NOT underutilized. It is a key community gathering place for the unhoused. It provides a safe place for them to hang out all day, socialize, and build community. They receive services at the park. It is true that St James is not heavily used by people with homes/apartments. They would tell the City to not dismiss the unhoused as though they do not exist. The park is utilized, but perhaps not in the way that the City fathers would prefer.

## COVID

This EIR was released after the COVID19 pandemic had started. Research from Gensler and other groups have shown that people are using parks differently. A mention of this seems appropriate for the transmittal memo when this EIR is revised.

Sincerely,

/s/

Jean Dresden

July 6, 2020

Attention: City of San Jose

To whom it may concern,

I object to The Levitt Pavilion proposed for St. James Park. I am an interested party under the national Environmental Protection Act (NEPA Section 106) and therefore require written notice of any proposed changes to the Park and District that are in the National Register of Historic Places; and that written notice must be received by me prior to any initial consideration by the City of San Jose Planning and/or Building departments, to any proposed changes; I require written notice at any time the City receives any permit requests for a variance involving Saint James Park and/or Saint James Park Historic District. I demand official reviews of any proposed changes to the Park and/or District by the National Historic Preservation Office in Washington DC, the State Historic Preservation Officer In Sacramento, and the City Historic Landmarks Commission in San Jose before any vote is considered by the planning department and by the city council.



Thomas Bernal



**From:** Bill Gates [REDACTED]  
**Sent:** Monday, July 6, 2020 4:30 PM  
**To:** Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
**Subject:** St. James Park EIR

[External Email]

Dear Ms. Le:

Re: Response to the Draft EIR  
St. James Park Capital Vision and Performing Arts Pavilion

The dramatic increases of events at St. James Park, envisioned by the Draft EIR, Dated May, 2020, must be consistent with the City of San Jose General Plan. The General Plan designation "Open Space, Park & Habitat", Chapter 5, Page 18 reads: "Lands in this designation are typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas". This designation is intended for "low intensity uses" and the St. James "Capital Vision" is therefor inconsistent with the General plan in that uses contemplate up to 5,000 people attending up to 300 events per year in the park.

Bill Gates  
Partner

From: Jeff Rampe [REDACTED]  
Sent: Monday, July 6, 2020 4:34 PM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>; Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>;  
Peralez, Raul <[Raul.Peralez@sanjoseca.gov](mailto:Raul.Peralez@sanjoseca.gov)>  
Subject: Response to St. James Park Capital Vision & Levitt Pavilion Project Environmental Impact Statement - File Nos. PP16-037

[External Email]

**File Nos. PP16-037**

Dear Mayor Liccardo, Councilmember Peralez, City Manager Sykes and Planner Le,

Thank you for taking the time to review the feedback from concerned stakeholders affected by the St. James Park Capital Vision & Levitt Pavilion project.

I live on the second floor of the St James Place Complex with a view from my windows of the park. I have lived there since 2004, and during that time I have become accustomed to many of the regular downtown sounds. The light rail, constant traffic, landing aircraft, and screeching sirens from first responders do not bother me. I tolerate one incessantly barking dog during the day while I'm working and late-night screaming fits from one of the park's regular transient inhabitants. These sounds penetrate my closed windows, but thankfully, they are typically short lived events.

When I see a proposal for a music venue in this park, situated adjacent to my home, I am concerned. When the proposal includes a schedule of 300 events a year, I am alarmed. The noise alone from one event is a significant disruption, but 300 events worth of noise and everything associated with that is a sustained attack on the quality of life of all the residents surrounding the park.

I am pleased to see the proposal for expanding the children's play area and dog park. These features should contribute to sustained usage of the park and benefit the residents of the neighborhood. The parts of the proposal related to the music venue and concert schedule introduce changes that will significantly degrade the quality of life of the surrounding neighbors.

#### **Noise**

The Noise and Vibration Assessment (PP16-037 Appendix F - Noise and Vibration Assessment) identifies several recommendations, but without incorporating these as the standard requirements AND implementing strict enforcement, the adverse impact is potentially significant.

"The use of subwoofers at this venue should be discouraged." It should not be allowed at this venue.

“The Parks department should contact the local law enforcement agencies following the concerts to determine if any noise complaints were registered during the concerts. All legitimate complaints should be investigated and additional sound controls evaluated and implemented as appropriate.” Sound controls must be implemented BEFORE any event takes place. This should be the standard for any event in the city. There is no real accountability if the action is taken after the fact.

“In spite of the recommendations presented above, at this time it is unknown if sound levels can feasibly be maintained at an average level of 85 dBA at a reference distance of 100 feet from the stage during larger concerts.” The residents of this area expect certainty.

“As a result, this analysis concludes that interior spaces of noise-sensitive uses located in the immediate project vicinity could be exposed to substantial increases in ambient noise levels during amplified music events. Therefore, this impact is considered potentially significant.”

The Sriracha Festival on Aug. 30, 2014 was an 8-hour event that serves as an example when guidance above was not followed and enforcement of any standard was significantly delayed to the detriment of the residents on the park. The stage was positioned in the same location as the proposed Levitt Pavilion stage. The unrelenting onslaught of loud music vibrating our windows and resonating within our living rooms and bedrooms forced many residents to flee their homes to avoid the unwelcomed intrusion. Any planned events must account for the impact to the residents, and city should have the will enforce adherence to the regulations that affect the park and events held within the park. This will to enforce regulations in the park is in question due to the history of allowing routine violators in the park to go unchecked.

### **Homeless**

The proposal does not sufficiently address homeless mitigation. It is well known that Saint James Park is a magnet for the downtown homeless population. While activation of the park is expected to reduce the presence of homeless people during certain times, it is only through temporarily displacing these people into the surrounding neighborhoods. A comprehensive project needs to include effective solutions in eliminating the homeless population in the park and in downtown.

### **Crime**

The city has imposed traffic restrictions on certain days such as Cinco de Mayo to limit the number of outsiders coming into downtown and to reduce crime. This project proposal takes the opposite approach and welcomes anyone to come into the downtown area on a regular basis. How would the city handle proposed events during Cinco de Mayo and other similar celebrations? This is one example of a conflict you would have to address in a thoughtful way.

### **Traffic Analysis and Parking**

“it is recommended that concert events at the pavilion be scheduled so as not to coincide with major events at the SAP Center whenever possible.” Page 5 of Transportation Analysis PP16-037 Appendix G - Transportation Analysis. With 300 events per year, this is nearly impossible.

The proposed sidewalk bulbouts would improve the situation for pedestrians in areas where there is high foot traffic. However, it must be acknowledged that this will eliminate already scarce parking for residents. Of more significance, the planned high frequency of events will further stress the scarce

availability of parking for residents. It is not reasonable to expect the residents to try to find parking on streets further away, moving the parking constraint and spreading to larger affected area. Also, the Saint John & 4<sup>th</sup> St garage is not a dependable alternative for residents. In this proposal, this disruption would occur almost daily. Special consideration must be given to residents. An example of that could be issuing permits and restricting parking on certain streets such as those north of Saint James St. Also, granting permittees the ability to park at metered spaces without a fee would preserve parking access for those who live near the park.

### **Trees**

It is evident that the proposal utilizes the existing tree layout, but a project intended to be durable and long lived, should set aside those constraints. Within the report from the Arborist (PP116-037 Appendix C - Arborists Report), it is recorded that many of the trees in the park need maintenance or need to be replaced. There are 60 of the 248 trees in Poor or Bad condition. This is an opportunity to reconfigure the layout of the park and replace trees like the London Planes and California Sycamores, which bomb our air and sidewalks with allergy inducing tree pollen in massive amounts, with more tolerable and aesthetically pleasing trees such as the Jacaranda and Japanese Maple.

As a whole, this project report does not adequately consider the impact to the day-to-day lives of the residents in the surrounding area. It does not address crime and homelessness which will be amplified by an active concert schedule and added structures to enable encampments.

I want to see the proposal to use Saint James Park as a music venue to be abandoned in favor of using existing stages within the city or a more suitable park location such as Plaza de César Chávez. The disruption and negative impacts of the music program outweigh the purported benefits. Strengthening the community aspect of Saint James Park through enhancements to the children's play area and dog park is a welcome improvement. Please continue with that investment.

As other residents have stated, I look forward to continuing the dialogue between the city and the community to revise the proposal to deliver the essential improvements that enhance the quality of life of the residents surrounding this neighborhood park.

Sincerely,  
Jeff Rampe



**From:** [REDACTED]  
**To:** [Le, Thai-Chau](#)  
**Cc:** [Perez, Raul](#); [Burnham, Nicolle](#); [Zelalich, Blage](#); [Kline, Kelly](#); [Cicarelli, Jon](#); [Hughey, Rosalynn](#); [REDACTED]  
**Subject:** Comments on the Environmental Impact Report Draft for St. James Park  
**Date:** Monday, July 6, 2020 4:57:26 PM  
**Attachments:** [SJDA St. James Park Draft EIR Comments.pdf](#)

---

[External Email]

Hello Ms. Le:

Please see the attached letter for the San Jose Downtown Association's comments on the Environmental Impact Report Draft for St. James Park.

Thank you,  
Chloe

--  
**Chloe Shipp**

---

PBID Operations Manager  
San Jose Downtown Association  
[REDACTED]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



## **SAN JOSE DOWNTOWN ASSOCIATION**

July 6, 2020

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

Subject: Comments on the Environmental Impact Report Draft for St. James Park

Dear Ms. Le,

The San Jose Downtown Association (SJDA) provides the following comments for the draft Environmental Impact Report for the redesign and capital improvements to St. James Park. We appreciate the level of detail and consideration staff have put into the draft EIR, including the incorporation of many elements we addressed during the scoping process in 2016, and hope that the full redesign of St. James Park will come to fruition.

### **CONSTRUCTION & PHASING**

We were surprised that the draft EIR did not include phased construction of the project as a part of the Project Alternatives. It is clear that funding for this capital project is still not secured. Understanding how a phased project will impact overall project costs, as well as the success of the park's reactivation is a vital component of this project. Additionally, ensuring that all phases of the project are completed is of significant importance.

### **CIRCULATION**

While we appreciate the attempt to reunify the two halves of the park by removing car and bus traffic from 2nd Street, we are concerned that there is still no comprehensive traffic and circulation study for the downtown core. This study would allow projects like the St. James Park redesign to take into consideration all impacts of street closures and rerouting traffic, including impacts to future public and private development projects. The northern edges of downtown San Jose have several planned and potential development sites within walking distance of St. James Park. With much greater densities and circulation demands in downtown's future, understanding how closing 2nd Street to vehicular traffic would impact the park's redesign and the St. James Park neighborhood is critical. We do not know how

the EIR can properly address these conditions until the Greater Downtown San Jose Access and Circulation study data is available.

## **ACTIVATION & OPERATIONS**

We appreciate that the draft EIR considers 12 project objectives, ranging from operational to design and historic considerations. Three objectives stand out as major opportunities for this project:

Item #4. Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship; St. James Park Capital Vision and Performing Arts Pavilion 14 Draft EIR City of San José May 2020;

Item #5. Develop a cultural asset conducive to creating a thriving destination and building community through music;

Item #6. Improve maintenance, operations, security services, and other public services in order to ensure a well maintained, clean and safe facility.

### ***Partnership***

At this time, governance of a fully redesigned St. James Park has yet to be identified. Part of the clarity needed is around activation and use of the park. The draft EIR correctly indicates that public-private partnerships are an integral part of this equation. If the project's construction is phased, these partnerships become more valuable than ever.

### ***Cultural Asset***

With the inclusion of a Levitt Pavilion to host larger, more formal events, we were heartened to see that consideration was given to infrastructure needed for smaller, more intimate and spontaneous events. In order for St. James Park to truly be revitalized, regular activation is necessary. Consistency of activation as well as communications around these opportunities should also be considered.

### ***Operations and Maintenance***

The draft EIR discusses many fundamental changes to St. James Park from an operations and maintenance standpoint. What is proposed requires a complete shift in how the park is currently maintained, especially in light of the proposed level of activation and events. Understanding the governance structure and on-going maintenance plans for St. James Park needs to be addressed. Completing this capital project without a clear governance structure and maintenance plan creates unnecessary risk to the overall success of the project's long term goal to get people into the park on a regular basis.

One area where these operational challenges can be addressed is the inclusion of community and social services at the park to engage the homeless individuals already present in St. James Park. A redesign of the park alone cannot address these complex social challenges.

SJDA thanks PRNS for their leadership in the redesign and activation of St. James Park, as well as PCBE for soliciting community feedback on the EIR process.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Knies".

Scott Knies  
Executive Director

CC:

Councilman Raul Peralez

Rosalynn Hughey

Jon Cicirelli

Nicolle Burnham

Blage Zelalich

Kelly Kline

Nathan Ulsh

July 6<sup>th</sup>, 2020

Thai-Chau Le  
Supervising Planner  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San Jose, CA 95113  
VIA EMAIL ([Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov))

Re: Draft Environmental Impact Report (EIR)  
St. James Park Capital Vision and Performing Arts Pavilion Project  
(File No. PP16-037 + HP19-008)

Dear Ms. Le:

I am writing to you as the Chair and empowered representative of the City of San Jose's Historic Landmarks Commission (HLC), with the HLC's comments regarding the potential historical impacts of the above-referenced project. The proposed scope of work is within the Saint James Square City Landmark and National Register Historic District (HD84-36), and immediately adjacent to multiple individual City Landmark Structures.

Per the City's Historic Preservation Ordinance, and the Historic Preservation Goals and Policies of the Envision San Jose 2040 General Plan, the HLC is the City's quasi-judicial body tasked with the preservation of the City's historic built environment. The HLC provides project design comments and recommendations through Commission meetings and the smaller Design Review Committee (DRC). Over the course of the planned revitalization of St. James Park, the DRC and HLC have been provided with project updates. The Draft EIR formally came before the HLC on June 3<sup>rd</sup>, 2020.

At the June 3<sup>rd</sup>, 2020, HLC meeting, in a 6-0-1 decision, the Commission voted to authorize the Chair to forward the Commission's comments to the Director of Planning, Building and Code Enforcement. The consensus of the Commission was that, while many of the comments provided previously by the DRC and HLC have been addressed, there are additional comments and details that remain unresolved.

Our additional comments include, but are not limited to, the following:

1. The HLC applauds the project's intention to revive St. James Park as a social focal point for the City. This is an appropriate acknowledgement of the role that the original 1868 park played during the 19<sup>th</sup> and most of the 20<sup>th</sup> centuries.
2. Maintaining the historic perimeter, in both the spirit of the 'Memorial Walk' and the retention of the statues and memorials, is of the utmost importance. The restoration of formal gardens would approach false historicism; instead, the proposed 'Memorial Walk' embraces the history and placemaking of St. James Park, while acknowledging that the best means by which to engage the surrounding residents with the park has evolved in the last one hundred and fifty years.
3. The park's utility and historical integrity were dealt a severe blow when it was bisected by the VTA tracks. While we applaud many aspects of the current proposal, we continue to feel that the park would be better served by the relocation of the VTA tracks.

4. The self-professed mandate of the Levitt Pavilion project is ‘Building Community Through Music’, with an annual minimum of (50) free concerts. While the ability of music to draw people together is undeniable, this cannot be allowed to come at the expense of other visitors to the historic park, residents and tenants of the surrounding City Landmark structures, and the integrity of the Saint James Square City Landmark and National Register Historic District as a whole. Therefore, we consider the establishment of a decibel limit for all public performances in the park to be an essential mitigation measure, one that should be strictly and consistently enforced.
5. The quantity of trees proposed for the reconfigured park is an appropriate nod to the original intent of the park, and a welcome attempt to encourage uses in addition to the concert venue.
6. The impact of the proposed development on mitigation measures provided as a part of previous alterations to St. James Park should be considered in detail as part of both the project analysis and the revised park’s built form. The existing fountain is an appropriate example. While not original, it was installed to mitigate the substantial impacts on the park of previous changes to the park, the most ill-advised of which were the placement of 2<sup>nd</sup> Street and the VTA tracks. Any capital vision for the park should address the park’s history of mitigations and alterations.
7. The emphasis placed on the ‘Memorial Walk’ as a nod to the previous formal gardens should be reflected in the materials and finishes. The use of brick or a macadamized surface would be the most appropriate choice. Should a surface such as stamped concrete, which would require less maintenance, be selected, the pattern and color should be such that it acknowledges this more historically accurate materials. A mix of low maintenance materials at the areas of heaviest circulation – including access points for maintenance vehicles – could be appropriately balanced by the use of more historically accurate materials along the more pedestrian portions of the ‘Memorial Walk’.
8. Embracing the modern reality of the need for a children’s play area presents the opportunity for a nod to the history of the park as well. One need only look to Theodore Lenzen park to see how this can quite easily be accomplished. The replication of canned fruit labels and signage along the perimeter fence gives a depth and meaning to the enclosure, far beyond the non-descript powder-coated aluminum. It provides insight into the context of San Jose as part of the Valley of Heart’s Delight, and the storied history of the canneries. A similar approach should be taken as part of the capital vision; any play area within St. James Park should clearly acknowledge its surroundings, rather than be composed solely of anonymous play structures that could just as readily be found in any number of community parks. Street cars were common in the downtown area from the 1880s through the 1930s. The inclusion of a miniaturized streetcar would provide a special ‘destination’ element to the play area, while prompting further discussion by visitors of the historical roots of downtown.
9. Multiple points of entry to the park is a welcome part of the capital vision. Placing historic markers at these points of entry would allow the circulation pattern to not only encourage entry into St. James Park, but provide additional background on the historic contributing structures lining the park. These include the Santa Clara County Courthouse, the First Church of Christ, Scientist, the Unitarian Church, Trinity Episcopal Church, the Sainte Claire Club, and Scottish Rite Temple. The placement of these buildings around the perimeter of the park was a conscious, deliberate choice; St. James Park as a public square, and gathering place for worshippers and congregants, is an aspect of its history that should be embraced and elaborated upon by the proposed signage and historic markers.
10. In Las Gatos, the historical markers in Vasona Park tell history in stages, addressing the Ohlone period, the Spanish / Mexican era, the early US period, and beyond. A similarly well-thought-out series of markers would be a welcome addition to Saint James Park. Furthermore, the capital vision should embrace San Jose’s self-proclaimed status as the ‘Capital of Silicon Valley’, and include QR codes to provide additional pictures, resources, or augmented reality (AR) engagement for those who are interested. Some potential ideas for historical markers are as follows:

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*Department of Planning, Building and Code Enforcement*

**ROSALYNN HUGHEY, DIRECTOR**

- a. St. James Park was once owned by James Frazier Reed, one of the City's founders. Reed later sold the back to the City for the same price he had paid for it initially.
- b. In the 1850s, the land was used as a hog farm and drill field.
- c. Street cars from the train depot built in 1864 brought many visitors to the park. The Bassett Street depot closed in 1935, moving to Cahill Street, the current home of the National Landmark Diridon Station.
- d. The Naglee monument was designed by Paul Phillippe Cret, a preeminent early 20<sup>th</sup> century architect, and the head of the architecture school at the University of Pennsylvania, which remains to this day one of the nation's most highly-considered architecture schools. Henry Naglee's monument should be retained as part of the capital vision, with its inscription of Naglee's accomplishments.
- e. At the entrance to St. James Park opposite Trinity Episcopal Church (81 North Second Street), an appropriate marker would acknowledge Reverend Peter Williams Cassey as the 'founding father of Black San Jose'. In 1862, Reverend Cassey established a secondary school for San Jose's black students.
- f. In 1887, the City hired Rudolf Ulrich to remove some of the trees to afford more sunlight to the flower beds.
- g. 'The Valley of Heart's Delight' was the term used to describe Santa Clara Valley during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. Farmers, canners, and ancillary industries formed the heart of San Jose's economic and civic identity during much of that time; from the 1880s until 1950, Santa Clara Valley would claim to be the 'Garden Spot of the State'.
- h. The McKinley Monument should include a historical marker describing McKinley's speech of May 13, 1901. The community gathered the funds needed to commission a statue or monument after McKinley was assassinated later that year. Sculptor Paul Schmidt created the McKinley statue, in addition to dozens of other significant works in San Francisco and elsewhere.
- i. The nearby Hotel Vendome, built in 1888, was commissioned after the small San Jose business community felt that the City lacked a first-class, resort hotel. Initially, the Vendome Corporation sought approval to locate the new hotel in St. James Park itself, before settling on the twelve-acre estate of Josiah Belden, one of San Jose's early mayors, on North First Street. It catered to upper class visitors from 1889 until 1930.
- j. An historical marker recounting the lurching of Brook Hart's kidnappers and murderers in 1933 should be duly considered. The marker should be placed close to the Courthouse, noting that the kidnappers were held in the courthouse before being brought out to the park and lynched.
- k. Some of the source material for these proposed markers can be found in the following, all of which should be part of the background and context for the design of any revisions to St. James Park:
  - i. *Signposts Revisited* (Patricia Loomis)
  - ii. *Reflections of the Past* (Charlene Duval)
  - iii. *Sunshine, Fruit, and Flowers* (San Jose Mercury, 1890)
  - iv. *Historical Highlights of Santa Clara Valley* (Jack Douglas)
  - v. [www.sjpl.org](http://www.sjpl.org) (McKinley Monument background info)
  - vi. [www.vendome.org](http://www.vendome.org)

As a project within both a City Landmark District and National Register Historic District, and surrounded by multiple individual City Landmarks, the importance of properly addressing the potential impacts of this project on historic resources cannot be overstated. Given the scope of the proposal, this is a once-in-a-generation, if not once-in-a-lifetime, undertaking in the heart of one of San Jose's most historic areas. Therefore, adherence to, and compliance with, both the Secretary of Interior Standards and the City's Historic Preservation Ordinance must be a primary tenet of the design scheme. Towards that end, the HLC looks forward to further collaboration with the design team and City Staff, to ensure that the details and specifications for the proposed revitalization of St. James Park maintain this high standard.

Sincerely,



Edward Saum  
Chair, City of San Jose Historic Landmarks Commission

cc: Councilmember Raul Peralez  
Rosalynn Hughey, Director, Department of Planning, Building and Code Enforcement  
Juliet Arroyo, Historic Preservation Officer

From: jacqueline snell [REDACTED]  
Sent: Monday, July 6, 2020 9:13 AM  
To: Le, Thai-Chau <[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)>  
Cc: [REDACTED] The Office of Mayor Sam Liccardo  
<[TheOfficeofMayorSamLiccardo@sanjoseca.gov](mailto:TheOfficeofMayorSamLiccardo@sanjoseca.gov)>; [REDACTED]; District3  
<[district3@sanjoseca.gov](mailto:district3@sanjoseca.gov)>  
Subject: Saint James Park EIR

[External Email]

I will walk hard copy to city hall this morning. Unfortunately my printer died so I have to go out to get the letter printed.

Mssrs. Thai-Chau Le, Raul Peralez, Sam Liccardo:

This letter is in response to the recently released EIR addressing the city's plans for St. James Park. I am the owner of a condo across the street from the park with a unit facing Saint James Street.

I am too angry to write a calm, formal letter as I think my neighbors have. Normally I would deal with this by not sending the letter. Good advice: write it but don't send it. Unfortunately, I promised my neighbors I would write a letter.

Making Saint James Park a draw for the region, rather than for the city is foolhardy. Do you really think 5,000 people can fit in Saint James Park? Is it standing room only? For many years residents were promised an improved park, suitable for the neighborhood. Now this has ballooned into something meant to draw people from the region with no consideration for local residents.

**Noise:** I am extremely concerned about the noise involved in having a music Pavilion in the park. Ending concerts at 10 pm is of no use to residents. The Sriracha festival was so loud it made it impossible to stay home. That was during the day, not the evening. The new plan is likely to run me out of my home nearly every weekend. I fear you will not only force me to move but also ruin my property value. Early in the process you promised us triple-pane windows but I don't see that anywhere in the budget. Are all the new condos and apartments going up in this immediate area putting in triple-pane windows?

**Traffic/parking:** Even now an audience of 5000 would mean backing traffic up onto Guadalupe Parkway. It is ridiculous to think this area can handle the traffic or the parking. Saint James Street is the main thorough fare exiting Highway 87, how can it also handle traffic for an additional 5000 people? It will be even worse once the Apple complex is in use. I expect you are hoping most people will take light rail. Even if true, where will people drive to get onto light rail? You are asking for an extended downtown area to be impacted by traffic, parking, and garbage problems.

**Downtown Character:** It is a travesty to turn a tranquil residential historic district into a loud, congested, mess, unsuitable for residential living. Claiming that there is no other place to put a pavilion is more than hard to believe. Put it near Avaya stadium where there is ample parking and the nearby airport already makes the area unsuitable for residential living. One of the reasons I bought my condo was because I could see trees out of all my windows. One of my friends calls it my tree house. What will I see on the back side of the pavilion, graffiti?

I presume a rock concert venue will include selling alcoholic beverages further destroying our neighborhood.

**Taxes?:** Perhaps you expect to make more money from the Pavilion than from property taxes but the fundraising that Levitt requires make that seem doubtful. That would not rightly be part of an Environmental Impact Report but where can we San Jose residents see those calculations?

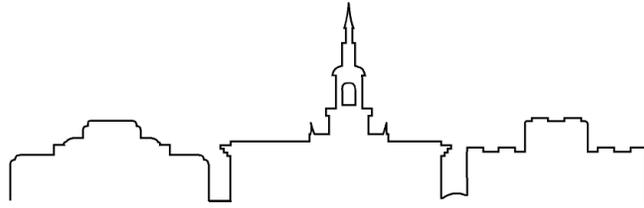
I have lived in this neighborhood for 12 years. My impression was that the original instigation for redesigning the park was to change the image of downtown San Jose from homeless/drug trafficking central to something more respectable. Is party central much of an improvement? This has gotten out of hand.

Please give us a nice Greek theatre on the opposite corner of the park which would mean across the street from the post office and businesses. Please don't drive me out of my home and ruin my property value, too.

Sincerely,  
Jackie Snell

A large black rectangular redaction box covering the signature area.

.



## PRESERVATION ACTION COUNCIL OF SAN JOSE

*Dedicated to Preserving San Jose's Architectural Heritage*

---

July 7, 2020

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

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

**RE: DRAFT EIR, ST. JAMES PARK CAPITAL VISION AND PERFORMING ARTS  
PAVILION PROJECT (PP16-037)**

Dear Ms. Le,

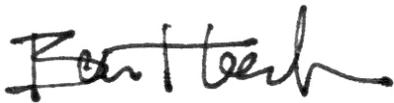
Thank you for the opportunity to provide comments on the St. James Park Draft EIR. PAC\*sj is limiting its comments at this time to the EIR's discussion of impacts to existing historic resources within St. James Park and its surrounding historic district. We generally concur with the conclusion that the pavilion project as proposed would cause a substantial adverse change in the significance of a historical resource (the surrounding historic district) pursuant to CEQA Guidelines Section 15064.5, yet we also believe that the impacts to the existing historic fabric of the park itself are appropriately minimal and that the proposed park rehabilitation represents a reasonable and historically sensitive mitigation of these corresponding adverse impacts.

Our biggest concern is one of scoping and phasing. Though not addressed directly in the EIR, we are concerned that budget considerations could foreseeably lead to a de-coupling of the pavilion construction phase from the other park improvements. If this were to happen, PAC\*sj believes strongly that any approvals for the pavilion must be contingent upon the

completion (or the guaranteed funding for) the other the other proposed park elements, especially the “historic edge” landscaping plan and monument walk.

Given that design development of the pavilion itself is not complete, we are not commenting on its appropriateness at this time. Final design documents should be reviewed and approved by the Historic Landmarks Commission.

Sincerely,

A handwritten signature in black ink that reads "Ben Leech". The signature is written in a cursive style with a horizontal line through the middle of the letters.

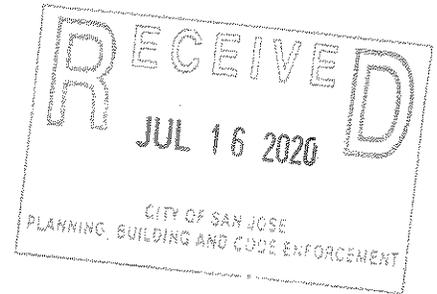
Ben Leech

Executive Director

Preservation Action Council of San José

240 South 13th Street  
San Jose, CA 95112  
July 5, 2020

Thai-Chau Le  
Department of Planning, Building and Code Enforcement  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113



Re: Draft EIR - St. James Park Capital Vision Project  
File PP16-037

The Draft EIR documents fail to mention the names or the importance of the artists who have created the existing monuments that are currently located within St. James Park. There is also no discussion of the significance of the events leading to the placement of these public reminders of important events in San Jose's past.

**McKinley Statue** was designed by Rupert Schmid (Schmidt), California's most prominent sculptor of the late 20th century. Schmid created dozens of important works in both marble and bronze. One of his most popular works is California Venus, now in the collection of the Oakland Museum. McKinley was the first sitting president to visit San Jose, and the community was greatly impressed by his remarks. Local residents were devastated when he was assassinated shortly after his visit. The monument was created by public subscription which included some major donations from civic groups.

**Naglee Monument** was designed by Paul Philippe Cret and the bronze sculpture was created by artist Robert Tait McKenzie. Both the designer and the artist were on the faculty of the University of Pennsylvania. Both men were notable artists of international stature and are still highly regarded.

Brig. General Henry Morris Naglee was born in the Philadelphia area but was a California pioneer, arriving in 1847. Naglee is credited with establishing California's first bank, building the first permanent business building in San Francisco, organizing what became the California National Guard and creating the California brandy industry. He was San Jose's first engineer with a degree in civil engineering from the United States Military Academy at West Point.

His primary contributions to San Jose include the development of the properties in the areas we now consider Downtown San Jose. Naglee Avenue marks the northern boundary of his property holdings. He was instrumental in acquiring Alum Rock Park. As an experimental horticulturalist, he is credited with introducing hundreds of trees to Santa Clara Valley. His personal garden of 140 acres was a local showplace and was

open to the public. The Naglee Monument was presented to the City of San Jose in 1915 by Naglee's oldest daughter, Marie Naglee Robins.

**The Hart Kidnapping and Lynching** currently has no public monument. The tree from which two men were hanged was reportedly destroyed by souvenir hunters who tore off pieces of the bark. The incident is one of the most disturbing in the history of peaceable San Jose, an incident which still troubles the local conscience. The incident was a very surprising and spontaneous reaction to the initial crime, the kidnapping and murder of a young man from a prominent family.

The City of San Jose has an opportunity to use public art as a pathway to promote resolution and community healing. There are elements of this tragedy that still trouble the consciences of compassionate human beings. Many San Jose residents are still uneasy about the lynching, decades afterward. How could this unspeakable and lawless event happen in San Jose, a peaceful community? Feelings of shame and confusion are often expressed. Public recognition of the tragedy would offer opportunity for meditation, resolution and for healing.

Thanks for the opportunity to comment.

A handwritten signature in cursive script that reads "April Halberstadt". The signature is written in black ink and is positioned above the typed name.

April Hope Halberstadt, Historian

## **Appendix B: Notice of Availability Recipients**

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## **Emails**

[shaneensed@sonic.net](mailto:shaneensed@sonic.net)  
[Angelique.Duysings@sjsu.edu](mailto:Angelique.Duysings@sjsu.edu)  
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