



Housing | Health | Children & Youth

October 2, 2019

Ms. Kate Gordon, Director
Office of Planning and Research
1400 10th Street
Sacramento, California 95814

Via e-mail: California.Jobs@opr.ca.gov

**RE: Downtown West Mixed Use Plan in San Jose, CA (Google) AB 900 Application
(Clearinghouse No. 20190903-DWSJ)**

Dear Ms. Gordon:

The Law Foundation of Silicon Valley writes on behalf of Sacred Heart Community Services, Latinos United for a New America, and Affordable Housing Network to provide comments to proposed Downtown West Mixed Use Plan (“Google Project” or “Project”) in San Jose, CA, and request that the certification under AB 900 be denied until the applicant adequately addresses the concerns in this letter.

Since Google announced its plans to build a tech campus at Diridon Station, we and other community members in San Jose have raised concerns about the impact that the tech campus will have on the displacement of low-income families from San Jose. We write to reiterate some of those same concerns over the Google Project as they relate to the requirements of AB 900 CEQA streamlining.

1. The Google Project Plan Does Not Adequately Address the Environmental Impact of Displacement

San Jose is in a housing crisis. Low-income families and communities are facing rapid displacement in vast numbers. According to the Urban Displacement Project, at least 34% of Santa Clara County has either gentrified or is at risk of gentrification and displacement.¹ Over

¹ Justine Marcus, “Disruption in Silicon Valley – The Impacts of Displacement on Residents’ Lives,” URBAN DISPLACEMENT PROJECT (Dec. 10, 2018), available at <https://www.urbandisplacement.org/blog/displacement-impacts-santa-clara>.

42% of working people are rent-burdened.² We see firsthand that long-term, low-income communities of color are having to move further and further away from San Jose. This displacement is causing the loss of long-standing communities of color as more and more families are forced away from San Jose.

The Google Project will greatly exacerbate the displacement already occurring in San Jose until and unless Google commits to producing enough housing to offset the impact of the Project. One study found that an additional 5,284 affordable units, and another 12,450 market-rate units will be needed in the Diridon Station Area to prevent rapid rent increases.³ Without a significant commitment from Google to produce housing, renters could be paying five times higher in rent, and this rent burden would significantly affect communities of color in San Jose.⁴

The Google Project plan does not address the impending mass displacement that will result from this Project, and therefore fails to address the environmental impacts of displacement. First, the Project does not specify how many employees will be located in the Project, nor does it detail the number of contracted employees who will work at the Project. The environmental impacts cannot be fully addressed without knowing this crucial information. Estimates in the media have stated that between 20,000 and 25,000 employees will work at the Project.⁵ For this Project, it is estimated that there will be 8,000 low-wage subcontracted service jobs to San Jose in addition to the 20,000 to 25,000 tech jobs.⁶ Additionally, it is estimated that for every tech job created, 4.2 jobs in the local goods and services industry will be created.⁷

Despite the estimated increase of 20,000 – 25,000 employees, the Google Project will only include between 3,500 and 5,900 housing units.⁸ This is woefully inadequate to accommodate the number of people moving into the area for jobs that will be added by the Google Project. Additionally, there is no information about the number of affordable housing units that will *actually be* incorporated into the project, nor the level of affordability for those units. The Memorandum of Understanding between the City of San José and Google concerning the Project (“MOU”), attached, has an unenforceable “goal” of 25% affordable units. So, even assuming that this 25% goal is met and the maximum number of total housing units that may be included in the project are actually built (5,900), the Google Project will only create 1,475 affordable units of the over 5,000 affordable units needed to prevent mass displacement.

² WORKING PARTNERSHIPS USA, THE GOOGLE RENT HIKE 4 (April 2019), *available at* <https://www.wpusa.org/research/google-rent-hike/>.

³ *Id.* at 4.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 3.

⁷ BAY AREA COUNCIL ECONOMIC INSTITUTE REPORT, “TECHNOLOGY WORKS: HIGH-TECH EMPLOYMENT AND WAGES IN THE UNITED STATES” (Dec. 2019) *available at* <http://documents.bayareacouncil.org/TechReport.pdf>.

⁸ ESA, ENVIRONMENTAL LEADERSHIP DEVELOPMENT PROJECT APPLICATION: DOWNTOWN WEST MIXED USE PLAN IN SAN JOSÉ, CALIFORNIA 6 (Aug. 2019).

While we acknowledge that Google should not be solely responsible for solving San Jose’s housing crisis, it must address the environmental impacts of the displacement that directly results from its Project. In the absence of a plan to house more people closer to the Project that will create at least 20,000 jobs, Google must address the environmental impacts of people moving further and further away from San Jose, and how it will mitigate those environmental impacts.⁹ For example, the lack of affordable housing in Silicon Valley means service workers who make low-wages will face displacement and likely be forced to commute from the Central Valley. As discussed below, the environmental impacts of these longer commutes are not addressed by the applicant.

2. The Google Project Plan Has Not Provided Adequate Information to Support that the Project Will Lead to More Transportation Efficiency

The applicant does not provide sufficient information to support that the Project will lead to more transportation efficiency. AB 900 streamlining requires that the project will achieve at least 15 percent greater transportation efficiency, which is measured by “the number of vehicle trips by employees, visitors, or customers... divided by the total number of employees, visitors, and customers.”¹⁰ Google does not state the number of employees who will be making trips in and out of the facility, and instead uses a separate formula that seems to understate the amount of trips that would come from the project.¹¹ Furthermore, Google’s reliance on its transportation alternatives in its analysis of a Comparable Project is full of assumptions, and many of these assumptions are simply not true for low-income workers.¹²

First, the applicant states 20% of employees will live within walking distance, without even identifying the number of employees at the Project or identifying where they would live.¹³ This would require an assumption that *only* Google employees would live in the planned 3,500 to 5,900 housing units. This also does not take into consideration the estimated 8,000 service workers who would not be able to afford most of the planned 3,500-5,900 units. Additionally, the applicant provides no data or maps to show where else, other than the planned on-site housing, Google employees may live that would be “walkable” to the Project. Altogether, these issues show that the assumption that 20% of Google employees will live within a walkable distance to the Project is unsupported, and must be discounted.

Second, the applicant assumes that transit options will be available to its employees, such that 60% of its employees will use public transit.¹⁴ There is no doubt that the Google Project will be located next to a high-transit hub and many of its employees will use transit. However,

⁹ *Defend the Bay v. City of Irvine*, 119 Cal. App. 4th 1261 (2004)

¹⁰ Cal. Pub. Res. Code § 21180(c) (Deering 2019).

¹¹ NELSON\NYGAARD CONSULTING ASSOC. INC., APPENDIX A: AB 900 TRANSPORTATION ASSESSMENT FOR SAN JOSÉ DOWNTOWN WEST MIXED-USE PLAN 16 (Aug. 2019) [hereinafter “APPENDIX A”].

¹² *Id.* at 9.

¹³ *Id.* at 16.

¹⁴ *Id.*

the current plan makes lot of unwarranted assumptions in relation to transit options. For example, it is unlikely that BART or High Speed Rail will be available at the time construction begins or even when the Project is completed.¹⁵ This will significantly reduce transit options for those commuting from the East Bay or Central Valley. The transit efficiency determined by the applicant relies heavily on such transit options, and thus must be discounted.

Third, the applicant assumes that transit available at the Diridon Station transit hub near the Project will be affordable to everyone working at the Project, including low-income workers. However, many transit options at the station will be unaffordable to the estimated 8,000 low-wage service-sector workers the Project is expected to add. The applicant has not provided any analysis or evidence as to which transit routes service-sector workers would be able to afford, nor made any commitments to provide affordable transportation to these workers.

Additionally, low-wage workers will more likely than not be forced out of San Jose and into the Central Valley. Yet, there are no current or planned transit options to serve this region and the workers forced to move there by the Project. For example, there is no current or planned route to Los Banos, where many working families displaced from San Jose have relocated to.¹⁶ Without taking these workers and the transit options they will realistically be able to afford into account, the applicant's assumption that the Diridon Station transit hub will serve all workers added by the project is unfounded.

Lastly, the Plan's reliance on alternative forms of transit, including express buses, does not address the fact that many of these transit options are not available to non-Google employees or are not accessible to where low-income workers would live.

3. The Google Project Has Not Provided Enough Information to Assess Whether it will Qualify for LEED Certification

One of the requirements for AB 900 streamlining is that the project will qualify for LEED Certification, and that the applicant shall provide a binding commitment to delay opening the project until it receives LEED Certification.¹⁷ First, it does not appear that the applicant has provided this binding commitment. Second, the applicant simply assumes it will receive the 60

¹⁵ See, e.g., George Avalos, "BART Delays Loom for Downtown San Jose," THE MERCURY NEWS (Sept. 24, 2019), available at <https://www.mercurynews.com/2019/09/24/bart-delays-loom-for-downtown-san-jose/>; Rachel Swan and Kurtis Alexander, "Train to Nowhere? Here's How High-Speed Project Went Off the Rails," S.F. CHRONICLE (Feb. 17, 2019), available at <https://www.sfchronicle.com/politics/article/Train-to-nowhere-Here-s-how-high-speed-project-13621347.php>.

¹⁶ See, e.g., Angela Johnson, "Some Mega-Commuters May Not Reap the Benefits of California Bullet Train" KALW (Feb. 13, 2017), available at <https://www.kalw.org/post/some-mega-commuters-may-not-reap-benefits-california-bullet-train#stream/0>; Ryan Lillis, "Think Your Commute is Bad? These Central Valley Residents Have It Worse Than Almost Anyone in U.S." THE SACRAMENTO BEE (Sept. 24, 2018), available at <https://www.sacbee.com/news/california/big-valley/article218694970.html>.

¹⁷ Governor's Guidelines for Streamlining Judicial Review Under the California Environmental Quality Act Pursuant to AB 900 (CHAPTER 352, STATUTES OF 2011), § 2(a)(2), available at <http://opr.ca.gov/ceqa/california-jobs.html>.

points required for LEED certification by listing strategies, some yet to be studied.¹⁸ The applicant must provide this binding commitment as well as more detail about what strategies it will *actually integrate* into the project instead of simply listing ideas before it is granted AB 900 certification.

4. The Proposed Plan Does Not Adequately Address Whether Permanent Jobs Will Pay Living Wages

One of the key provisions of AB 900 is that the Project will provide high-wage, and highly-skilled jobs that pay prevailing and living wages. We acknowledge that many of the jobs created by the Project will be high-wage and high-skilled jobs. However, while the proposed plan admits that the project will create range of jobs such as “retail, café workers, security, [and] facilities,” there is no indication that such jobs would be permanent or pay prevailing wages.¹⁹ Google relies on the broad language in the MOU, but the MOU does not indicate whether service workers will be paid living wages. In fact, contracted service-workers make less than half of the average of all occupations in the area.²⁰ In order to comply with AB 900, the plan must make a stronger commitment to pay prevailing and living wages to service workers.

As discussed above, the Office should reject the AB 900 application for the Google Project, or in the alternative, require significant amendments before certifying the project for CEQA Streamlining. We welcome the opportunity to discuss these comments with you further by contact Nadia Aziz at Nadia.aziz@lawfoundation.org or (408) 280-2453.

Sincerely,



Nadia Aziz, Directing Attorney
Law Foundation of Silicon Valley

Poncho Guevara, Executive Director
Sacred Heart Community Services

Salvador Bustamante, Executive Director
Latinos United for a New America (LUNA)

Sandy Perry, President
Affordable Housing Network

¹⁸ APPENDIX A, at 12.

¹⁹ APPENDIX A, at 19.

²⁰ WORKING PARTNERSHIPS USA, THE GOOGLE RENT HIKE 11 (April 2019), available at <https://www.wpusa.org/research/google-rent-hike/>.

cc:

Alexa Arena, Google

Ricardo Benavidez, Google

Rosalynn Hughey, Director of Planning, Building, and Code Enforcement, City of San Jose