



September 24, 2021

Ms. Thai-Chau Le
Planning and Code Enforcement
City of San José

Submitted via email: Thai-Chau.Le@sanjoseca.gov

Re: Notice of Preparation of a Draft Supplemental Environmental Impact Report for the Milligan Parking Lot Project

Dear Ms. Le,

The Sierra Club Loma Prieta Chapter and the Santa Clara Valley Audubon Society are environmental organizations with deep interest in preserving the health and integrity of riparian ecosystems.

The Milligan parking lot project proposes to remove all existing on-site buildings and construct an approximately 325-space surface parking lot.

Please see our comments below.

Sincerely,

A handwritten signature in black ink, appearing to read "Gladwyn d'Souza".

Gladwyn d'Souza
Conservation Committee Chair
Sierra Club Loma Prieta Chapter

A handwritten signature in black ink, appearing to read "Shani Kleinhaus".

Shani Kleinhaus, Ph.D.
Environmental Advocate
Santa Clara Valley Audubon Society

Project Description

1. Please confirm that the Project calls for more than 5000 sq. ft. of additional impervious hardscape and is thus subject to the requirements of the Valley Habitat Plan (Figure 1).



Figure 1

2. Please correct the delineation of the riparian edge (NOP on page 9) to include the canopy all the way to the dripline of the trees along the Guadalupe River, as described in:
 - a. Riparian Corridor Policy Study: a riparian corridor includes any defined stream channels including the area up to the bank full-flow line, as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Characteristic woody riparian vegetation species could include (but are not limited to): willow, *Salix* sp.; alder, *Ainus* sp.; box elder, *Acer negundo*, Fremont cottonwood, *Populus fremontii*; bigleaf maple, *Acer*

macrophyllum; western sycamore, *Platanus racemosa*; and oaks, *Quercus* sp.

- b. Riparian Corridor and Bird Safe Design Council Policy 6-34: “Riparian Project” means any development or activity that is located within 300 feet of a Riparian Corridor’s top of bank or vegetative edge, whichever is greater.

Our observations show native elderberry trees and shrubs growing in the unpaved area as well as in unmaintained "hardscape". Elderberry is a dominant understory species in riparian woodlands¹. It provides food for a diverse community of birds and insect species. We ask for all the vegetation on the project site to be considered part of the riparian corridor of the Guadalupe River.

3. Please explain how the project’s design will comply with General Plan Policy CD-1.17 “Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.”
4. The Project proposes that the parking at the Gilligan’s parking lot will replace existing parking that will be lost due to development in downtown San Jose. Please provide a timeline to show that the Project will not simply add net parking with no synchrony with the loss of downtown parking.
5. Please describe lighting on the site in detail that is sufficient for the public to review and comment.
 - a. Please describe how the anticipated lighting design will comply with riparian corridor policies (including both the Riparian Corridor Policy Study and Council Policy 6-34).
 - b. Please explain how lighting will achieve the following General Plan policies, which were designed to mitigate the impacts of lighting on natural ecosystems:

¹ https://www.nrcs.usda.gov/Internet/FSE_PLANTMATERIALS/publications/mipmcp9776.pdf

- i. ER-2.3 Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
- ii. ER-6.3 Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
- iii. ER-6.4 Site public facilities such as ballparks and fields that require high-intensity night lighting at least 0.5 mile from sensitive habitats to minimize light pollution, unless it can be demonstrated that lighting systems will not substantially increase lighting within natural areas (e.g., due to screening topography or vegetation).

Range of Alternatives

Please study and include the following:

1. Surface parking with greater setback
 - a. 50-ft setback from the riparian edge.
2. A multi-level garage (2 stories or more) AND:
 - a. 100-ft setback from the riparian edge.
 - b. 50-ft setback from the riparian edge.
3. Consider alternative solutions² to replace parking lots such as vacancy taxes, shared parking, congestion priced parking, and tolled roadways, all of which provide other essential benefits such as safety, increased housing density, and higher land values for strapped city budgets.

Compliance with the San Jose Envision 2040

Please show how the project will be consistent with the City's General Plan Goal ER-2 – Riparian Corridors which aims to Preserve, protect, and restore the City's riparian resources in an environmentally responsible manner to protect them for habitat value and recreational purposes.

² <https://parkingpolicy.com/reduced-requirements/>

Please show how the project will be consistent with the City's General Plan policies

- ER-2.1 Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).
- ER-2.2 Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Environmental Impact Categories

Biological Resources

1. Please evaluate up-to-date scientific information regarding the biological and environmental impacts associated with Artificial Light At Night. Please address impacts of lighting on birds and fish in the riparian and the aquatic ecosystems. Please analyze impacts of both parking lot lighting and vehicle headlights on the river and its riparian corridor. Please note:
 - a. The International Dark-sky Association recommends keeping sensitive ecological areas dark, keeping the Correlated Color Temperature to 2200 Kelvin or less in most outdoor applications, and implementing lighting controls³.
 - b. The United Nations released a study this year outlining lighting recommendations for local and international governments to protect dark skies, astronomy, species and ecosystems⁴.
2. Recent studies implicate toxic tire-rubber stabilizer tires in the death and decline of salmonids populations⁵. Please explain how the project will avoid runoff that is toxic to steelhead into the Guadalupe River.

Hydrology and Water Quality / Hazards and Pollution

Brake and tire dust particles are significant contaminants washed into waterways with stormwater runoff.

³ <https://www.darksky.org/values-centered-lighting-resolution/?eType=EmailBlastContent&eld=e18a9f9f-e20c-469d-9cea-fc43510d1c14>

⁴ <https://www.iau.org/static/publications/dqskies-book-29-12-20.pdf>

⁵ <https://www.science.org/doi/abs/10.1126/science.abd6951>
and <https://www.opb.org/article/2020/12/04/scientists-point-to-chemical-in-car-tires-thats-been-killing-coho-salmon/>

1. Please analyze water pollution due to brake and tire contaminants in the Guadalupe River and explain how the project design will protect the adjacent riparian corridors from toxic substances during construction and operation of the project.

Transportation

1. Please include an analysis of construction-related traffic and activities and analyze or disclose any changes required to public transportation services resulting from the Project.
2. Please Include an analysis of operational emissions from this project.
3. Analyze how Transportation Demand Management and a traffic cap based on 1990 traffic patterns will achieve CARB goals.

Greenhouse Gas Emissions and Air Pollution

1. Please analyze how increased access to parking could lead to increased vehicle traffic with associated GHG emissions
2. Please explain how a parking lot meets climate goals. San Jose's Climate Smart plan states that the City will use the latest science. The latest IPCC report⁶ says the fastest way to achieve climate goals is by eliminating natural gas and air pollution. See D2.2 "Scenarios with targeted reductions of air pollutant emissions lead to more rapid improvements in air quality within years compared to reductions in GHG emissions only" and D.1 "Strong, rapid and sustained reductions in CH4 emissions would also limit the warming effect resulting from declining aerosol pollution and would improve air quality."
3. Please address greenhouse gas emissions (ghg) in relation to state policies. AB32 was updated with SB32⁷ and requires a 40% reduction in 1990 ghg by 2030.

⁶ https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf

⁷ https://en.wikipedia.org/wiki/California_Senate_Bill_32