



Re: June 9 Council Item 5.1, Charcot Avenue Extension Proposal Next to Orchard School

Dear Mayor and City Council Members,

Unless we tackle transportation, we can't meet California's climate goals and solve climate change since 50% of GHG emissions in Santa Clara County come from the transportation sector. **So, please move forward only alternative E, bicycle and pedestrian-only, for the Charcot Project proposal or alternative D, no project.** We must find alternatives to the automobile to reduce traffic congestion and protect the health and safety of youth and of the planet that we will inherit.

In addition to GHG emissions, Orchard School K-8 students, 93% of whom are of color, who are so often the most exposed to pollution and subjected to environmental inequities, would in our opinion be hurt the most by the Charcot Project. Children, the elderly, people with existing diseases, and minority and low-income communities are particularly vulnerable to adverse health outcomes and economic impacts from exposure to air pollution.

Children should be able to walk and bike to school in a safe environment rather than be required to be driven to school by their caregivers. The Charcot project would also in our opinion create a new road hazard with commuters cutting between the neighborhood and the school in their rush to work.

Please find an alternative to introducing automobiles into this sensitive area as a way to reduce traffic congestion.

Sincerely,

1. Monica Mallon, Silicon Valley Youth Climate Action

2. Peri Plantenberg, co-lead of Sunnyvale Team (SV Youth Climate Action), co-founder of Silicon Valley Youth Climate Strike, co-chair of Homestead FBLA Community Service Project 2019-2020
3. Peter Pham, Silicon Valley Youth Climate Action Vanessa Shin, Silicon Valley Youth Climate Action
4. Carolyn Zhao, Silicon Valley Youth Climate Action youth leader, Silicon Valley Youth Climate Strikes, high school student
5. Sophia Wang, Silicon Valley Youth Climate Action youth leader, Silicon Valley Youth Climate Strike
6. Urmila Vudali, Silicon Valley Youth Climate Action youth leader, San Jose Tech Museum Student Board Vice President, Silicon Valley Youth Climate Strikes Policy Lead
7. Esther Duong, Silicon Valley Youth Climate Action
8. Rachel Wu, Silicon Valley Youth Climate Strike Policy Lead
9. Hoi Y. Poon, co-founder, SV Youth Climate Action; Board Member, Bay Area for Clean Environment, co-chair environmental committee, SV Democratic Club
10. Hoai-An Truong, Mothers Out Front South Bay Leadership Team, Turnout4Transit - Silicon Valley, San José resident
11. Nick Cortez, South Bay Progressive Alliance
12. Michael Hazelton, San Jose resident
13. David Poeschel, San Jose resident, SV Youth Climate Action Advisor, Sierra Club Loma Prieta Chapter, Guadalupe Regional Group Conservation Chair
14. Kaushik Tota, Founder and Director of Operations, Climate Youth Ambassador Program; Co-lead, Silicon Valley Youth Climate Action; President, Youth Public Policy Institute (high school student)
15. Abhimanyu Jayaraman, SV Youth Climate Action, High school student, San Jose Resident
16. James Zetterberg, South Bay Resident, Perpetual Transit Fan, West Valley College Student
17. Justin Gee, Santa Clara Resident
18. Gladwyn d'Souza, Co-Chair, Conservation Committee, Loma Prieta Chapter, Sierra Club
19. Linda Hutchins-Knowles, Mothers Out Front South Bay Co-founder, San José resident
20. Carole Gonsalves, San Jose resident
21. Annie Belt, San Jose resident
22. Anne Hu, Sunnyvale resident
23. Kaia Chapman, former resident of San Jose and high school student
24. Mark Grossman, 350 Silicon Valley
25. Arya Raghavan, Cupertino resident

26. Annika Gaglani, Silicon Valley Youth Climate Strike Logistics Lead
27. Lucy Revina, San Jose Resident and student
28. Rachel Minden, SVYCS Outreach Lead and Mountain View resident
29. Daniel Huynh, SJSU student and Santa Clara resident
30. Spencer (Sitt) Paing, SJSU student, San Jose resident
31. Stephanie Morris, Mothers Out Front South Bay
32. Lindsey Masser, San Jose State graduate and San Jose resident
33. Nicole Dioquino, SJSU student, Sunnyvale resident
34. Bhuvi Kedia, High School Student
35. Megan Liu, High School Student
36. Louisa Hahn, High School Student
37. Shubhanshi Sharma, High School Student
38. Sarah Kostka, high school student
39. Shiv Shah, Cupertino High School
40. Helen Deng, Silicon Valley Youth Climate Strike co-lead, high school student
41. Clémence Tiradon, Orchard parent, San Jose resident
42. Ryan Boot, San Jose resident Janiss Buck, Sunnyvale Resident
43. Rachell Liu, high school student
44. Kelly Mao, Sunnyvale resident, college student
45. Kristel Wickham, Mothers Out Front South Bay, Sunnyvale resident
46. Sahana Moogi, Santa Clara High School student
47. Mallory Mitton, High School Student
48. Alex Lee, State Assembly District 25 Democratic Candidate
49. Sajal Ravish, high school student
50. Lexi Crilley, Silicon Valley Youth Climate Strike co-lead, CA Youth Climate Strike creative lead, Los Altos Youth Climate Action Team founder, high school student
51. Andrea Muliawan, Silicon Valley Youth Climate Action, high school student
52. Audrey Chang, LAHS high school student
53. Daniel Kim, High School Student
54. Sarah Chang, Los Altos resident
55. Emily Tran, LAHS student
56. Kevin Ma, Palo Alto resident
57. Sania Mehta, High School Student
58. Lauren Renaud, San Jose resident
59. Lauren Weston, Executive Director, Acterra
60. Zoe Vulpe, De Anza College Student and San Jose resident
61. Kung-Min Lin, Los Altos High School Student
62. Maggie Dong, Silicon Valley Youth Climate Strike, high school student
63. Genevieve Kolar, De Anza College student rep

64. Hunter McDivitt, Homestead High School student
65. Bruce Preville, Transformational Catalysts
66. Michael Melillo, San Jose Resident, Neighborhood Association President
67. Michael Young, High School Student
68. Jessica Matthew, Silicon Valley DSA, Silicon Valley Young Democrats



**Date:** June 7, 2020

**Subject:** In opposition to Item 5.1, the Charcot Ave. Extension Project

Dear Mayor Liccardo, Vice Mayor Jones, and Councilmembers Jimenez, Peralez, Diep, Carrasco, Davis, Esparza, Arenas, Foley and Khamis,

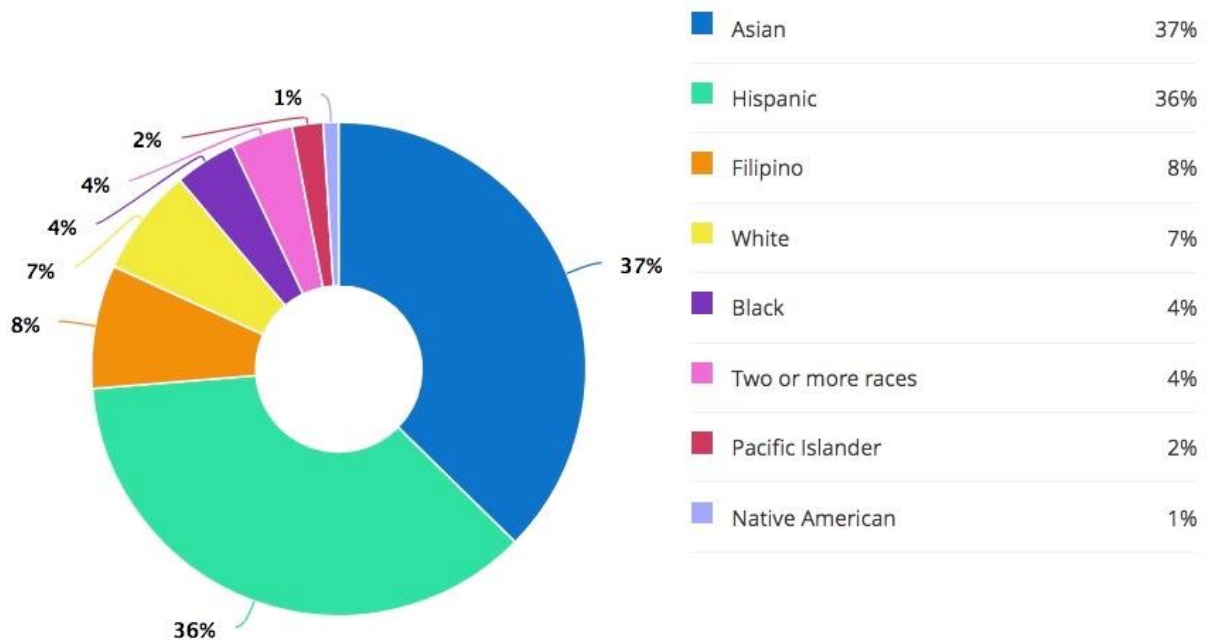
As leaders in the community representing 1800+ South Bay supporters **we are strongly opposed to the Charcot Ave. Extension Project for health, safety, equity, climate and fiscal reasons.** In particular, [the concerns raised by BAAQMD \(the Bay Area Air Quality Management District\)](#) are very troubling and alone are enough reason to discontinue this project. At a time when those of us who are Black and of color are fighting for our lives and for our health, **it's more important than ever to respect the wishes of a community of color by rejecting this project.**

**Health:** By increasing vehicle traffic in the neighborhood, this project will increase air pollution from CO2 and particulate matter. Vehicle exhaust contains numerous poisonous chemicals, including carbon monoxide, sulfur dioxide, nitrogen oxides, formaldehyde, benzene and soot. This project **threatens the health of everyone living in the neighborhood, and especially the Orchard School staff and 850 children**, whose developing lungs are particularly vulnerable to the harmful effects of air pollution, putting them at increased risk for asthma, cancer, COPD and cardiovascular disease. **Children deserve clean air to breathe;** routing even more vehicles next to an established school is not treating their health as a priority.

**Safety:** This project will significantly increase traffic in the neighborhood. Traffic projected to increase 15-fold coupled with cell phone distraction of both drivers and pedestrians of all ages is a recipe for disaster, increasing the likelihood of collisions between vehicles and pedestrians, especially children, threatening their lives. We understand that you are trying to address these concerns, but rather than bringing vehicles into closer proximity to kids, we should be **routing them away from school zones**, just as traffic-calming measures have been implemented at other schools. As Chris Johnson points out in *San José Inside*, "In the U.S., and in California, too, [traffic] is the leading cause of preventable death of people under 40 and the leading cause of death for children." This project is at **direct odds with San José's Vision Zero goals** of zero traffic fatalities.

**Climate:** In September of 2019, the San Jose City Council unanimously declared a **Climate Emergency**, recognizing the threat that climate destabilization poses to all of our residents. In an emergency, we cannot continue business as usual. We must examine the policies that are contributing to the climate crisis and replace them with new policies. The Charcot Avenue Extension Project **undermines the goals of Climate Smart San Jose** and is based on outdated plans and assumptions. It does not fit into the City's new vision of itself as a vibrant, active, walkable City. Cutting down over 35 mature trees – some of them redwoods 30 inches in diameter and more – near the Coyote Creek side of the project is an irreplaceable loss. These trees **draw down carbon from the atmosphere**, serving as a valuable carbon sink and air purifier. We urgently need to plant new trees not destroy the mature ones we already have. In addition, to be climate-smart, we must stop directing funds to increased highway infrastructure and **instead invest in public transit**.

**Equity:** Nearly half of Orchard School students (48%) qualify as low-income, 93% are students of color, and 44% are English-language learners, as shown in the graphics below by Great Schools:



Students learning English ?



Students from low-income families ?



Siting an undesirable, air-polluting and safety-threatening project in a disadvantaged neighborhood raises **questions of environmental racism**, however unintentional. It's vital to consider how this project would divide the neighborhood, disturb residents and students with increased noise, threaten their health and safety, increase pollution, and damage the environment. Furthermore, the project would shrink the school's ballfield and necessitate the relocation of the playground structure, possibly very near the street, diminishing students' quality of life.

We urge the City to consider how polluted the air in the area already is and how the school and the recreational space serve as a refuge for the community. The environmental study done for the City does not adequately consider this reality.

**Fiscally**, spending more than 50 million dollars to increase neighborhood congestion is not a good use of taxpayer money, particularly in light of the severe budget deficit caused by the pandemic.

**Most importantly, the harm done to the students, staff and neighbors will be irreparable. The health and safety of the students at Orchard School and the protection of our climate are more important than increasing the speed of cars.**

Therefore, we respectfully request that the City **scrap this misguided and outdated project. It's** time to set aside a project that was proposed nearly three decades ago (in 1994, under much different circumstances), and **prioritize the health and safety of this community of color as well as our climate smart goals.** A much wiser solution would be a **bike and pedestrian bridge**, which would provide many of the benefits of a road expansion, with none of the negative impacts and at a cost savings. The savings could then be applied to bus operations.

Thank you in advance for listening to and reflecting the wishes of the community.

Sincerely,

1. Linda Hutchins-Knowles, Mothers Out Front South Bay, San José resident
2. Hoai-An Truong, Mothers Out Front South Bay, San José resident
3. Stephanie Morris, Mothers Out Front South Bay
4. Erin Salter, San José resident
5. Laura Finnigan-Heil, Mothers Out Front South Bay, San José resident
6. Clémence Tiradon, Orchard parent, San José resident
7. Robin Roemer, Orchard parent, San José resident
8. Kristel Wickham, Mothers Out Front South Bay, Sunnyvale resident
9. Cecile Desquiens, Orchard parent, San Jose resident
10. Loic Weiyuneng, Orchard Parent, San Jose resident
11. Isabelle Chappuis, District4 parent and teacher, San José resident
12. Felicia Gershberg, Together We Will - San José, Sunnyvale resident
13. Leena Joseph, parent, District 4 resident
14. Christina Medina District 4 resident
15. Jennifer Lewis, San Jose resident
16. Ed Fernandez, San Jose Resident
17. Brian Haberly, San Jose Resident
18. Carlos Velazquez, San Jose Resident
19. Molly Cox, Sunnyvale Resident
20. John Cordes, Sunnyvale Resident
21. Shannon Loucks, Santa Clara resident
22. Rebecca Habermann, Mothers Out Front South Bay, San Jose Resident
23. Thomas Habermann, San Jose Resident
24. Jennifer Black, San Jose resident
25. Irene Ramos Lerma. Orchard Elementary parent. San Jose resident.
26. Susan Butler-Graham, Mothers Out Front, San Jose resident



27. Justin Gee, Santa Clara Resident
28. Margaret Capetz, Santa Clara Resident
29. Sean McCollough, NVC PTA Council Secretary
30. Britta Bullard, San Jose Resident
31. Kris Karnos, San Jose resident
32. Annette Haines, San Jose resident
33. Rosa Maria Gordillo, San Jose resident
34. Carmen Arjona-Ariza, San Jose resident
35. Susan Lee, San Jose resident
36. Alexander Castro Perezchica, Breathe California of the Bay Area, San José resident
37. Vanessa Talaria, Breathe California of the Bay Area, San Jose resident and parent
38. Jennifer Solorio Perez, San Jose Resident & Orchard student parent
39. Julio Solorio-Sanchez, San Jose Resident & Orchard student parent
40. David Lo, San Jose Resident
41. Nagarjun Mudda
42. Diana Chenault, San Jose Resident & Orchard student parent
43. Jennifer Jobart, San Jose Homeowner
44. Charlene Ramirez - San Jose Homeowner & Current Orchard School Parent
45. Monica Mallon, Silicon Valley Youth Climate Action
46. Shiela Talaria, San Jose Resident
47. Sandra Gamez, Orchard School Parent
48. Noel Garcia, Orchard School Parent
49. Charmaine Baclig, San Jose Resident
50. Alanbonifacio Molina, San Jose Resident
51. Edna Talaria Molina, San Jose Resident
52. Alexandro Carrasco, San Jose Resident
53. Sean Talaria, San Jose Resident
54. Loc Tran, San Jose Resident, have 2 young kids attend Orchard Elem.
55. Renée M. Schell, 2nd grade teacher, Orchard Elementary, San Jose resident and voter
56. Billy Sims, San Jose Resident and Orchard School parent
57. Anna Chiang, Breathe California of the Bay Area, Milpitas Resident
58. Kristy Phan, San Jose Resident
59. Annie Belt, San Jose resident
60. Holly Cadena, San Jose resident
61. Marcelina Garcia, Orchard Student Parent
62. Jessica Chavez, Orchard School Alumni
63. Stephanie Chavez, Orchard School Alumni
64. Amanda Binz, First Grade Teacher, San Jose Resident and Voter
65. Gavin Binz, San Jose Resident
66. Linda Clark, San Jose Resident/Homeowner
67. Cynthia Ramirez, San Jose Resident
68. Mark Clark, San Jose Resident/Homeowner
69. Medha Gelli, Breathe California of the Bay Area, San José resident
70. Maggie Zhang, Breathe California of the Bay Area, East Bay resident
71. Gargi Sengupta, San Jose resident/homeowner

72. Cassiopeia Jenkins-Schell, San Jose resident
73. Beraldo Marquez, San Jose Resident and Orchard School Parent
74. Rusti Icenogle, San Jose Resident
75. Jesse Orosco, San Jose Resident
76. Fernando Chavez, Orchard Student Parent
77. Michelle Quilantang, Principal of Orchard School, San Jose Resident and Orchard student parent
78. Virginia Varela-Campos, Orchard School Parent and North San Jose Resident
79. Rose Zamaripa, San Jose Resident
80. Noor Heintzelman, Breathe California of the Bay Area
81. María Hennessy, retired bilingual teacher at SJUSD, and San Jose Resident
82. Ha Pham, Orchard School's student parent, North San Jose resident
83. Mark Pham, San Jose Resident
84. Lisa Kobayashi, San Jose Resident
85. Gregory Brisebois, San Jose Resident
86. Kim Nguyen, San Jose Resident and Orchard School Parent
87. Jeannette Forrest, Orchard School teacher and San Jose resident
88. Sucharitha Sirigireddy, parent of Orchard School student and resident of San Jose
89. Barbara Fukumoto, Sunnyvale Cool and Sunnyvale resident
90. Lillian M Guajardo, Speech/Language Pathologist and San Jose resident
91. Fey Camero, San Jose Resident
92. Mary Jane Valiao, San Jose Resident
93. Yoko Fujita, Orchard School Parent and San Jose resident
94. Jennifer Samoranos, Memberships Chairman / VP Orchard PTA, Orchard student parent and San Jose Resident
95. Alan Johnson, Orchard student parent
96. Jessica Solon, San Jose Resident
97. Marsha Dimalanta, San Jose Resident
98. Brandon Samoranos, San Jose Resident
99. Jacqui Dimalanta, San Jose Resident
100. Jennifer Dang, Orchard School Teacher
101. Son Nguyen, Rock Ave, San Jose resident
102. Oanh Tran, San Jose resident
103. Wendy Greenfield, San Jose resident
104. Mimi Tazumi, San Jose Resident and Orchard School Parent
105. Justin Tai, San Jose Resident
106. Annie Vu, San Jose Resident and Orchard Middle School Mom
107. Charles Mendoza, San Jose and Orchard Middle School Parent
108. Braxton Mendoza, Orchard Alumni
109. Luke Nguyen, Orchard School Student
110. Trang Nguyen, Orchard School Mom and San Jose homeowner
111. Duong Nguyen, Proud Orchard Dad/San Jose homeowner
112. Yvette Tran, San Jose Resident
113. Ana Lopez, San Jose Resident and Santa Clara School District Teacher

114. Vivian Duong, San Jose Resident
115. Gladwyn d'Souza, co-Chair, Loma Prieta Chapter, Sierra Club
116. Ragini Srinivasan, San Jose Resident
117. Amiya Peddada, Breathe California of the Bay Area, San Jose Resident
118. Annaloy Nickum, concerned citizen about racism of intended project
119. Thuan Pham, San Jose Resident
120. Sandrine Picot, San Jose Resident
121. Valery Kreidenko, San Jose resident, dad of 2 kids in Orchard Elementary
122. Paul U, San Jose resident, dad of 2 kids
123. Matt Wee, San Jose resident, dad of 2 kids in Orchard Elementary
124. Halina Gallagher, San Jose Resident
125. Lynn Limqueco, San Jose Resident
126. Judy Young, San Jose Resident
127. Mimi Michelle Spreadbury, San Jose Resident, Orchard City Indivisible- Campbell
128. Antonio Dimalanta, concerned citizen, raised in San Jose
129. Heidi Boverman, San Jose resident
130. Karina Knowles, San Jose resident

**Audrey Rust**

Sat 6/6/2020 4:51 PM

Members of the City Council:

We all have had many hours in the past two weeks to seriously reflect on racial injustice. Addressing this deep and pervasive vein in our society will require sensitivity and change, yet on your agenda for June 9 one more step in the wrong direction is being proposed: the "Charcot Extension project" which would build a huge road extension partially on the grounds of Orchard School on Silkwood Lane.

Orchard School K - 8 children, 93% of whom are of color, would be further exposed to more pollution for a project that has no benefit to their community. We know that these are the people who are already suffering from health issues directly related to exposure from air pollution.

*"We know it's a problem when we see much higher rates of asthma in low-income communities in the eastern part of my city where we know there are neighborhoods built closer to free-ways. We know it's directly resulting from transportation, particularly automobiles. We know we have much farther to go. [...] As I experience children who simply cannot engage in daily activities because of asthma, as I see premature deaths, particularly in low income communities, caused by this kind of air, it makes me furious."*

SAM LICCARDO, Mayor of San Jose

If we are to make headway against our structural racism, we need to begin now in every case that comes before us. Denying this proposal and eliminating it from future plans is essential. If we continue to pursue projects that negatively affect disadvantaged communities, we are perpetrating the same racism we have said we abhor.

Sincerely,  
Audrey Rust

Michael Kutilek  
Fri 6/5/2020 8:07 PM

Dear Mayor Liccardo and Council Members:

I am a 45 year resident of San Jose and former educator. I'm writing to oppose the "Charcot Extension project" which would build a road extension partially on the grounds of Orchard School on Silkwood Lane. The project would create a huge increase in traffic and air pollution and co-opt part of the school's open space and old-growth trees. Furthermore, this project is being forced upon a mostly low-income community of color against their wishes, threatening their health and safety. This proposed project is a clear example environmental racism. It should have never gotten past the drawing board. Please vote it down.

Sincerely,

Michael Kutilek, Ph.D.

## Item 5.1 Charcot Ave Extension Project

Ada

Tue 6/9/2020 8:56 AM

RE: Charcot Avenue Extension Project Draft EIR (9/2019), 1<sup>st</sup> Amendment to DEIR, and Appendix A: Supplemental Air Quality/GHG Analysis

As a San Jose resident and mother, I am concerned that all three environmental impact assessment (EIAs) documents failed to disclose the following:

- **Per CEQA §15131 ECONOMIC AND SOCIAL EFFECTS:** The EIR must disclose the “chain of cause and effect from a decision on a project through anticipated economic or social changes resulting from the project”. The construction of the Charcot Avenue Extension Project will have significant physical changes to the environment. Therefore, the EIAs must disclose that the increase of traffic, construction noise and long term noise, air pollution, and other environmental impacts will not conflict with the schools’ daily mission and operation, the children’s ability to attend school safely, and their social and health wellbeing.
- **Sierra Club v. County of Fresno (2018) 6 Cal. 5<sup>th</sup> 502:** The DEIR, the 1<sup>st</sup> Amendment to DEIR, and Appendix A do not disclose the specific health effects based on ambient air quality standards. Although, the documents found “less than significant impact” for both regional and local air quality for criteria air pollutants, the documents failed to disclose the effects to the school and other sensitive receptors.

Thank you,  
Ada E. Márquez  
District 5 Resident

On Friday, June 5, 2020, 22:27, Clemence Tiradon wrote:

Dear Mayor and Councilmembers,

As an Orchard School parent, I'm writing to you to protest the City's plan to take land away from our public school to promote more driving.

The Charcot Extension on your agenda on June 9th (Item 5.1) shows that the City fails to recognize all the learning from the last 26 years about impact of air pollution on learning, equity and climate change.

That the road will have sidewalks and bike paths is not a reason for celebration as your staff memo implies. It's the basic, bare minimum so that people can move around the City.

This project will more than double air pollution at the school - causing respiratory issues, stunting growth and reducing our children's ability to learn. Is the global COVID-19 pandemic really the right time to make it more difficult for our children to breath?

Traffic on our neighborhood street will increase 15(!)-fold.

This project leads to more driving as measured in Vehicle Miles Traveled (VMT) – going against the City goal of reducing VMT.

It plans to put our elementary school playground 30 feet away from heavy traffic.

All these risks to the life of children, so a few people can drive faster and shave off a few seconds? Shouldn't we do more to encourage walking and biking?

As this project dead ends on Oakland Road, it is creating a connection to nowhere and even the EIR says that there will be very limited time savings for drivers... while 150 students rushing to school every morning from this side of the neighborhood will cross 1300 drivers rushing to work.

I am one of the few people that could benefit from the project: I drive from the school to work on N 1st Street every morning and come back in rush hour every evening. I respectfully tell you that I don't want the few minutes savings. This seems completely inconsiderate and against all great efforts that the City is doing to fight climate change.

You want to build 3 or 4 lanes for students to cross because you want to avoid people having to wait at a traffic light a few more seconds. That is the definition of prioritizing vehicle delay over human life, both right now and in the long term.

How will you stop cars and trucks, including the ones carrying hazardous materials from the Univar plant across the street, to speed down the overpass? Staff say they will enforce the speed limit set for the road. If they could enforce speed limits, why aren't they doing it right now on Oakland Road, where cars speed by our students exceeding the posted speed limit every day.

Cars will cut through our residential neighborhoods on Silk Wood Lane, Rock Ave, McKay and Wayne - multiplying safety issues.

Montague and Brokaw together have already more lanes than the Bay Bridge. Trying to solve traffic jams by building more roads is like loosing your belt to cure obesity.

There is no issue with connectivity. The only connection we need to improve is what we say about climate change and what we do about commute patterns.

Where is your commitment to reducing GHG, your commitment to a greener Climate Smart San José, your commitment to Vision Zero? Shouldn't we delay the building of new roads till we have at least one week or two without someone getting killed by a car in San José?

The General Plan calls for a two lane road. The school gave you land to build a two lane road. That road exists today and it's called Silk Wood Lane. Instead of using what the school already gave you, staff wants more and build four lanes instead of the existing two. Some say "let's do three – that's a compromise".

Three lanes are not a compromise. Asking for more land from the school is not compromise. For all the reasons above, I do not support the Charcot Extension and neither should you.

Furthermore, I am extremely disappointed that my commentary to the DEIR hasn't been taken into consideration and replied to in the FEIR. It seems to me that the DOT hasn't been providing the due diligence I would expect for such a project that will impact the community and the environment for many years to come. I have attached my commentary to the DEIR, since it failed to be included in the FEIR, and I would like to point out that you said yourself, Mr Mayor, that:

*"As I experience children who simply cannot engage in daily activities because of asthma, as I see premature deaths, particularly in low income communities, caused by this kind of air, it makes me furious." "We know it's a problem when we see much higher rates of asthma in low-income communities in the eastern part of my city where we know there are neighborhoods built closer to freeways. We know it's directly resulting from transportation, particularly automobiles. We know we have much farther to go"*

This is how we go farther. Right now. By voting no to the Charcot extension, this June 9th. A project planned more than a quarter of a century ago, at a time when the first generation of ipod wasn't even born yet. Shouldn't the capital of innovation be able to let go of an outdated idea and advance towards progress?

As you said yourself, Councilmember Diep:

*"We can't stay being a car-oriented community any longer, especially as the North San Jose representative [...]"*

I wholeheartedly agree. Please vote no to Charcot.  
Thank you.

Clémence Tiradon



**From:** Huy Tran

**Sent:** Monday, June 08, 2020 11:38 PM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Cc:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

**Subject:** Comment for Item 5.1



[External Email]

Councilmembers, Mr. Mayor, and Staff,

I write today to oppose the construction of the Charcot connector.

It was intended as a way to connect Charcot and Oakland Road over the 880. The problem with this is that nothing was ever done on this project, and in the decades since, Orchard School and the neighboring communities grew. For the Charcot Connector to be completed now would require taking away part of the school and allowing thousands of cars to separate the north side of Orchard from the families that live there and often walk their children from school. The City has had numerous opportunities to make this area safer, but constantly ignored the families that spoke up.

The second reason I oppose the connector is that we need to re-think how we do transportation in San Jose. San Jose has a massive road infrastructure that is already incredibly costly to maintain. We need to re-think transportation in our city to move it into the future. This site is better suited for bus lanes, bike paths, and/or pedestrian walkways rather than open it up to thousands of cars.

The Charcot Connector is an old project that needs to be let go. That right of way can be used for public transit, pedestrians, or bike paths.

-Huy Tran



Harold M. Freiman  
Attorney at Law

E-mail: [hfreiman@lozanosmith.com](mailto:hfreiman@lozanosmith.com)

June 8, 2020

**Via U.S. Mail & E-Mail: [mayoremail@sanjoseca.gov](mailto:mayoremail@sanjoseca.gov), [District1@sanjoseca.gov](mailto:District1@sanjoseca.gov),  
[District2@sanjoseca.gov](mailto:District2@sanjoseca.gov), [District3@sanjoseca.gov](mailto:District3@sanjoseca.gov), [District4@sanjoseca.gov](mailto:District4@sanjoseca.gov),  
[District5@sanjoseca.gov](mailto:District5@sanjoseca.gov), [District6@sanjoseca.gov](mailto:District6@sanjoseca.gov), [District7@sanjoseca.gov](mailto:District7@sanjoseca.gov),  
[District8@sanjoseca.gov](mailto:District8@sanjoseca.gov), [District9@sanjoseca.gov](mailto:District9@sanjoseca.gov), [District10@sanjoseca.gov](mailto:District10@sanjoseca.gov)**

Honorable Mayor Sam Liccardo  
Members of City Council  
City of San Jose  
200 E. Santa Clara St.  
San José, CA 95113

Re: Comments of Orchard School District on Agenda Item 5.1 (6/9/20 Agenda) -  
Charcot Avenue Extension Project Final EIR File No. PP18-044

Dear Mayor Liccardo and City Councilmembers:

This letter is submitted on behalf of our client, **Orchard School District** (“District”). On behalf of the District, we offer these concerns regarding Agenda Item 5.1 on the City Council agenda for June 9, 2020, regarding the Final Environmental Impact Report (“Final EIR”) prepared for the proposed Charcot Avenue Extension Project (“Project”).

**The Project proposes to place a freeway overpass immediately adjacent to Orchard School, taking a portion of the school site; disrupting the public school’s educational program; substantially worsening the already challenging traffic, parking and pickup and drop off conditions at the school; and placing San Jose school children at risk.** Remarkably, the Final EIR continues to dismiss such impacts and the District’s grave concerns.

The District urges the City Council to withhold its certification of the FEIR until the District’s substantial concerns can properly be addressed. This is an opportunity for coordinated and shared governance between the public agencies that serve the area. The District sincerely hopes that the City Council will embrace that opportunity rather than rushing to approve the Project. This is a dialogue that should be between elected officials, rather than in the province of attorneys and environmental consultants.

The District is disappointed in the City of San Jose’s (“City”) inadequate and dismissive responses to its extensive comment letter and the conclusion in Response R.55, with the response stating that:

Per CEQA Guidelines Section 15088.5(a), recirculation of the DEIR is not required because, for the reasons identified in the responses to this commenter, 1)

*Limited Liability Partnership*

the project will not result in any significant air quality, noise, and/or transportation impacts beyond those identified in the DEIR, 2) the impacts of the project will not be more severe than identified in the DEIR, 3) the DEIR has evaluated a reasonable range of eight alternatives, five of which are feasible, and 4) there is no basis to conclude that the DEIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The District stands by its comments that recirculation was appropriate. The addition of new information in the responses to comments only supports the need for recirculation.

Response R.38 also asserts that “the educational and recreational functions at the school can and will continue undiminished if the 0.44 acres is removed.” The Project would remove almost half an acre from an already undersized public school site. The District maintains its position that **this Project has the significant potential to have a profound, unmitigated negative effect on the District’s students, their families, and the residents that reside in the vicinity of the Project.**

The District believes that this Final EIR, like the Draft EIR before it, does not comply with the California Environmental Quality Act (“CEQA,” Pub. Resources Code, §§ 21000, *et seq.*) and its implementing regulations (Cal. Code Regs., tit. 14, §§ 15000, *et seq.*, “CEQA Guidelines.”) for both technical and substantive reasons. The District stands by its prior comments, and notes just a few of the key deficiencies in the Final EIR here.

**1. The changes to MM-REC-2.1 improperly defer mitigation measures and delegate them to the District.**

In addressing the proposed taking by the City of a portion of the public school site, the Draft EIR determined that the Recreational Impacts of the Project would result in a Significant Unavoidable Impact. (Draft EIR, MM-REC-2.1). MM-REC-2.1 of the Draft EIR goes on to state that:

The City **will work with** the District to determine the appropriate amount of compensation for the loss of acreage required by the Project. If an amount is not agreed upon, the City will follow local, state, and federal laws to determine the appropriate compensation amount to the District. This amount **may** include reimbursement to the District for the cost to reconfigure/reconstruct the existing recreational facilities affected by the project. This **could involve** shifting and reconstructing the affected facilities to the south of their current locations. The intent of this measure is that the replacement facilities would be comparable to the existing facilities in size, function, and quality.

(Emphasis added.)

After the District in its initial comments pointed out that the deferral of mitigation measures in MM-REC-2.1 is improper under CEQA, the City made changes to this mitigation measure in the Final EIR. MM-REC 2.1 now reads, in pertinent part:

The City will reconfigure the existing recreational facilities at Orchard School that would be impacted by the project. The reconfiguration will meet the following performance standards:

- A standard Little League baseball field with backstop to complement existing conditions. Figure 3.16-2 provides the dimensions for a standard Little League baseball field.
- A 6-foot wide perimeter running path around sports field
- An approximately 5,000 ft<sup>2</sup> playground structure appropriate for children ages 5 to 12 years old
- Two 315 ft<sup>2</sup> tetherball games
- Two 640 ft<sup>2</sup> ball walls
- Four 6-foot benches adjacent to the play area
- New irrigation system, sod lawn, perimeter tree planting and ornamental shrub planting around the school perimeter adjacent to the field fence and play yard.

To illustrate how the above-described reconfiguration would fit within the available acreage at the school assuming the Charcot Avenue Extension is constructed, Figure 3.16-3 has been prepared. Please note that Figure 3.16-3 is one potential conceptual design and is not intended to depict a selected configuration. The City **will work with** the Orchard School District to develop a final configuration that meets the above-listed criteria.

(Emphasis added.)

Here again the Final EIR is counting on the District for future action in this mitigation measure. “Formulation of mitigation measures should not be deferred until some future time.” (CEQA Guidelines §15126.4 (a)(1)(B).) While attempting to rectify its original deferral of mitigation measures, MM-REC-2.1 creates another deferral in that the City will work with the District to develop a final configuration that meets the criteria listed in the new mitigation measure.

Deferral of a mitigation measure is allowed only if the environmental document commits the lead agency to specific performance standards in implementing measure. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260.) In this instance, **the Final EIR relies on a standard that is inapplicable to school districts.** The ballfield currently located on the school site is not a Little League ballfield, it has not been used by Little League, and there are no plans for it to be used for Little League in the future. Despite this, the Final EIR uses irrelevant Little League standards as the performance standards. As discussed below, the correct standard should be those applicable to a public school facility, which is not subject to control by other local agencies. The fact that the standards for the mitigation measure were proposed by the City with absolutely no consultation or coordination with the District may help explain why the wrong standards were applied, and further demonstrates the poor governance and communication practices being applied by the City to this project.

As stated in the District’s prior comment letter, “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine.

It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.” (*County of Inyo v. City of Los Angeles* (1984) 160 Cal.App.3d 1178, 1185.) In short, a project must be open for public discussion and subject to agency modification during the CEQA process. (*Id.*)

In planning its changes to MM-REC 2.1, the City failed to consult with the District, despite the fact the change involves reconfiguration of school facilities. To date, the District has not been approached by the City about this reconfiguration or any potential conceptual designs. This is particularly troubling because the District has been planning an update to its field and playground area, which would be inconsistent with the conceptual plan that the City has inserted as part of this mitigation measure. The City has not investigated nor has it even asked those most affected as to how any potential reconfiguration could impact the school. The District has always been open to discussing the Project with the City; the City cannot understand the District’s needs and the needs of its students without meaningfully engaging with the District.

The operation of schools is not the domain of the City. Design of school sites is under the control of public school districts as political subdivisions of the state, subject to oversight of state agencies such as the California Department of Education and the Division of State Architect. Per the California Department of Education, “[e]ach local educational agency (LEA) has wide discretion in developing school designs that meet the needs of its educational program and community.” (<https://www.cde.ca.gov/ls/fa/sf/standardsrdtable.asp>.) Explicit in that the directive is that the discretion lies with the local educational agency. The City has no control over the school’s field or the configuration of the field. Thus, the City’s suggestion to reconfigure the school’s recreational facilities, particularly without consultation with the District, is a drastic overreach into an area in which the City has no authority.

To the extent that the District is ultimately responsible for reconfiguring and reconstructing its school site to accommodate the Project, the City has made the District a responsible agency, charged with carrying out a portion of the Project. As discussed in the District’s prior comments, this made consultation with the District mandatory; the lack of coordination is in violation of CEQA. (CEQA Guidelines, §§15082 & 15086(a)(1).)

## **2. The proposed changes in MM-REC 2.1 requires recirculation of the EIR under CEQA.**

Response R.4 of the Final EIR contends that “[t]he revised MM-REC-2.1 does not trigger recirculation under CEQA because it is a clarification and amplification of the previously addressed mitigation measure under CEQA Guidelines Section 15088.5(b).” The District disagrees. This mitigation measure would result in the complete reconfiguration of District facilities that the City assures “would not result in any new permanent impacts since it would be limited to the replacement of existing facilities at the same location.” (Final EIR, p. 316.) Further, Response R.40 states that “[t]he revised mitigation measure demonstrates that the school’s recreational facilities will be fully restored onsite with no loss of function or capacity.” Response R.40 then suggests that “there would be no domino effect.” The analysis of the impact of this configuration is both inadequate and conclusory, and completely disregards the District’s comments on the Draft EIR. Though Response R.40 determines that there will be no domino

effect, it does not discuss how this reconfiguration will take place or what effect it may have on the school.

As the District has already explained, reconfiguration of this nature would require the relocation of the two portable classrooms at the school. Recirculation is required if significant information is disclosed that shows “a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.” (Cal. Code Regs., tit. 14, §15085 subd. (a)(1).) Should the portables be relocated as a result of the reconfiguration that could trigger significant impacts that would result from the project.

Recirculation is also required in the event that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public comment and review were precluded. (Cal. Code Regs., tit. 14, §15085 subd. (a)(4).) The City’s conclusory statement that reconfiguration “would not result in any new permanent impacts since it would be limited to the replacement of existing facilities at the same location” is inadequate in that it lacks any analysis as to why this is the case. As stated above, this mitigation measure was not subject to meaningful public comment and review, including no comment from the party most affected, the District. Thus, MM-REC-2.1 is not merely an amplification or clarification, but instead a significant change to the project, and certainly to the public school facility, which requires recirculation under the grounds stated above.

### **3. The impact on traffic surrounding the school must be considered in the EIR.**

Response R.2 states that “discussion of the project’s impacts to school drop-off/pick-up activities in Section 3.17.3.7 of the DEIR relates to the non-CEQA effects to be analyzed under the City’s Local Transportation Analysis...[s]uch impacts are non-CEQA items that neither involve a significant adverse environmental impact, nor require mitigation under CEQA.” Response R.8 adds that “potential increases in delay and congestion do not exceed any CEQA thresholds of significance.”

However, “an impact on traffic, even if that traffic is near a school facility and related to getting students to and from the facility,” is an impact that appropriately should be assessed pursuant to CEQA. (*Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1028–1029.) Thus, the Court in *Chawanakee* concluded that the impact on traffic related to traffic to and from school must be considered in the EIR. (*Id.* at 1029.) Similarly, impacts to the non-school physical environment [that] are caused *indirectly* by the project . . . should be considered in the EIR. (*Id.*, at 1030, citing CEQA Guidelines, §15358(a)(2)(emphasis in original).) Therefore, the impact on traffic on the surrounding streets due to congestion of the drop-off/pick-up area must be considered in the EIR.

Per the Draft EIR, the City intends to eliminate the informal drop-off/pick-up area on Silk Wood Lane, with the result that it will redirect traffic into an already cramped pick-up area in the Fox Lane parking lot. As described in the District’s initial comments, this is currently a heavily congested area in which school staff members describe difficulties in exiting the area after dismissal. This additional traffic will cause additional congestion on the streets surrounding the school, as well as resultant safety and monitoring issues. This could also increase the risk of pedestrian and automobile accidents in the streets surrounding the school. As the elimination of

the Silk Wood Lane informal drop-off/pick-up area will have an impact on traffic on the streets surrounding the school, this impact must be considered in the EIR and in a more substantive manner than is addressed in Response R.8. The City's Project will put school children at risk. Dismissing this concern is abhorrent.

**4. The District's and neighbor's observations about traffic conditions in the vicinity of the school constitute "substantial evidence" under CEQA.**

In the District's initial comments, and in particular Comment R.2, the District voiced its concerns about the placement of the roadway extension on top of the school and the accompanying air quality, noise, and safety impacts. In Response R.2, the City dismisses the District's claims, stating, "none of the comment's conclusions regarding the effects of the project are supported by any evidence provided in this comment."

The District's comments are supported by substantial evidence as defined by CEQA and its implementing regulations. Pursuant to CEQA Guidelines section 15384:

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Case law has shown that personal observations based on facts are considered substantial evidence. "Because substantial evidence includes 'reasonable assumptions predicated upon facts' (CEQA Guidelines, § 15384, subd. (b)) and 'reasonable inferences' (*id.*, subd. (a)) from the facts, factual testimony about existing environmental conditions can form the basis for substantial evidence." (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730.) "Residents' personal observations of traffic conditions where they live and commute may constitute substantial evidence even if they contradict the conclusions of a professional traffic study." (*Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152.)

In the entirety of its comments, the District provided relevant information and reasonable inferences based on the observations of the District, District staff, and neighbors. The Comment singled out by the City, Comment R.2, is no different. The conclusions resulting from this information and inferences are all predicated upon facts. The Final EIR continues to disregard the observation of what actually transpires in the vicinity of the Project, particularly when it comes to the current parking, drop-off, pick-up and traffic congestion issues.

Further, the information presented by the District in Comment R.2 is supported by the expert opinion of Traffic Engineer Keith Higgins. The District presented Mr. Higgins' Peer Review of Project Traffic Analysis as an exhibit to its comments. Mr. Higgins' findings are well-founded and supported by facts are responded to point-by-point by the City. Further, the conclusions drawn by the District in Comment R.2 are supported by substantial evidence throughout the rest of the District's comments, including additional findings by experts. Thus, the City's assertion that the District's Comment R.2 is unsupported by substantial evidence is incorrect and is refuted by the observations made in the specific comment and throughout the entirety of the District's comments.

### **Conclusion**

The District requests that the City Council not approve the resolution certifying the Final Environmental Impact Report. The District maintains the position that the Final EIR is so inadequate and conclusory that it should be recirculated to address the significant impacts the Project will have on the school and its students. As stated in the District's initial comments, an overpass placed directly on top of a school presents dangers and hazards to the school and its students. The District desires a safe learning environment for its students, free from the impacts and risks to schoolchildren that will result from this Project, and will take the steps necessary and legally available to it to protect its students.

Sincerely,

LOZANO SMITH



Harold M. Freiman

HMF/gc

cc: Dr. Wendy Gudalewicz, Superintendent, Orchard School District  
(wgudalewicz@orchardsd.org)  
City of San Jose, Department of Planning, Building and Code Enforcement,  
Attn. Meenaxi Raval (meenaxi.raval@sanjoseca.gov)  
City of San Jose City Clerk (city.clerk@sanjoseca.gov)



**From:** [Robin Roemer](#)  
**To:** [Raval, Meenaxi](#)  
**Subject:** Fw: CC 6/9; Item 5.1. - Charcot EIR inadequate  
**Date:** Monday, June 8, 2020 12:00:23 PM  
**Attachments:** [Adequacy of FEIR Detailed comments 2020-06-08.pdf](#)

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[External Email]

Hi Meenaxi,

I hope you got my email from Saturday night. I expanded the document further and shared it with the council.

Best,

Robin

----- Forwarded Message -----

**From:** Robin Roemer [REDACTED] >  
**To:** mayoremail@sanjoseca.gov <mayoremail@sanjoseca.gov>; District1@sanjoseca.gov <district1@sanjoseca.gov>; District2@sanjoseca.gov <district2@sanjoseca.gov>; District3@sanjoseca.gov <district3@sanjoseca.gov>; District4@sanjoseca.gov <district4@sanjoseca.gov>; District5@sanjoseca.gov <district5@sanjoseca.gov>; district6@sanjoseca.gov <district6@sanjoseca.gov>; District7@sanjoseca.gov <district7@sanjoseca.gov>; district8@sanjoseca.gov <district8@sanjoseca.gov>; District9@sanjoseca.gov <district9@sanjoseca.gov>; District10@sanjoseca.gov <district10@sanjoseca.gov>  
**Cc:** city.clerk@sanjoseca.gov <city.clerk@sanjoseca.gov>  
**Sent:** Monday, June 8, 2020, 11:59:21 AM PDT  
**Subject:** CC 6/9; Item 5.1. - Charcot EIR inadequate

Dear Mayor Liccardo and Councilmembers,

I respectfully submit the attached comments to the record. They show that

1. the FEIR fails to include all comments submitted to the DEIR in the FEIR
2. the FEIR fails to respond to all statements made in the comments submitted
3. the FEIR fails to adequately respond to comments submitted and frequently admits that conclusions presented are merely speculations (which under CEQA is not allowed) especially in the areas of
  1. The transportation analysis
  2. The travel times savings analysis
  3. Air pollution
  4. impact to GHG
  5. Impacts pedestrians and bicyclists
  6. Impact on North San José
  7. Question of the project will be locally or regionally serving
  8. Discussion of the Brokaw Road alternative
  9. Impact to parking / Fox Lane

The document also identifies

- Revisions that were identified but not made

- New typos
- Incorrect cross-references in the responses provided
- New statements that seem factually incorrect, are inconsistent with other parts of the EIR or generally questionable.

For all these reasons, I would like to ask you to not certify the EIR till all open issues and comments are addressed.

At this time I would like to also share with you a number of relevant statements from the FEIR

### **Staff statements in the EIR**

- **The evaluation of 20-year traffic demand projections is speculative** and the design of roadway facilities to accommodate such demand **may result in over design of roadways**. In addition, the evaluation of Year 2040 conditions would be of little value since **there is no support to provide additional vehicular capacity as part of the proposed project by the City or other stakeholders**. (Response BB.142)
- This is an indication that the **project will provide little benefit to travel routes originating or bound for destinations outside of the immediate project area**. (Response BB.72)
- **Commuters will drive longer distances to shorten their travel time** (DEIR p. 31/40)
- There is **no modeling technique available to predict the various changes in speed by roadway** and time as well **and future traffic conditions**. (Response BB.234)
- There is **no requirement to show consistency with the General Plan** or other traffic studies **in regard to projected traffic volumes**. (Response BB.109, BB.110)
- **On induced demand:**
  - **it is recognized that some in the transportation industry argue that improving roads induces people to drive** rather than use alternate modes (Response BB.91)
  - The City of San José Travel Forecasting **Model that was used** predict traffic volumes for this project **does not account for induced traffic demand**. (Responses BB.92)
  - **Traffic generation is based on the known travel** characteristics of the specific land uses and is **not affected by capacity of the roadway network**. (Response BB.91)
- The DEIR shows that **areawide daily vehicle hours traveled will more than triple by year 2040**, as compared to existing conditions. (Response BB.63)
- The City is **not currently committing to any specific traffic calming measures** because **the degree to which traffic will cut-through the neighborhood is purely speculative**. (Response J.7)

- The City’s written records of Planning Commission actions date back to 1997, which is subsequent to the 1994 referral from the Orchard School District. Therefore, **although former staff recall expressing concerns verbally regarding the proposed school site, it is unknown whether a written response was prepared.** (Response BB.286)
- **The shadows created by a wall of up to 12 feet in height would be minimal.**
- Regarding a comment stating that **drivers can’t see through solid noise walls** to see if children are present on school grounds: **“This comment is an opinion that is unsupported by any facts or studies.** The City is unaware of any information or studies that support this opinion.” (Response BB.129)
- The **presence of humans** at various land uses along a roadway **is not considered a “vivid element”** that contributes to the visual setting. **A vivid element is a stationary feature such as trees, buildings, vistas, etc.** (Respones BB.190)

**Public comments submitted that the FEIR doesn’t contradict:**

- **The DEIR fails to acknowledge the City’s Vision Zero plan** and the compliance or noncompliance of the project and alternatives with this plan. (Comment BB.275)
- **Current SJ VMT policy unproven to actually reduce VMT City-wide** (Comment W.3)
- **There seems to be no evidence** in the project’s traffic study, VTA CMP reports, CalTrans data, Google Map data or personal observation **that freeway on-ramps to 880 from Montague or Brokaw are close to being congested** to a point where it would restrict traffic on those roads.
- **MM HAZ-2.1: Hazardous Material Site Management and Removal Plan:** Given the proximity of the site to sensitive receptors at school and residential area, **it is unclear if an adequate mitigation** such as a Site Management Plan or Removal Action **Plan can be developed.**

Kind regards,

Robin Roemer

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

**From:** Robin Roemer

**Sent:** Tuesday, June 09, 2020 12:45 PM

**To:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

**Cc:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** VMT/Quick note on staff presentation on Charcot



[External Email]

Hi,

in regards to the staff presentation that went up this morning, I just wanted to quickly note that, as you know, San José's main criteria to evaluate transportation impacts is VMT.

For some reason, the staff presentation chooses not disclose the project's impact on VMT. I would argue that this "oversight" is telling.

Acc. to the DEIR the project will add more than 1,500 VMT / day. Acc. to other traffic studies done by the City, the project may add up to 15,000 VMT / day.

Consultants have argued this increase is insignificant because of daily volumes and VMT generated by 880 and 101.

Thank you,

Robin



96 N. Third Street, Suite 375  
San Jose, CA 95112

Tel 408.287.7259

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Shiloh Ballard

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<http://bikesiliconvalley.org>

San José City Council  
*C/O Office of the City Clerk,*  
*City of San José,*  
*200 E Santa Clara Street, San José, CA 95113*

June 8, 2020

Re: Comments related to Item 5.1, the Charcot Ave. Extension Project

Dear Mayor and Councilmembers,

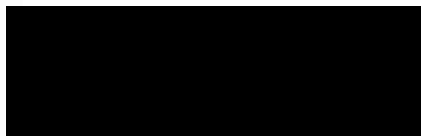
On behalf of Silicon Valley Bicycle Coalition (SVBC), a nonprofit creating a healthy community, environment, and economy through bicycling, I am writing to share our organization's thoughts on vehicle capacity-increasing projects at this critical time.

The primary purpose of the Charcot Ave. extension project is to improve vehicular traffic operations into North San José. Pre-COVID, there were a lot of jobs in that area. Now, where many employees will work in the future is uncertain as we deal with the public health crisis and changing business norms. SVBC encourages the council to reexamine its priorities, particularly for projects, like Charcot, that increase car capacity to areas where it may not be needed.

Silicon Valley Bicycle Coalition believes society is at an inflection point where we should stop expanding roadways that have primarily benefitted wealthier car owners at the expense of residents who would suffer from increased pollution and greater risks of injury.

We are supportive of a bike and ped only bridge option in this area as it would provide many benefits to local residents. We realize this project has been in the various plans for multiple decades, but that does not mean it should continue forward. Just like San José took the bold step to stop planning for major expansions into Coyote Valley, it should plan for more sustainable means to move people instead of private automobiles going forward.

Sincerely,



Shiloh Ballard,  
President and Executive Director

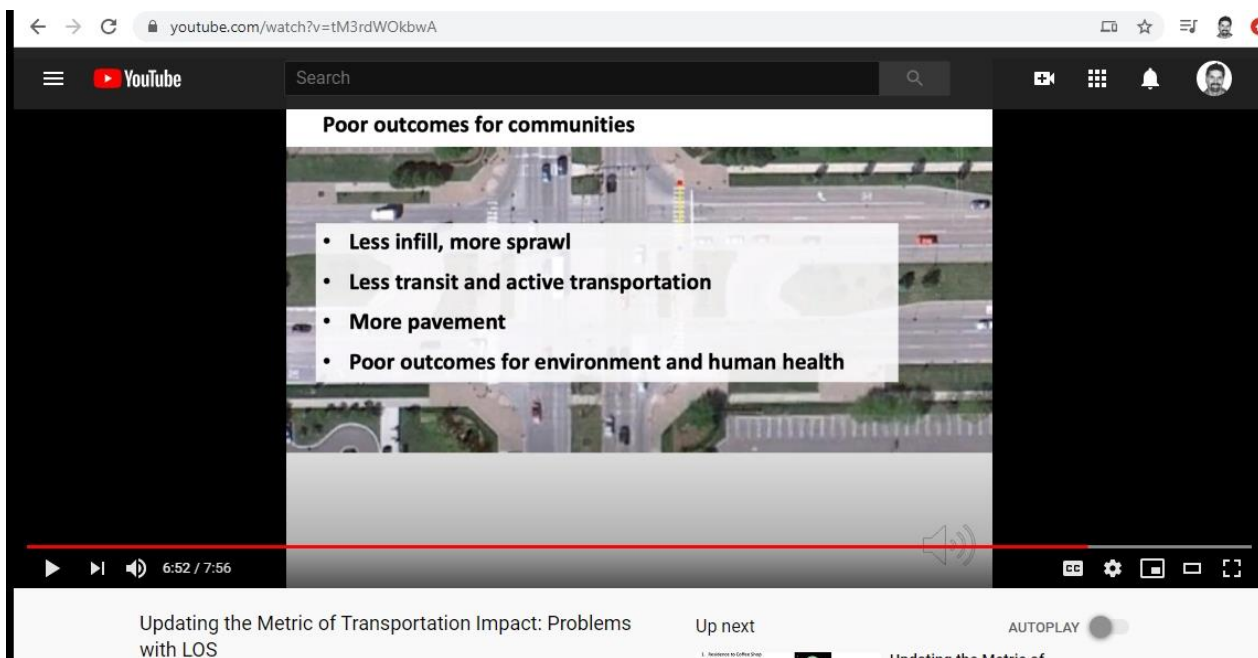
## 6/9/2020 Item 5.1, Charcot Extension Project -- Staff Presentation Flawed Numbers

The plans for the Charcot Extension Project were developed at a time when Level of Service (LOS) modeling was used for urban planning. Many assumptions used by LOS proved to be flawed so the State of California mandated a switch to Vehicle Miles Traveled (VMT) guidelines. **But by avoiding use of VMT** by providing a bike lane, the assumptions about this project, its EIR, and hence **the staff presentation about it are flawed including projections of GHG and health effects from pollution.**

History has shown that LOS assumptions that traffic will continue over many years with the same number of vehicles miles traveled and with better circulation is wrong. Hence, GHG and air pollution projections are wrong.

Moreover, evaluating regional pollution rather than the pollution that the school children will be exposed is a failure to prioritize properly.

The VMT rules were developed because of known flaws with previous assumptions led to these problems. From Governor's Office of Planning and Research, <https://opr.ca.gov/ceqa/updates/sb-743/> Problems with LOS video: <https://www.youtube.com/watch?v=tM3rdWOkbwA>



Photos included in Institute of Transportation Engineers journal posted on OPR.CA.GOV explaining the biases inherent in the old level of service LOS metric leading to the rise of new state vehicle miles traveled VMT guidance<sup>1</sup>



Sincerely,

Dave Poeschel, San Jose, CA

<sup>1</sup> <https://umjp9n8g2j2ft5j5637up17u-wpengine.netdna-ssl.com/wp-content/uploads/2014/08/ITE-Journal-Tumlin.pdf>, p. 23

**From:** The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>

**Sent:** Friday, June 5, 2020 2:49 PM

**To:** City Clerk <city.clerk@sanjoseca.gov>

**Subject:** FW: Charcot Project in North Valley

**From:** Nida Spetter

**Date:** Thursday, June 4, 2020 at 8:43 PM

**To:** The Office of Mayor Sam Liccardo <[TheOfficeofMayorSamLiccardo@sanjoseca.gov](mailto:TheOfficeofMayorSamLiccardo@sanjoseca.gov)>, District1 <[district1@sanjoseca.gov](mailto:district1@sanjoseca.gov)>, District2 <[District2@sanjoseca.gov](mailto:District2@sanjoseca.gov)>, District3 <[district3@sanjoseca.gov](mailto:district3@sanjoseca.gov)>, District4 <[District4@sanjoseca.gov](mailto:District4@sanjoseca.gov)>, District5 <[District5@sanjoseca.gov](mailto:District5@sanjoseca.gov)>, District 6 <[district6@sanjoseca.gov](mailto:district6@sanjoseca.gov)>, District7 <[District7@sanjoseca.gov](mailto:District7@sanjoseca.gov)>, District8 <[district8@sanjoseca.gov](mailto:district8@sanjoseca.gov)>, District9 <[district9@sanjoseca.gov](mailto:district9@sanjoseca.gov)>, District 10 <[District10@sanjoseca.gov](mailto:District10@sanjoseca.gov)>

**Subject:** Charcot Project in North Valley

Dear Mr. Liccardo and San Jose City Council:

I am reaching out to you as a homeowner in North San Jose and as trustee of the Orchard School District. It is my impression that so far, the City seems to consider the terrible congestion on nearby streets to be a more serious issue than the impact that the proposed project is likely to have on our community, and in particular, the young children who will be asked to sacrifice clean air, a quiet place to study, and playing fields where they exercise and learn sportsmanship, in exchange for a concrete structure which will make the streets they cross more treacherous, while permanently dividing the neighborhood. Perhaps you recall that in 1989, the people of San Francisco faced a similar issue, when the Loma Prieta earthquake heavily damaged the Embarcadero Freeway. The population of San Francisco is denser than San Jose, yet the community had the wisdom to not replace the structure, seeing this as an opportunity to improve the quality of life of the inhabitants.

Please support us in putting a stop to this project.

Sincerely,

Nida Moragas Spetter

**From:** Deena Said  
**Date:** Friday, June 5, 2020 at 1:29 PM  
**To:** Deena Said <[said.deena@gmail.com](mailto:said.deena@gmail.com)>  
**Subject:** NO TO CHARCOT

I'm writing to you in reference to the Charcot Avenue Extension Project (File No. PP18-044).

My name is Deena Said and I own and reside in a home that backs up to Silkwood Lane, and more importantly I'm the mother of a son that will be attending orchard school in the 2021-2022 school year.

Prior to the pandemic, I commuted to Sunnyvale everyday and sat in traffic from 1-2 hours. I understand that traffic congestion is an issue. However this extension project is not the solution.

I am vehemently against this extension project.

A plan introduced in 1994, nearly 25 years ago, well before the school and homes were built, has no place in 2019.

The potential harm of this extension project has been completely glossed over in the materials provided to the public. It's been reported that commuters will save **17 seconds. 17 seconds** is laughable in light of the harm that this project will cause through construction to completion.

Air pollution is already a major concern considering the amount of cars on the roads and freeways across the south bay. In the last couple of months a study was published in the Environmental Health Perspectives Journal that found that short-term exposure to high ambient air pollution corresponded with a rise in visits to the children's psychiatric emergency department.

Researchers at the University of Cincinnati and the Cincinnati Children's Hospital Medical Center examined psychiatrist patient visits, and then traced the concentration of PM 2.5 in their residential areas. Researchers found that whenever there were increases in PM 2.5, there would be MORE psychiatric visits within the following few days.

**Collectively, these studies contribute to the growing body of evidence that exposure to air pollution during early life and childhood may contribute to depression, anxiety, and other mental health problems in adolescence.**

Our children now live in the age of anxiety, the last thing we need is to actively contribute to their potential anxiety by allowing this project to continue. Furthermore, on an even more personal note, my children will be limited as they play in our backyard, due to the pollution and particulate matter.

San Jose calls itself the capital of Silicon Valley, the home of innovation. This plan is the opposite of innovation as it doesn't solve for the problem of traffic congestion, instead it puts our children in harms way. The focus should be on improving public transportation options, planting additional vegetation to combat current pollution, and looking for solutions that do not impact our most vulnerable population.

Thank you.

Deena Said



June 8, 2020

Children's Garden Preschool  
1328 Rothland Ct  
San Jose, CA 95131

**Subject: In opposition to Item 5.1, Charcot Ave. Extension Project**

Dear Mayor Liccardo, Vice Mayor Jones, and Councilmembers Jimenez, Peralez, Diep, Carrasco, Davis, Esparza, Arenas, Foley and Khamis,

As a childcare provider in the vicinity of Orchard School, I have served innumerable families and their children of this area for eleven years. In my experience, these were mostly recent immigrants with great language barriers. They were still learning the basics of our society. They were still unaware of many rights and opportunities for their children that the Bay Area has to offer. I often served not only as a childcare provider, but almost as a social worker: to connect them to the right agencies, speak to special education teachers, providing resources to enroll them in school in time, etc.

On behalf of the families who have come through my preschool, the community of Orchard School, the neighborhood and future students, I am using my voice today to speak for those who can't speak for themselves. **I am strongly opposed to the Charcot Ave Extension Project.** Children have the right to clean air, large open spaces, safe schools and playgrounds, away from big traffic arteries. By dropping this project, and building just the pedestrian and bicycle overpass, you have the chance to show these children and their families where your priorities are. That they are valued as equally important as other school communities in San José. I hope you will do the right thing.

With gratitude to you for listening,

Isabelle Chappuis  
San José resident, District 4  
Children's Garden Preschool, Owner and teacher  
Mother of two teenage daughters  
Volunteer with Mothers Out Front South Bay