

September 10, 2019

RE: *PDC17-047 & PD18-015 – Planned Development Zoning and Planned Development Permit for Real Property Located at 1330, 1388 and 1410 S. Bascom Avenue
(Item 10.2 - September 10, 2019 City Council Agenda)*

Dear Honorable Mayor and Councilmembers:

Please accept this letter as VTA's response to City of San Jose (City) staff recommendations regarding the above-referenced project (Project) as they relate to safety measures on and around VTA's light rail system necessitated by the Project.

Because this Project is located at the doorstep of the VTA Bascom Light Rail Station, offering pedestrians direct access to the same, it has the potential to create new safety conflicts. As a consequence, it requires review and approval by the California Public Utilities Commission (CPUC), which is pending. Already, the CPUC has determined that safety enhancements around the light rail system will be needed as a direct result of the Project. Those safety enhancements, which benefit both the development and the community, have been identified in an August 2019 letter from the CPUC (Attachment A).

Separately, the City recently applied to the Federal Railroad Administration (FRA) to maintain a quiet zone along the corridor where this Project is located. That application is currently pending. If approved, the quiet zone would continue to prevent light rail trains from sounding their horns. This application was filed by the City following VTA's request to the City that the quiet zone be lifted, and light rail trains be allowed to sound their horns to provide additional notice to the public at the light rail track crossings that a train is approaching. As a result of the City's application to continue the quiet zone, on August 6th and 7th, City staff led a diagnostic review of this Project and the Bascom Light Rail Station. This review was attended by representatives from VTA, the FRA and the CPUC and identified further enhanced safety measures that would be necessary as a result of this Project and to support the City's application to maintain the quiet zone. Those additional safety enhancements have been memorialized by City staff in draft meeting minutes from the diagnostic review (Attachment B).

At VTA, Safety is our number one priority. As such, we are requesting the City and the Project developer work together to implement the safety measures that both the FRA and the CPUC are requiring of the City.

Sincerely,



Angelique M. Gaeta
Chief of System Safety & Security

cc: Joseph Petito, Federal Railroad Administration (FRA)
Felix Ko, California Public Utilities Commission (CPUC)

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVE
SAN FRANCISCO, CA 94102



August 5, 2019

Krinjal Mathur
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Sent via email: krinjal.mathur@sanjoseca.gov

Re: SOUTH BASCOM GATEWAY STATION
SCH 2019069109 — *Mitigated Negative Declaration*

Dear Krinjal Mathur:

The California Public Utilities Commission (Commission/CPUC) has jurisdiction over rail crossings (crossings) in California. CPUC ensures that crossings are safely designed, constructed, and maintained. The Commission's Rail Crossings Engineering Branch (RCEB) is in receipt of the *Mitigated Negative Declaration (MND)* for the proposed South Bascom Gateway Station (Project). The City of San Jose (City) is the lead agency.

The City proposes to develop 600 residential units, 300,000 square feet of commercial space, and a 200,000 square feet office building.

The proposed Project will be located adjacent to the following three rail crossings:

- Bascom Station Pedestrian Crossing East, 082D-5.71-D
- Bascom Station Pedestrian Crossing West, 082D-5.76-D
- South Bascom Ave, 082D-5.87

Any development adjacent to or near the railroad or light rail transit right-of-way (ROW) should be planned with the safety of the rail corridor in mind. New developments may increase pedestrian or vehicular traffic volumes not only on streets and at intersections, but also at nearby rail crossings. Traffic impact studies should analyze rail crossing safety and potential mitigation measures. Safety improvement measures may include the planning for grade separations or improvements to existing at-grade crossings. Examples of improvements may include but are not limited to: addition or upgrade of crossing warning devices, detectable warning surfaces and edge lines on sidewalks, and pedestrian channelization. Pedestrian and bicycle routes should be designed to clearly prohibit and discourage unauthorized access (trespassing) onto the tracks, except at authorized crossings.

The CPUC recommends the project:

- Install Commission Standard 9 pedestrian automatic gates with EXIT swing gates and channelization at both pedestrian station crossings.
- Relocate the detectable warning strips outside of the swing gates at the two pedestrian station crossings.
- Install Commission Standard 9 pedestrian automatic gates with EXIT swing gates and channelization on the sidewalk approaches at the South Bascom Ave crossing.

In addition, construction or modification of public crossings requires authorization from the Commission. RCEB representatives are available to discuss any potential safety impacts or

Krinjal Mathur
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concerns at crossings. Please continue to keep RCEB informed of the project's development. More information can be found at: <http://www.cpuc.ca.gov/crossings>.

If you have any questions, please contact Felix Ko at [REDACTED], or [REDACTED].

Sincerely,

A handwritten signature in dark ink, appearing to read 'Felix Ko', with a long horizontal stroke extending to the right.

Felix Ko
Senior Utilities Engineer
Rail Crossings Engineering Branch
Rail Safety Division

CC: State Clearinghouse, [REDACTED]
Antonio Tovar, [REDACTED]
Melissa Cerezo, [REDACTED]

San Jose Vasona Quiet Zone Diagnostic Review Meeting Notes (DRAFT)

DATE: August 6, 2019 (Day 1)

ATTENDEES: **CSJ:** Alisar Aoun, Vu Dao, Renee Zhou, Lee Taubeneck (CSJ consultant)

FRA: Joseph Petito, Eric Walker

CPUC: Felix Ko

VTA: Antonio Tovar, Susan Lucero, Angelique Gaeta, Brandi Childress, Adolf Daaboul, J. Carlos Orellana

Santa Clara County Sheriff's Office: Captain David Lera

MEETING NOTES

FRA Policy Statement (read by FRA)

The FRA Region 7 opinion, in general, provides a strong endorsement of the practice of crossing closures and consolidations where feasible, while maintaining essential, alternate and safe access for local communities. The optimal safety improvement for an at-grade highway-rail crossing is the complete separation of the railroad tracks from the roadway through construction of a grade-separation structure or closure. We encourage ALL local Authorities, Railroads and Stakeholders work together to provide good planning to achieve this goal.

Exceptions to the proposed federal rule mandating whistle sounding at all highway rail-grade crossings can only be made by showing that appropriate safety measures have been taken to mitigate the additional risk otherwise presented by trains not sounding their horns.

FRA Region 7 strongly recommends that any public authority desiring to establish quiet zones take the opportunity to review all aspects of safety along its rail corridor. Particular attention should be given to measures that prevent trespassing on railroad Right-of-way since investments made to establish a quiet zone may be negated if the horn has to be routinely sounded to warn trespassers.

Context / History

- In November 2005, with the assistance of the Santa Clara Valley Transportation Authority (VTA), the City of San Jose (CSJ) filed a Notice of Railroad Quiet Zone Establishment (NOE) to establish a quiet zone in the railroad corridor in San Jose, California, extending from San Fernando Avenue to Bascom Avenue in San Jose (quiet zone).
- In 2012, the Federal Railroad Administration (FRA) wrote a letter to VTA & CSJ stating that the quiet zone was incorrectly established and suggested CSJ submit a quiet zone application to correct the errors
- There was a diagnostic field review in 2012 and another in 2014
- In March 2016, to properly establish the quiet zone, the CSJ, with the assistance of VTA, filed a Notice of Intent to Submit a Public Authority Application pursuant to 49 C.F.R. § 222.39(b) for Railroad Quiet Zone Establishment (NOI)
- In May 2016, the CPUC strongly recommended against maintaining the quiet zone based on an increase in development along the corridor; the increase in incidents involving LRTs versus pedestrians, bicyclists and vehicles; and, the history of individuals ignoring activated warning devices at crossings within the quiet zone
- In January 2018, VTA advised CSJ that after conferring with the FRA, VTA would support a partial quiet zone where LRTs would sound their train horns only during the day hours, between 7:00 a.m. and 10:00 p.m. – when incidents had historically occurred. The CSJ advised VTA that it was interested in a full quiet zone

- In November 2018, VTA advised FRA that it did not support a full quiet zone and that VTA was no longer a contact for the CSJ's March 2016 NOI.
- CSJ is no longer pursuing the March 2016 NOI. Instead, CSJ is now applying as a solo applicant for a full quiet zone via the Public Authority Application process
- FRA suggested an alternative process to achieve a quiet zone via Public Authority Designation in which supplementary safety measures (SSMs) are implemented at all crossings
- VTA does not support a full quiet zone in this corridor.

General Comments for All Crossings

Signage & Pavement Markings

1. CSJ needs to standardize signage (sign types, mounting configuration, and dimensions)
2. VTA needs to standardize signage in stations
3. Warning signs at crossings include both "Look" signs (intended for trains) and "Look Both Ways" signs (intended for LRT); consider eliminating the "Look Both Ways" sign to eliminate sign redundancy; the "Look" sign would serve for both trains and LRT
4. CSJ and VTA should work together so that street and station signage are relatively consistent
5. See Metrolink's standards for signage as a good example of what signs they use and where they place them
6. Check current CA MUTCD standards for pavement markings, including stop bars, crosswalks, etc.; some locations don't appear to follow current standards
7. Refresh pavement markings and edge lines across tracks; many locations were faded
8. CSJ should submit to FRA drawings showing the ultimate signage and striping improvements or changes

Railroad Automatic Warning Devices

9. VTA should review counterweights on all gates. Many of the counterweights unnecessarily extended large lengths behind the gate masts. The counterweights may be able to be reconfigured and/or rotated to reduce the space required by the counterweights.

Traffic Signals

10. CSJ needs to check visibility of far-side signal heads where there are pre-signals; adjust traffic signal heads to eliminate visibility of green indication from the driver's perspective at pre-signal stop bars

Stations

11. Swing gates at all stations need regular maintenance
12. Relocate detectable warning strips to outside of swing gates, all stations

Quiet Zone Obligations

13. CSJ appears to need a special maintenance program just for the quiet zone; signs, markings, median islands, channelizers, tree trimming, etc. need to be checked and maintained more often than regular maintenance on the rest of the traffic network; can't have faded pavement markings, missing warning signs, median islands that are no longer tall enough, etc.; a special maintenance program would ensure that all features of a quiet zone crossing are in compliance; otherwise, FRA can terminate a quiet zone
14. CSJ needs to have a process in place for incorporating appropriate safety upgrades to the railroad crossings when adjacent properties are proposed for redevelopment; lack of this process has led to developments along the corridor creating or worsening unsafe conditions at crossings, as well as violating the conditions of the quiet zone
15. Having a quiet zone requires CSJ to "reaffirm" its quiet zone every 2.5-3 years; when a City reaffirms its quiet zone, it is claiming that all its crossings remain in compliance; CSJ has never performed the reaffirmation process; FRA wants to see that CSJ takes its quiet zone seriously and suggests that CSJ establish a process or program to ensure that the City does the reaffirmation; please elaborate on this in the Notice of Establishment

16. Update the DOT Grade Inventory Forms with new traffic counts; current numbers are from 2016; add in projected traffic from developments that are under construction
17. FRA would like to see near-misses data at crossings; near-misses data can indicate high risk locations
18. Section 130 funds cannot be used towards improvements at crossings for the purposes of establishing a quiet zone; “train horns are free”; federal government does not want to pay for safety measures that are used to compensate for absence of train horns

VTA LRT relationship to Quiet Zone

19. Not clear if VTA LRT is subject to the Train Horn Rule (49 CFR Part 222) because there are conflicting definitions of what constitutes a “locomotive”; UPRR trains run on this corridor and they are definitely subject to the Train Horn Rule; if VTA not subject to the Train Horn Rule, they could blow their horns (or not) regardless of whether there is a quiet zone or not
20. VTA does not support the Quiet Zone; thinks train horns can save lives; every time people get hit by LRT, very emotional for VTA to meet with families to explain fatalities and injuries; sometimes train conductors don’t want to return to their jobs after a collision; psychologically troubling for train conductors to think that the collision may not have happened if they sounded the horn routinely; maybe the quiet zone made sense in 2005 when the Winchester line opened up, but with new increased and denser development, exposure has increased and it doesn’t make sense anymore. Additionally, since the Winchester line was opened and the quiet zone was established, there has been a history of individuals ignoring activated warning devices and as a result being struck by LRTs. VTA requests that CSJ agree that LRTs should sound their horns while CSJ’s current application for a quiet zone is pending and at least until all safety enhancements identified by the FRA and the CPUC during the diagnostic review are achieved at each crossing.

Date: August 7, 2019 (Day 2)

Attendees:

CSJ: Alisar Aoun, Andrew Luong

FRA: Joseph Petito, Eric Walker

CPUC: Felix Ko

VTa: Susan Lucero, Angelique Gaeta, Brandi Childress, Adolf Daaboul, Carlos Orellana

Sheriff's Office: Captain David Lera

DRAFT

Bascom Station North (Pedestrian)

1. Crash History 2007 - 2019: none
2. Land Uses: multifamily residential; development proposed on the triangular parcel to the northwest of Bascom LRT Station will provide pedestrian access to both station entrances; the development includes 600 residential units, 300,000 square feet of commercial space, and a 200,000 square feet office building
3. CPUC submitted a comment letter to City of San Jose Planning on 8/5 in which it recommended that the proposed development on the northwest quadrant:
 - Install Commission Standard 9 pedestrian automatic gates with EXIT swing gates and channelization at both pedestrian station crossings.
 - Relocate the detectable warning strips outside of the swing gates at the two pedestrian station crossings.
4. Consider standard sign set up at all station crossings; perhaps move "Look Both Ways" and "No Train Horn" signs to swing gates
5. Crossbuck signs on posts need to be rotated to face pedestrians coming from outside the crossing- rotate or add another crossbuck sign facing the nearest approach
6. Replace signs damaged with graffiti (immediate action item)
7. Swing gates need maintenance (immediate action item)
8. Striping across tracks to delineate edge of pedestrian path needs to be refreshed
9. Relocate detectable warning strips to outside of crossing
10. Future development on the west side of the rail corridor will need a Commission Standard #8 flasher on west side of tracks
11. Blue ENS should be relocated to the post with the crossbucks as is typical at other ped crossings
12. There is a "Look Both Ways" sign in between the tracks; consider removing, or relocate to swing gate



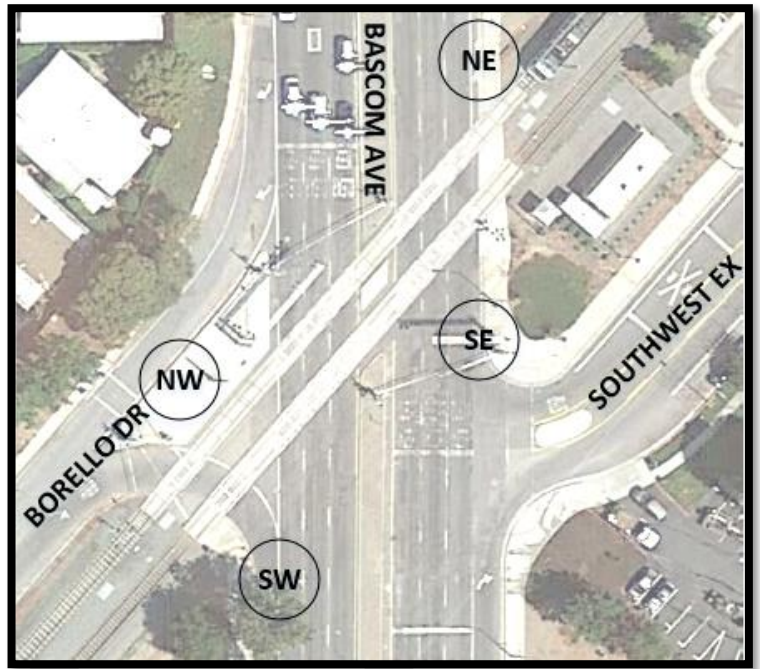
Bascom Station South (Pedestrian)

1. Crash History 2007 - 2019: none
2. Same comments as Bascom Station North (Pedestrian)

Bascom

General

1. Crash History 2007 - 2019:
 - 3/10/17 Injury: pedestrian suffered injuries when pedestrian ignored activated warning devices and was struck by LRT
2. Land Uses: residential; there is a development proposed adjacent to the northeast quadrant of the crossing; it includes 600 residential units, 300,000 square feet of commercial space, and a 200,000 square feet office building
3. Big and awkward intersection
4. CPUC submitted a comment letter to City of San Jose Planning on 8/5 in which it recommended that the proposed development on the northwest quadrant:
 - Install Commission Standard 9 pedestrian automatic gates with EXIT swing gates and channelization on the sidewalk approaches at the South Bascom Ave crossing in the NE and SE quadrants
5. Refresh pavement markings all approaches
6. This section is part of VTA's "Bascom Complete Streets" study
7. While diagnostic review was occurring, a pedestrian ignored the activated warning devices and ran across the tracks, making it safely to the other side. When questioned as to why she ignored the warning devices she indicated that she had already started to cross. When questioned whether crossing arms or pedestrian gates would have stopped her from crossing she said yes...if she wasn't already in a hurry.



SE

8. Remove the young tree next to the "No Right Turn" LED sign on Southwest Ex; the tree blocks visibility of the crossing and will block visibility of the LED sign as it grows bigger (immediate action item for VTA)
9. Signal box blocks visibility between trains and travel way; ideally it would not have been placed here
10. Full pedestrian treatments are warranted on the east side of Bascom because of the increased pedestrian traffic anticipated with the proposed development and because the signal box blocks visibility
11. There is a detectable warning strip located about 25 feet upstream of the track and 15 feet upstream of the flashers; this is too far from the crossing for pedestrian compliance and for visibility with the rail corridor; relocate closer to the crossing along with other pedestrian treatments recommended here
12. There is an informal pedestrian path that cuts across the triangular landscaping section between this quadrant and Southwest Ex; this path circumvents the advance warning devices (flashers); ensure any pedestrian treatments at this quadrant address this path as well

NE

13. Recommend full pedestrian treatments to serve increased traffic anticipated with the new development and to match those treatments at the SE quadrant
14. There is a natural gas vent pipe in the middle of the sidewalk at the crossing approach; is this necessary? Can it be removed or relocated?

NW

15. there is a lot of debris buildup around the median island on Borello Dr that should be cleaned up (immediate action item)
16. there is a chain link fence along Borello Dr and the rail corridor; extend the fence closer to the crossing, perhaps to the Stop sign, to close gaps in channelization
17. Upgrade the "No Train Horn" sign on Borello Dr to the current standard
18. Peds along the west side of Bascom Ave sometimes do not use the crosswalks; instead they take the shorter path of cutting across the southbound right turn pocket, hop on the median island, and then cut across eastbound right; install guardrail along Bascom to channelize pedestrians to the crosswalks

SW

19. The tracks intersect Bascom at a skew; this limits visibility between the rail corridor and pedestrians/bicyclists traveling northbound on the sidewalk towards the crossing; at a minimum suggest installing a Commission Standard #8 flasher here to provide active advance warning; a more comprehensive improvement would be to install full pedestrian treatment (Commission Standard #9 automated pedestrian gate, EXIT swing gates, channelization)
20. There is a large overgrown tree in the triangular landscape area adjacent to the quadrant; trim the tree significantly to improve visibility