

TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND

16 Monte Cimas Avenue Mill Valley, CA 94941 415-380-8600

May 14, 2004

Mr. Tom Fitzwater
VTA Environmental Planning Department
3331 North First St., Building B
San Jose, CA 95134-1927

Re: DEIS/R for the Proposed BART Extension to Milpitas, San Jose and Santa Clara

Dear Mr. Fitzwater:

TRANSDEF is an environmental organization dedicated to the improvement of regional planning for land use, transportation, air quality in the Bay Area. The fact that the Silicon Valley Rapid Transit Corridor is not currently served by high-capacity transit is evidence of the failure of the Bay Area to prioritize its transportation investments. Rather than identify this corridor for improvement back in 1988, the region squandered its resources on an extraordinarily expensive extension to SFO, now suffering from low ridership. TRANSDEF board members and our allies intensively criticized that project during the 1994 RTP process. We also criticized the proposed BART extension to San Jose, *et al* during the 2001 RTP process. Should this horribly ill-conceived project somehow actually get built, we are convinced that our criticisms will prove to be equally prescient.

Alternatives

We submitted comments on March 22, 2002 in response to the Notice of Preparation for this environmental document. We attach them to these comments, and incorporate them by reference. We insisted at that time that the Major Investment Study was flawed in its rejection of less expensive rail transit options. That MIS and this DEIS/R are obviously advocacy documents, written with the intention of supporting a specific outcome. The document preparers have violated their professional responsibility to honestly evaluate the project with the aim of achieving optimal performance at the lowest cost.

Advocacy for the BART extension resulted in the cancellation of the fully funded Fremont-South Bay commuter rail project. That project would have been providing transportation benefits now, had it not been the victim of a political establishment that, by cancelling commuter rail, demonstrated it had goals other than providing transportation. At a minimum, the DEIS/R should have carried that project as a full alternative.

Other reasonably feasible alternatives that would be required to be studied in an unbiased DEIS/R include passenger rail on the historic Southern Pacific Milpitas alignment. Elimination of all conventional-gauge rail alternatives necessitated a dramatically more expensive project than can be justified by the MIS or DEIS/R.

The TRANSDEF NOP comments note that the extraordinary cost of the proposed BART extension turns its planning process into a mini-regional transportation plan. That makes it imperative that the BART extension be compared to a High Speed Rail project using the Altamont alignment. The use of state funds to build the latter would result in \$2 billion in local funds being available to provide additional transportation benefits within Santa Clara County. A High Speed system using the Altamont alignment would allow use by ACE and other commute services within the Bay Area, thus improving on the productivity of the state's investment in track. (By contrast, the currently preferred High Speed Rail alignment to San Jose would have no other uses.) Honestly studying the cumulative effects of an Altamont HSR alternative with a \$2 billion package of cost-effective Santa Clara County transit investments would be very instructive in the public policy debate now under way. It is clear that a variety of alternatives cited here were responsive to the project's Purpose and Need, and were thus impermissibly rejected.

Transportation

The EIR for the 2001 RTP (p. 2-12) had the following striking findings:

	Daily Vehicle Trips
Fremont-South Bay Corridor 2025 Project:	241,227
Same statistic, but without BART-San Jose:	243,215
Silicon Valley Corridor 2025 Project:	5,456,875
Same statistic, but without BART-San Jose:	5,462,300

The RTP data indicated that a BART extension to San Jose, *et al* would produce little in the way of benefits to the region. "All differences in vehicle trips at the corridor level comparing Project B [i.e., no BART-SJ] to Project alternative [i.e., includes BART-SJ] are negligible (<0.3% in all corridors)." (Table 2.1-9, p. 2-12) No differences were found in regional travel times between an RTP with the BART-SJ project and one without it. (Table 2.1-7, p. 2-10) It would appear that these data provide more useful information than the entire vast DEIS/R.

In particular, TRANSDEF disbelieves any assertion of improved traffic conditions (LOS) or air quality because of BART. The phenomena of latent demand and induced demand both guarantee that any travellers using BART will be replaced by others who

had previously been deterred by the level of congestion, or who moved to the area because it had recent transportation improvements.

Air Quality

Table 2.2-7 in the EIR for the 2001 RTP (p. 2-29) had the following striking findings:

	2025 Project w/BART-SJ & <u>Central Subway</u>	2025 Project (without BART-SJ or <u>Central Subway</u>)
CO	779.3	777.4
ROG	48.8	46.5
NOx	146.3	147.4
PM ₁₀	91.4	91.3

As the table indicates, the BART extension to San Jose, *et al* produces a small regional reduction in NOx, but generates more of the other criteria pollutants. Because of BART's design as a park-and-ride system, the extension will cause additional driving to its stations, as indicated by the finding that AM Peak Period Total VMT would be 25,008,511 with the BART project and 24,972,000 without it. (Table 2.1-10, p. 2-13.) It is unlikely that the Muni Central Subway played a role in this phenomenon, due to the prevalence of passengers walking from their homes in the neighborhood, rather than driving, to the train. This increase in criteria pollutants is a significant environmental impact that requires mitigation.

The RTP EIR provides a strong evidentiary basis to challenge the modelling in the BART DEIS/R, which claims that "The Baseline and BART alternatives would reduce VMT in the region, which would reduce regional PM₁₀ emissions when compared to the No-Action Alternative. (4.3-13) Clearly, the DEIS/R modelling conflicts with the RTP EIR modelling.

Land Use

A likely reason for the difference in modelling outputs is the use of improper land use assumptions for the project's horizon year. The 2001 RTP EIR used the approved ABAG Projections numbers. TRANSDEF was unable to find a statement in the DEIS/R identifying the source of land use projections. However, this issue was explored in depth in an infamous San Jose Mercury article published October 12, 2000, "BACKERS OF EXTENDING BART TO S.J. RELY ON AMBITIOUS PROJECTIONS A STARTLING VISION OF DOWNTOWN S.J. EXTENSIVE DEVELOPMENT WOULD BE NEEDED TO MAKE NUMBERS WORK." The story (attached below) identifies how BART ridership would have been unacceptably low (and therefore cost per new rider

unacceptably high) unless the land use assumptions for downtown development were pumped up to an entirely unrealistic number. As far as TRANSDEF knows, these are the same land use assumptions used to hype the ridership number up to 83,585 per day in this DEIS/R. To fully air this issue, provide a table of population, jobs, dwelling units and square feet of commercial development projections for each of the cities in the Corridor for the horizon year (breaking out Downtown San Jose as a separate number) for the following: Projections 2002, Projections 2003, DEIS/R 2025. Identify the source of the DEIS/R 2025 land use assumptions. Provide a thorough explanation as to why the assumptions are reasonable. Be sure to credibly refute the Mercury article's implication that the land use assumptions were/are a fraud.

Another major flaw of the DEIS/R is the failure to provide completed station area plans for each of the stations. "All of the proposed station sites along the BART Alternative alignment would have the potential to accommodate joint development in the future." (4.12-21) "Potential" isn't good enough. When a region invests its funds on the scale proposed by this project, it needs to know that the local jurisdictions have committed to make their land use plans compatible with high-capacity transit. The actions of Fremont approving a Wal-Mart in the vicinity of the planned Warm Springs station, and South San Francisco approving a Costco store near their BART station demonstrates the folly of post-hoc planning. A strong market has been discovered for transit-oriented development. Those local decisions create significant regional impacts by pushing what otherwise would have been transit-oriented development out into greenfields as sprawl. This results in more regional VMT, ozone precursor emissions, PM₁₀ and loss of habitat and agricultural resources through the conversion of open lands to urban uses.

To mitigate these potential impacts, a measure is needed that no funds will be released for final design or construction until plans are completed and adopted for each of the station areas by their respective jurisdictions. These plans, in aggregate, must result in BART ridership equivalent to the 83,585 average daily transit trips projected for 2025. (4.2-7)

Financial

BART extensions have never been built without serious cost overruns. Provide a table of past BART projects, with their cost at EIR certification time and final completion cost. Given this data, justify why a 70% or higher contingency has not been added to the estimated project cost.

In providing an estimated cost, include the cost of debt service. In reviewing the farebox recovery, cost per passenger and cost per new rider, TRANSDEF was struck by the utter lack of reality to the numbers. Are you people smoking crack? Provide a full explanation of the methodology used, along with the worksheets, in calculating these numbers.

Conclusion

The Mercury News raised the issue 'is the low ridership worth the cost?' in its May 9, 2004 cover page story, "BART advantages in doubt." Clearly, without studying less costly alternatives, policy makers are unable to make an informed and responsible decision about a very large amount of public funds. That is the very purpose of CEQA—providing adequate information to decisionmakers about environmental impacts, before large amounts of public funds have been committed. Due to unwise leadership at VTA, over a hundred million dollars has been committed, prior to the certification of an environmental document. This is precisely the situation CEQA was intended to prevent.

TRANSDEF urges VTA to stop the waste of funds by halting preliminary engineering of this ill-conceived project. We request that VTA exhibit intellectual honesty by withdrawing the DEIS/R and beginning the study of reasonable, financially feasible alternatives. We firmly believe that San Jose should have excellent rail service, and are prepared to assist that effort in any way we can. However, we are convinced that the proposed BART extension, if the EIR is certified and the project approved, will never result in excellent rail service, and will instead become a civic nightmare.

Sincerely,

/s/ David Schonbrunn

David Schonbrunn,
President

October 12, 2000

BACKERS OF EXTENDING BART TO S.J. RELY ON AMBITIOUS PROJECTIONS A STARTLING VISION OF DOWNTOWN S.J. EXTENSIVE DEVELOPMENT WOULD BE NEEDED TO MAKE NUMBERS WORK

Author: BARRY WITT, Mercury News

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Article Text:

When promoters of bringing BART to San Jose say the \$3.8 billion extension would remove 78,000 commuters from the roads, they're relying on a startling vision of downtown, one that not only fills virtually every inch of land in the existing city center but also tears through adjacent residential neighborhoods to make room for more high-rise growth.

It's a vision that would add 176,000 workers to today's modest downtown of 30,000 employees. Workers filling hundreds of new high-rises would be forced to take public transit, since public parking structures would be eliminated, and future office buildings would be constructed without garages.

It's a vision of a downtown residential population 30 times bigger than it is today.

It's also a vision, according to critics and downtown neighbors, that will never become reality but which has been invented to justify approval of the BART line. The more riders expected to buy BART tickets, the less public subsidy needed to keep the trains running.

"It creates a Manhattan in downtown San Jose where it takes an hour to go a mile and a half," said Santa Clara County Supervisor Jim Beall, a leading opponent of Measure A, the November half-cent sales tax proposal that would pay part of the BART construction cost.

"I don't think that's the community that I want to live in and it's totally against what the majority of people in San Jose want," Beall said, arguing BART proponents invented the development scenario "to jack up the numbers and make the project look good."

Mayor Ron Gonzales, BART's biggest booster, said he is "very convinced the 78,000 new daily riders is a good number." But even if it's significantly less than that, Gonzales said, "the bottom line is you're getting cars off the roadway. BART has proven to be over a long period of time the most cost-effective way of moving people through the Bay Area."

Valley Transportation Authority and San Jose Redevelopment Agency officials produced the ridership projections in a frenzy last June, spurred by the need to finish a report in advance of key decisions by the Santa Clara County Board of Supervisors and the Silicon Valley Manufacturing Group.

While a BART study had been in the works for several months, it was only in early June that Gonzales decided the issue needed to go on this November's ballot, and the county board would have to take its first vote on the subject by month's end. Redevelopment Agency officials said they were given two days to come up with a vision of downtown San Jose in 2020 that would become the basis for the VTA's ridership projections.

Downtown extension

Vision takes city center 'as far as it will go'

What city visionaries came up with takes downtown "as far as it will go," said Colin Mosher, the redevelopment official primarily responsible for the analysis. "It takes the extreme. It says there's not going to be any parking downtown." It also assumes smaller buildings would be knocked down and rebuilt much larger.

It also stretches the boundaries of downtown well beyond Fourth Street, its traditional eastern boundary. The new City Hall project already will do that for two blocks along East Santa Clara Street, but this vision assumes downtown will stretch all the way to 10th Street both north and south of San Jose State University. It assumes more than 33 million square feet of construction -- the equivalent of 96 structures the size of one of downtown's most prominent landmarks, the 17-story Knight Ridder Building -- would occur in the 18-square block South Campus residential neighborhood.

"The only way to do that would be to completely destroy the neighborhood," said Lisa Jensen, a neighborhood activist who lives in a 96-year-old home on South Ninth Street. South Campus is filled with a mix of historic single-family residences, older homes that have been divided into apartments, and post-World War II two- and three-story poorly constructed apartment buildings that both city officials and homeowners alike in the area would like to see replaced eventually.

But Jensen and others see those apartments being replaced with similar-scaled buildings, not 20-plus story high-rises. "San Jose has indicated it wanted to preserve neighborhoods," Jensen said. "I hope San Jose stands by that."

Asked whether his vision of South Campus matched that suggested by the Redevelopment Agency, Gonzales responded, "I'm not going to comment on any particular areas."

The BART ridership projections are based on an assumption that 144 million square feet of new construction would occur over the next 20 years. That's the equivalent of 423 structures the size of the Knight Ridder Building, enough to accommodate 180,000 new residents in 69,000 new apartments and condominiums, and another 176,000 office and retail workers.

The numbers are astounding, given the history.

Agency officials estimate that today, there are about 6,000 residents and 30,000 daytime workers downtown. While demand for office space and housing has begun to accelerate in the past two years, actual construction activity has been achingly slow: Since 1992, just 800 new housing units and 3.2 million square feet of office buildings have either been built, are under construction or are close to groundbreaking.

In a separate examination of downtown, agency planners last month projected construction activity over the next 10 years, based on a no-BART scenario, at 10.5 million square feet of office space, 2.3 million square feet of retail space and 10,000 housing units. Those figures, ambitious in and of themselves, however, pale in comparison to the post-BART scenario.

To get anywhere close to the agency's post-BART figures, several radical assumptions have to be made about what would happen between

2010 and 2020:

(box) Demand for office space downtown would be 75 percent greater than what demographers say will happen across the entire city.

Downtown's population growth would be 40 percent greater than what is projected for the entire city.

(box) South Bay commuters would be willing to give up cars for transit, including those who don't live on the BART line but would rely on the remainder of the region's light rail, Caltrain and bus systems to get downtown.

(box) San Jose would be willing to make the political decisions to expand downtown's boundaries, allowing high-rise development in areas that historically developed at one and two stories.

Needed decision

Downtown must expand, not simply grow taller

Such a political decision is necessary because downtown can't simply grow taller. While there are numerous gaps in the existing downtown core ripe for development, every building is limited in height by the flight path of San Jose International Airport. So San Jose can't meet the space projections simply by building upward; it would have to build outward.

Whether that means South Campus or elsewhere, eventually the city would run into the residential neighborhoods that abut its historic, geographically limited downtown.

"Downtown is looking for a place to expand beyond Fourth Street and the freeway" on the west, said Bill Ekern, director of special projects for the redevelopment agency.

On the parking issue, the city, developers and commuters would have to make a 180-degree reversal from current practice.

"There's a real battleground over the future of parking," Ekern said. Parking and transit "are on a very rapid collision course." While commuters in major cities elsewhere in the country are used to taking the train, "transit in the West is probably the hardest sell," Ekern said, "It's like selling refrigerators to Eskimos."

Just this summer, the city council approved several high-rises with

huge parking structures next to or incorporated into the buildings. A 380,000-square-foot Sobrato Development Company development that broke ground south of the San Jose Convention Center in August includes a 1,108-car garage, about one space for every worker that could fit in the building.

And at the same time the BART study assumes city-owned garages on Market, Second and Third streets would be knocked down and replaced with garage-less high-rises, the city is pursuing several new parking garage developments.

"We have no alternative at this time," Gonzales said of the contradiction between what he approved this year and a transit-oriented downtown. "Once we have an alternative that's reasonable and predictable, we're going to have to look at that public policy. . . . It's reflective of other urban centers in the country, whether it's San Francisco, New York or others, the idea of huge parking lots has given way to supporting mass transit."

What downtown San Jose might become is more than just an academic exercise, when it comes to considering Measure A.

Beall notes that the BART study says the extension will need a \$24 million annual subsidy under the high-density assumptions, but \$39 million under a more traditional development pattern. The high-density assumption translates to riders paying 65 percent of the costs -- consistent with 62 percent for the current BART system -- but only 37 percent under the traditional scenario.

Lisa Ives, the VTA's project manager, said the report was conservative in its estimate of 78,000 riders under the high-density vision, compared with 45,000 riders under the less-aggressive alternative. That means that even if the number of people living and working downtown is less than projected, ridership still would be strong.

Gonzales -- who included the 78,000 ridership figure in the ballot argument that he signed on behalf of Measure A -- said he's not concerned that the report might overstate downtown's future.

"As we try to provide for growth in San Jose, and not be in a position where we're saying no to jobs, which no one wants to do, and I think it's not good for the economy, we've got to find some system to manage that growth," Gonzales said. "You 've still got to move people around this region, you've still got to move people in and out of

downtown San Jose. BART is the best way to do that, even at 38 or 40 percent fare box recovery, which I don't believe is going to happen because I believe we'll get to 67 percent and how we get there, that will be determined by future land-use decisions."

Caption:

PHOTO: TOM VAN DYKE -- MERCURY NEWS

[San Jose]

[001012 FR 1A]

PHOTO: TOM VAN DYKE -- MERCURY NEWS ARCHIVES

Hundreds of buildings the size of these would have to be added to the downtown San Jose landscape if the BART projections are expected to work.

[001012 FR 20A]

MAP: MERCURY NEWS

PROPOSED BART ROUTE

MAP: DOUG GRISWOLD -- MERCURY NEWS

HOW SAN JOSE MAY LOOK IF BART COMES INPhotos (2), Maps (2)

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TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND

16 Monte Cimas Avenue Mill Valley, CA 94941 415-380-8600

March 29, 2002
By Fax & US Mail

Ms. Lisa Ives
Valley Transportation Authority
3331 North First Street, Bldg. B
San Jose, CA 95134-1906

Re: Comments on NOP for BART-San Jose EIS/R

Dear Ms. Ives:

The Transportation Solutions Defense and Education Fund (TRANSDEF) is an advocate for innovative regional transportation, air quality and land use planning to preserve the environmental amenities and quality of life for the Bay Area. As such, we take special interest in the proposed Silicon Valley Rapid Transit Corridor, due to the extraordinary levels of financial support the region is being asked to provide. We are concerned that VTA's current plans will devastate the region's ability to fund the extensive regional transit network that will be needed if mobility is to be preserved in the next several decades.

As such, we first take note of FHWA's NEPA procedures, which require full project funding before an FEIS can be approved and a Record of Decision be issued. It is well known that your agency is currently considering fare increases and service cuts on its bus system, at the same time that funds are being spent on this rail project. We remind you of the Title VI implications of this course of action, given the significant disparities in the ethnic and income composition of current bus ridership as compared to the future beneficiaries of a Rapid Transit project. We further remind you that the current agreement between VTA and BART for a \$48 million annual payment is predicated on a lien on TDA funds, which are essential to providing service to the same communities that will be hurt by current fare increase plans. In short, the financing plan for this project depends on violating the civil rights of current and future bus passengers. The EIS/R should thus fully discuss the funding plan for this project, evaluating the socio-economic impacts of the TDA lien and impending service cuts.

The gigantic cost of the proposed project dwarfs anything the region has seen in generations. As such, its very existence is a *de facto* regional plan in itself, due to its consumption of regional financial resources. The 2001 Regional Transportation Plan was adopted despite a defiantly illegal refusal to consider any alternatives that significantly changed the allocation of resources. That refusal, despite our extensive

advocacy, now prevents us from being able to point to a network of previously-studied alternative transportation projects that, if funded along with a dramatically less expensive Silicon Valley Rapid Transit Corridor project, would have superior environmental benefits for the entire Bay Area. This failure to be able to point to a specific list of alternative transit projects does not relieve the environmental document preparers from their responsibility to evaluate the impacts on the entire Bay Area of tying up such a large percentage of future transit expansion funding on this one project.

We believe that a EIS/R for the proposed project will not withstand legal challenge unless it considers less expensive rail alternatives. Contrary to past practice, the alternatives need to be constructed fairly, so that levels of service actually equivalent to BART are compared. The EIS/R must cite facts to determine whether or not BART is the environmentally superior alternative. The environmental document must provide a justification, based on performance and benefits delivered, for investing in the proposed project, as compared to the functionally equivalent alternatives. The justification must overcome a presumption that, given its cost per new rider of \$100.49 (MTC Blueprint Evaluation Report, June 2000), ranking it the least cost-effective rail transit project then under consideration, that spending the same funding on any other rail projects would produce significantly more transit ridership, and hence, greater environmental benefits.

NOP comment letters from the Bay Area League of Women Voters and from Norman Rolfe have described routes that should be studied, along with less expensive rail technologies. Two further alternatives should be studied: the extension of light rail from Milpitas to Union City, and the extension of BART from Fremont to Milpitas, connecting with light rail there. This analysis would obviously overlap with the SEIR now in preparation for the Warm Springs extension. In addition, the land use sub-alternatives suggested by Norman Rolfe need to be studied, due to the intensive interaction between land use and transportation investments, especially one so enormous. Station area land use is key to the projection of ridership.

Without an analysis of land use alternatives, there can be no adequate justification of the proposed project. The environmental document must determine the environmentally superior transit project in conjunction with its associated station area land use sub-alternative. If the project is approved with a set of specific land use assumptions, the project may not go forward until the zoning of station areas is consistent with those assumptions. A Bait and Switch strategy of projecting high ridership on the assumption of dense station areas, without a followup of requisite General Plan and zoning amendments, will not be tolerated. The environmental clearance for the project must include the associated land use assumptions.

Please be aware that, despite our concerns about current VTA plans, we strongly support a rail connection from BART to the South Bay. The distinction is that we recognize that the BART technology and its 'park and ride' planning paradigm are obsolete and unacceptably expensive. TRANSDEF firmly believes that if the Bay Area

had had a functional regional transportation planning agency in the past, a commuter rail extension from would have been built early in the previous decade, in operation in time for the great boom of the 90's, to the great benefit of thousands of commuters. Unfortunately, unwise investment allocation decisions were made by elected officials. TRANSDEF seeks to not repeat that dismal episode. We appreciate this opportunity to be involved in such a vitally important decisionmaking process.

Sincerely,

/s/ David Schonbrunn

David Schonbrunn,
President