

Meeting Date: 12/8/09

AGENDA REPORT

Agenda Item # SB-1

City of Santa Clara, California



Date: December 3, 2009

To: City Manager for Council Action

From: Director of Planning and Inspection

Subject: Adoption of a Resolution of Findings for Certification of Environmental Impact Report (EIR) for the 49ers Stadium Proposal 4900 Centennial Way

EXECUTIVE SUMMARY:

In March 2008, the San Francisco 49ers NFL football organization submitted an application for the development of a football stadium at the southwest corner of Centennial Way and Tasman Drive. The application formalized a proposal by the team to construct a 68,500-seat open air stadium on City-owned land within the Bayshore North Redevelopment Area. The application proposes specifically to apply a PD zoning designation to the stadium site and adjoining 49ers training facility, as well as a variance to allow offsite parking, and includes minor amendments to the General Plan and the Redevelopment Area Plan. The project attributes that are associated with the construction and operation of the stadium, particularly those that could have effects upon the physical environment, are evaluated in the Environmental Impact Report (EIR) that has been prepared in conjunction with this application. The EIR also considers the environmental impacts of the construction of an approximately 1700 space garage and the relocation of the substation adjacent to the proposed stadium site.

The stadium proposal is a multi-faceted initiative that would result in the stadium becoming a publicly-owned facility, with the 49ers as a tenant. As noted above, some facets of the proposal are subject to environmental review, but others relate to facility funding and management considerations, if the project moves forward. Because the proposal includes public investment in several ways, the City Council has committed to set the proposal before the citizens as a ballot measure in 2010. In order for the Council to set an election date and make this vote binding on their future actions, it has been determined that the City must prepare and certify an EIR in the event that the citizens do support the development of a stadium. Should the Santa Clara voters support the stadium in accordance with the Term Sheet that generally outlines the public/private responsibilities and rights in this deal, the City Council will ultimately need to approve the rezoning and other measures that make up the entire proposal, including the formation of a joint-powers Stadium Authority (a joint City and Redevelopment Agency authority) to manage the publicly owned facility.

The Draft EIR was prepared by the City's environmental consultant, David J. Powers & Associates, and was circulated for review by public agencies and the general public on July 30, 2009. The (minimum) 45-day public review period was extended by two weeks, to September 28, resulting in a total review period of 61 days. Immediately thereafter the City's consultant and City staff prepared a Final EIR, consisting of comments and City responses to comments on the Draft EIR. Together, and along with the various technical appendices of the Draft EIR, these documents make up the project EIR. The Final EIR was circulated on November 13, 2009, in keeping with Guidelines for implementing the California Environmental Quality Act

(CEQA), per Title 14 of the California Code of Regulations, that call for a minimum 10-day circulation to agencies that have commented on the Draft EIR, prior to Council action that would certify the EIR.

On November 18, 2009, the Planning Commission reviewed the EIR at their regular meeting. The staff report prepared for that meeting is attached, and notes that in the procedures defined by the CEQA Guidelines, there is no requirement for a public hearing at any time prior to or at the time of certification of the EIR, or a recommendation for certification in the case of the Planning Commission's responsibility. It is the City's practice, however, to consider the EIR in concert with project approval, typically resulting in action on the EIR at the same noticed public hearing required for the project. In the case of the stadium, there is no action before the Planning Commission at this time, since entitlements and other project approvals will not occur until a later date. Ultimately the Commission will need to rely upon the EIR when they consider the General Plan and Redevelopment Plan amendments, as well as other entitlements necessary for the project at a later time, so their review of the document prior to Council certification was appropriate.

As noted above, the Commission's review of the EIR was done at a public meeting and a courtesy notice was provided to those property owners within a 1,000-foot radius of the stadium site and to interested parties. The public was provided an opportunity at that meeting to comment on the EIR, and staff and the consultants responded to comments of the public and the Commission. Insofar as the Commission will not have the opportunity to review and approve their minutes of November 18 until their regular meeting of December 9, summary of the comments and responses of November 18 is attached. At the conclusion of their review, the Commission provided comments for the Council's consideration, deliberated the adequacy of the EIR and the findings required to certify the EIR, and unanimously approved a motion to recommend that the Council find that the EIR meets the requirements of the CEQA and therefore that the Council certify the EIR.

Staff has prepared and attached a resolution of findings required by the CEQA Guidelines for certification of the EIR. At this point in time, the Council findings are only that the EIR document has been prepared in accordance with the requirements of CEQA, that the Council has reviewed the EIR and that the EIR represents the City's independent judgment and analysis. The certification resolution does not adopt findings with regards to mitigation measures or alternatives since the Council is not taking any action at this time on the project itself. At such time as the Council considers a project approval, such as setting an election date and approving a ballot measure for the voters, the Council will be asked to consider additional findings addressing environmental impacts, imposing mitigation measures and considering alternatives. As was done for the Planning Commission meeting of November 18, a courtesy notice has been distributed to surrounding property owners and interested parties regarding the Council's consideration of the certification of the EIR. Comments on the EIR that are received since the Planning Commission meeting will be brought forward to the December 8 City Council meeting which will be provided that night.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The EIR analyzes the potential environmental effects of the construction and operation of the stadium, the possible mitigation measures to address these effects and a range of alternatives to the proposal. The staff has thoroughly reviewed the EIR and considered all of the comments received at the Planning Commission and subsequent to the Planning Commission and believes that the EIR complies with the California

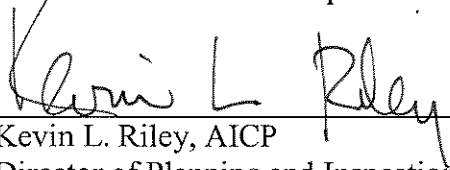
Environmental Quality Act. Certification of the EIR provides a basis for creating a binding ballot measure for the citizens of the City of Santa Clara regarding the development of a stadium.

ECONOMIC/FISCAL IMPACT:

The cost of the preparation of the EIR has been borne by the 49ers organization as the project proponents. There have been staff costs associated with the administrative review and processing of the EIR, much of which has been covered by Redevelopment Agency (RDA) funding previously budgeted for the stadium proposal.

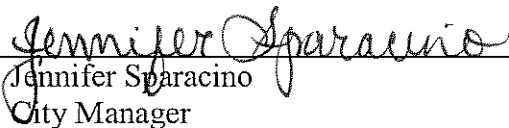
RECOMMENDATION:

That the Council adopt the resolution of findings for certification of the Environmental Impact Report (EIR) for the 49ers Stadium Proposal at 4900 Centennial Way.



Kevin L. Riley, AICP
Director of Planning and Inspection

APPROVED:



Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) Resolution to Certify the Final Environmental Impact Report for the Proposed 49ers Stadium***
- 2) Staff Summary of Planning Commission Meeting Comments and Responses from November 18, 2009***
- 3) Planning Commission Staff Report for the Meeting of November 18, 2009***

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, CERTIFYING AN ENVIRONMENTAL
IMPACT REPORT FOR THE PROPOSED 49ERS SANTA
CLARA STADIUM PROJECT AT 4900 CENTENNIAL
BOULEVARD (INCLUDING PROPERTIES ON
CENTENNIAL BOULEVARD, AND ON THE NORTH AND
SOUTH SIDE OF TASMAN DRIVE), SANTA CLARA**

SCH# 2008082084
CEQ2008-01060

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on March 12, 2008, 49ers Stadium, LLC (“Applicant”) filed an application for the development of an approximately 40-acre site located at 4900 Centennial Boulevard (including properties on Centennial Boulevard, and on the north and south of Tasman Drive) (“Project Site”); and

WHEREAS, the application proposes to allow the construction of an approximately 68,500 seat open-air stadium, with possible expansion for up to 75,000 seats for special events, for use by up to two National Football League (NFL) teams and other non-NFL events that are compatible with the type of venue proposed. Such other uses could include concerts and non-football sporting events; and

WHEREAS, in order to proceed with this proposal, four specific development components would be involved: (1) the Stadium, (2) relocation of an existing electrical substation, (3) a new six-story parking garage, and (4) the use of surrounding properties for off-site parking. There are also fourteen implementing actions that the City would potentially take to facilitate these development components: (1) a General Plan Text Amendment, (2) Amendment of the Bayshore North Redevelopment Plan, (3) a rezoning of a portion of the Project Site to Planned

Development (PD) zoning, (4) vacation and abandonment of an existing roadway; (5) approval of a tentative map; (6) approval of a disposition and development agreement and related conveyance documents; (7) creation of a parking overlay zone; (8) creation of a joint powers authority public agency (“Stadium Authority”) that will develop and own the Stadium; (9) approval of a parking Variance, (10) approval of a parking arrangement or master plan that utilizes existing off-site parking facilities; (11) funding the construction of a new six-story parking garage to serve the Project, the convention center, and Great America theme park; (12) funding the abandonment, removal and relocation of portions of the transmission lines and electrical substation equipment located on the Tasman Substation Site; (13) creation of a Mello-Roos community facilities district or other financing district for hotels in the Stadium area if approved by a vote of the affected hotels; and (14) approval of a ballot measure to authorize the City to carry out the Stadium portion. These four project components and fourteen proposed actions are collectively referred to as the “Project”; and

WHEREAS, on February 23, 2009, the City of Santa Clara (“City”) posted and distributed a Notice of Preparation of a Draft Environmental Impact Report (“DEIR”), soliciting guidance on the scope and content of the environmental information to be included in the DEIR; and

WHEREAS, based on responses to the Notice of Preparation, the City prepared the DEIR, dated July 30, 2009 (SCH No. 2008082084), which reflected the independent judgment of the City as to the potential environmental impacts of the Project; and

WHEREAS, the City circulated copies of the DEIR to the public agencies that have jurisdiction by law with respect to the Project, as well as to other interested persons and agencies, and the City sought the comments of such persons and agencies for a minimum forty-five (45) day

review period, beginning on July 30, 2009 and concluding on September 14, 2009 (“Comment Period”); and

WHEREAS, the City subsequently extended the public review and comment period for the DEIR by two weeks and concluded on September 28, 2009, for a total public review and comment period of 61 days (“Extended Comment Period”); and

WHEREAS, the City received comment letters from state and local agencies and from the public during the Extended Comment Period. The City prepared written responses to these comments, which responses provide the City’s good faith, reasoned analysis of the environmental issues raised by the comments, and included these responses in a Final Environmental Impact Report (“FEIR”). The FEIR consists of the DEIR; a list of agencies, organizations, businesses and individuals to whom the DEIR was sent; a list of the comment letters received on the DEIR; revisions to the text of the DEIR; responses to comments received on the DEIR; and copies of the comment letters; and

WHEREAS, a Planning Commission Staff Report, dated November 18, 2009, and incorporated herein by this reference, described and analyzed the FEIR and the Project for the Planning Commission; and

WHEREAS, the Planning Commission reviewed the FEIR prepared for the Project, the Planning Commission Staff Report pertaining to the FEIR and all evidence received at a public meeting on November 18, 2009, at which time all interested parties had the opportunity to be heard. Following the consideration of the public comments and based on the record before it, the Planning Commission recommended that the City Council certify the EIR; and

WHEREAS, no significant new issues or information were raised at the November 18, 2009 Planning Commission meeting;

WHEREAS, at the November 18, 2009 meeting, City staff provided verbal responses to the testimony received at that meeting. City staff also prepared a Summary for consideration by the City Council on December 8, 2009, incorporated herein by this reference, identifying these comments and responses from the November 18, 2009 meeting and providing additional responses, and this Summary has been presented to the City Council and shall be attached to the FEIR;

WHEREAS, a City Council Staff Report, dated December 3, 2009, and incorporated herein by this reference, described and analyzed the FEIR and the Project for the City Council; and

WHEREAS, the City Council reviewed the FEIR prepared for the Project, the City Council Staff Report pertaining to the FEIR and all evidence received at a public meeting on December 8, 2009, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the FEIR reflects the City's independent judgment and analysis on the potential for environmental impacts and constitutes the Environmental Impact Report for the Project; and

WHEREAS, the FEIR is a separately bound document, incorporated herein by this reference, and is available for review during normal business hours in the City Planning Division, file PLN2008-06947.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the City Council hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the FEIR has been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Santa Clara Local Environmental Review Procedures.

3. That the FEIR was presented to the City Council, which reviewed and considered the information and analysis contained therein before certifying the FEIR.

4. That the FEIR reflects the City’s independent judgment and analysis on the potential for environmental effects of the Project.

5. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 200__, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

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Summary of City of Santa Clara Planning Commission Proceedings
Regular Meeting of November 18, 2009
For Consideration by the City Council on December 8, 2009

**Staff Notes on Commission Review and Action on
49ers Stadium Project Environmental Impact Report**

File: CEQ2008-01060; Agenda Item #9

[The following staff notes present a summary of the public review session of the Draft and Final EIR for the Stadium proposal during the regular meeting of November 18, 2009. The complete minutes of the meeting will be presented for review and approval by the Commission at their regular meeting of December 9, 2009. As noted in the proposed Resolution Certifying the Environmental Impact Report, this Summary is incorporated by reference into that Resolution and shall be attached to the FEIR.]

STAFF PRESENTATION AND COMMISSION QUESTIONS

Chairperson O'Neill called the agenda item. She noted that the Commission had discussed the procedural issue, anticipated they would stop discussion at 11:00 PM and carry the matter over to a continued session on December 2, 2009. Commissioner Fitch then disclosed that he had met with representatives of the 49ers a few weeks ago and had previewed this evening's presentation. Commissioners Stattenfield, Champeny, and Mayer disclosed the same.

Mr. Riley made introductions of Consultants and Staff. He stated that the purpose of the meeting was to discuss the Environmental Impact Report (EIR) and allow the Commission, as well as members of the public, to comment on the EIR. Importantly, this is also an opportunity for the Commission, if they feel that they have had sufficient time to review the Final EIR and so choose, to make a recommendation that the Council certify the EIR.

He referred to the staff report and clarified that only the stadium EIR, and not the project entitlements, were in front of the Commission at this meeting. The entitlements related to this EIR, and the Commission's responsibilities to address these recommendations and actions would come before them at a later time. He explained that certification of the Final EIR by the Council has been deemed necessary in order for them to place a binding measure on the ballot in 2010, as they have previously committed to the citizens that they would do. If the Council certifies the EIR, it is anticipated that the Council will set a ballot measure date at a meeting in December.

Mr. Riley clarified the CEQA requirements of the preparation and circulation of the EIR, that the City was in compliance with these regulations and that the Commission may therefore make the necessary findings and recommend certification of the EIR to the City Council. Regarding a public comment from the Commission's November 16 study session on the stadium design, he also clarified that this project did, in fact, go through Airport Land Use Commission (ALUC) review and that they were able to make findings that the project is consistent with the ALUC land use plan.

Mr. Schwilk gave a brief history on the project and the EIR.

Commissioner Champeny inquired about the potential for flooding and if the stadium has

been looked at as a flood detention basin. Michelle Yesney, representing David J. Powers and Associates, the City's environmental consultant, indicated that the San Tomas Aquino Creek Channel has 100-year capacity, but lacks freeboard. She further indicated the EIR concludes that drainage can be accommodated in San Tomas Aquino Creek. Commissioner Champeny asked if the east side of the creek bank has potential to become a trail. Ms. Yesney indicated that this idea was not addressed in EIR, as it is currently owned by Water District and used as a maintenance road. Commissioner Champeny asked what percentage loss of patrons Great America would sustain on game days, assuming sufficient parking. Mr. Riley responded that the City is in discussion with Cedar Fair on issues such as this, but noted that economic and social effects of a Project are not recognized as significant environmental impacts under CEQA.

Commissioner Stattenfield inquired how the number and types of non NFL events were determined for study purposes in the EIR. Mr. Riley answered that activities at other venues were studied and a reasonable assumption was made from that evaluation, combined with using the theme park schedule to minimize event overlap. Commissioner Stattenfield asked if 26 non-NFL events would be starting immediately or if that number would be gradually achieved and if 26 non-NFL events would be a limit. Mr. Riley responded that the full use is not expected at the outset, but that the EIR conservatively assumes the upper limit from day one, for study purposes. He further noted that the hosting of significantly more games than that would require further environmental review.

Commissioner Marine asked who will decide if there will be 2 teams in the stadium. Karen Tiedemann, the City's Redevelopment Agency Legal Counsel, replied that the 49ers would have the choice to sublet the Stadium to a second team. Commissioner Marine asked how the Transportation Management Plan (TMP) would become binding upon a second team or non NFL affiliated lessees. Ms. Yesney replied that this is addressed in the Draft Transportation Management Plan (TMP), in Appendix I of the DEIR, which was submitted by the San Francisco 49ers as part of the proposed project. Ms. Yesney noted that what would be required if the project is approved, is a Transportation Management and Operations Plan (TMOP). She indicated the TMOP would be developed by a City Stadium Authority, City Staff, the 49ers and likely would also potentially include the Santa Clara Valley Transportation Authority (VTA) in the early stages. She noted the TMOP would reflect the joint will of all of the involved agencies. Implementation of the TMOP would be required as a condition of approval tied to the PD zoning of the project site, with the funding going through the Stadium Authority. Any users of the Stadium would have to provide funding for TMOP implementation for their events.

Ms. Tiedemann added that part of Term Sheet addressed the agreements and obligations of second team. Commissioner Marine asked whether the same mitigations applied to a 49ers NFL event would be applied to all large events, such as rock concerts, a second NFL team, etc. Ms. Tiedemann replied that the TMOP would apply to all large stadium events. Commissioner Marine inquired how many conflicting days of use there would be between theme park and stadium use. Ms. Tiedemann noted that while no exact number is known at this point, it is estimated that four-to-five (4-5) overlapping days might occur with the theme park's operation during the Summer and Fall months, or double that number if two teams occupy the stadium (see Response N-4 in the Final EIR).

Commissioner Fitch asked what traffic was like when Great America has conducted its fireworks shows, and questioned if there has been a comparison of these events with a 68,500-seat NFL game. Chief of Police Steve Lodge responded, noting that the largest crowd observing such events within the theme park was 50,000, but that there were also tens of thousands more observers who watched the fireworks from outside the park. Chief Lodge stated that this would be a similar scenario to what is anticipated by an NFL game or another large event. Commissioner Fitch also inquired how the traffic for these past fireworks shows impacted nearby residents. Mr. Lodge replied that major streets into residential areas were identified and appropriately controlled during these events.

Commissioner Fitch next asked about the noise impact from Great America fireworks shows and how that would compare to the anticipated crowd noise from the proposed stadium. Mr. Riley responded that they are different kinds of noises and are not easily compared. Ms. Yesney indicated that the estimated peak noise impacts used for study in the EIR are based on real world measurements of peak noise events from Candlestick Park.

Commissioner Costa inquired about traffic and parking availability at nearby hotels and if consideration was made for hotel patrons who would not need to be driving, parking or riding transit during peak stadium traffic events. Ms. Yesney indicated that this was not taken into consideration in the EIR traffic analysis, because the EIR assumes the worst-case scenario of all fans traveling to and from the stadium around the time of the event on the event day.

Commissioner Stattenfield inquired about the Parking Overlay District and what it imposes. Mr. Riley responded that the concept of the parking program is that properties within the boundaries of the parking overlay area would draw revenue, thereby giving them an incentive to participate in program. The Overlay District would create rights, responsibilities and limitations for each participating business/property owner. Commissioner Stattenfield further inquired how parking would be enforced at residential addresses, businesses, and also at Great America. Mr. Riley indicated that this would be controlled through a combination of agreements that would occur, through TMOP measures such as traffic barricades and policing, and through the City entitlement process for participating properties.

Commissioner Fitch questioned if future parking spaces from projects in the works, such as the underground parking planned as part of the proposed Yahoo Campus Project, were factored into this EIR analysis. Mr. Riley responded that the EIR analysis recognizes existing development conditions. Mr. Riley further noted that the EIR recognizes the estimated 41,000 parking spaces currently available in the area, and noted the concept is that some of these would be secured through agreements each year, anticipating that the locations of these secured spaces may change within the parking overlay area on a yearly basis. He also noted that the Yahoo expansion could add much more available parking, but couldn't comment on whether or not the owners of this proposed campus would participate in the Parking program.

PUBLIC COMMENTS

[Staff responded to public comments and questions at the conclusion of all speakers. For purposes of these notes, responses (indicated by R:) are presented immediately following each individual public comment. It was noted that several comments were

acknowledged as opinions related to the merits of the project, but are not CEQA related issues.]

Carl and Ida Casper, residents of 62 Claremont Ave., expressed concerns regarding a construction project near their home that has raised the grade by two feet.

R: Mr. Riley indicated that he would coordinate with Building Inspection for immediate follow up.

Bill Guthrie, representative for UA Local Union 393 (plumbers, steamfitters and refrigeration fitters), opined that the Stadium would create jobs and will be an icon and asset to the City, much like the HP Pavilion.

R: The comment is acknowledged; no response required.

Warren Barry, Business Agent of Local 393 (plumbers, steamfitters and refrigeration fitters), urged the Commission to push the Stadium project forward.

R: The comment is acknowledged; no response required.

John Hughes, San Jose resident, voiced concern regarding current the unemployment situation and expressed a favorable opinion of the Stadium project because of the jobs it will create.

R: The comment is acknowledged; no response required.

Howard Gibbins, Santa Clara Business Owner, noted that in May of 2007 he was put out of business for two months when the 49ers came to Santa Clara and expressed concerns about how the stadium Project will affect vending businesses such as his.

R: Mr. Riley noted that this issue has not yet been addressed, but is not a CEQA issue.

Stephen Hazel, resident, opined that the Project would result in certain significant environmental impacts that would not be mitigated to a less-than-significant level, and specifically addressed the noise impacts. He stated that noise from the stadium cannot be mitigated to a less-than-significant level without using a closed roof, and because the Project will not use a closed roof, the EIR should not be certified. He also expressed concerns about a potential lack of parking, tailgating, flooding, and the general design of the stadium.

R: Mr. Riley acknowledged that noise is a significant impact and concern. He noted that an enclosed stadium is identified as a project alternative but that the City Council will need to determine whether the alternative is feasible. He advised the Commission that they should determine if the EIR adequately addresses noise issues. He addressed tailgating, noting that location restrictions were included in the EIR, and addressed parking concerns, noting that sharing of parking provides a way for the Stadium to use business parking when businesses are typically closed. Weeknight games will necessitate arrangements that employees leave early from participating properties.

Mr. Abbe provided a few points of clarification, noting that Section 15021 of the CEQA Guidelines provides that a public agency should not approve a project if there are feasible mitigation measures available, and then cited the enclosed stadium alternative identified in the EIR. He noted that in deciding whether alternatives or mitigation measures for a project are feasible, an agency may consider economic, environmental, legal, social and technological factors. Mr. Abbe noted that while an enclosed stadium design option is one of the identified alternatives that the Council has available to it, both in consideration of this alternative and the other identified alternatives, the Council would have to also determine whether a particular alternative is economically feasible, and

whether it satisfies the project objectives. The fact that there is an alternative the City may not adopt does not make the EIR inadequate.
Flooding concerns are analyzed in Section 4.4 of the DEIR.

James Rowen, resident, expressed optimism for this Stadium to be a “green” stadium much like Lambeau Field in Green Bay.

R: Mr. Riley acknowledged the sustainability and “green” aspects of the project and comparisons to other stadiums and noted that those issues are addressed in the EIR.

Larry Stone, County Assessor, resident and former Mayor of Sunnyvale, opined that the Stadium would benefit both Santa Clara and Sunnyvale by providing revenue and taxes from restaurants and hotels. He also expressed a desire to create a working group of City Managers, Mayors, and key stakeholders in local cities to facilitate high level communication regarding the development of the stadium.

R: The comment is acknowledged; no response required.

Jose Garcia, representative for the Building and Construction Trades Councils of Santa Clara and San Benito Counties, for 24 local construction unions, encouraged approval of EIR on the grounds that the Stadium will be environmentally friendly, help provide jobs to the construction industry, and promote a good economic environment for local businesses.

R: The comment is acknowledged; no response required.

Lisa Santillan, resident of Sunnyvale, informed that she lives 1.9 miles from proposed Stadium, is a 49ers season ticket holder, and is pleased with the location of the proposed stadium because there are multiple means of transportation to the area and within the area. As a result of the good infrastructure, it will not be necessary to drive to games.

R: The comment is acknowledged; no response required.

Anil Babbar, representative for the Santa Clara County Association of Realtors, urged the Commission to recommend that the City Council certify the EIR, endorsed the proposal to build the stadium, and opined that the project will add to the quality of life for both Santa Clara residents and residents of surrounding areas.

R: The comment is acknowledged; no response required.

Kevin Brown expressed concern that the EIR doesn't address effects on property values, expressed concern that the traffic section of the EIR references restricting access to residential neighborhoods, noted that Appendix K references a noise survey in Berkeley but that this is not included in the EIR, and stated that the noise analysis should study a noise level of 70db over 5 hours to account for tailgating, frequently references an hourly average to determine the noise level, but should really reference peak noise levels. He also expressed concern for traffic, second team possibility, and noise mitigation.

R: Mr. Riley addressed the assessment of property values, indicating that it is not related to an environmental analysis and therefore is not included. He confirmed that the EIR does account for two teams.

Mr. Abbe noted that property values and economic impacts would be germane to the project reviews that may come up later, but are not relevant to the environmental analysis under CEQA.

Ms. Yesney explained that although the EIR references a noise analysis of the stadium

at UC Berkeley, a setting that is relatively consistent with the Project Site, the UC Berkeley study ultimately was not used in the 49ers Stadium EIR because of terrain differences between the two sites. She clarified that only noise measurements taken at Candlestick Park were included in the analysis.

Bert Smith, resident, opined that to have a traffic study done right before the stadium construction is completed would be too late.

R: The comment is acknowledged; no response required. It is noted that the traffic study is complete; transportation management and operations plans will be finalized prior to the opening of the stadium.

John Hickey, Hoge, Fenton, Jones & Appel, Attorneys for Cedar Fair, expressed disappointment that more time was not provided to the Commission and to the public to review the FEIR before this public meeting. Mr. Hickey stated that he submitted a letter to the City that afternoon that asserts that the FEIR does not adequately address his comments. Mr. Hickey then quoted an article he read by Zenny Abraham, former Economic Advisor to the Mayor of Oakland, in which he stated that Mr. Abraham ridicules the Final EIR and states, "some of the responses to comments are irresponsible and don't show the impacts are being well considered, and further that many of the Santa Clara EIR responses to comments are defensive rather than technical, and call into question what degree the City rushed into production to beat the City of San Francisco's Candlestick effort." He further noted that Cedar Fair will continue to review the FEIR, and will submit additional comments later, and requested that this matter be continued to the Planning Commission meeting in December to allow adequate review time.

R: Mr. Riley indicated that they have not seen a letter as of this evening.

Mr. Abbe pointed out that CEQA does not require formal public hearings at any stage of the environmental review process. CEQA provides that public comments may be restricted to written communications. The Council and staff wanted the input of the Planning Commission, and to provide an additional opportunity for the public to address this topic. There is a mandatory minimum 45-day public review period for the Draft EIR, and here the City provided 61 days, and so has more than complied with its legal obligations.

As of December 4, 2009, the City has still not received the written comments that Mr. Hickey stated he submitted on November 18, 2009.

Keifer Oberlander, resident, opined that the Stadium architecture is egotistical and bullying.

R: The comment is acknowledged; no response required.

Adila Saadat, resident, expressed concern that the traffic the Stadium project would create would be unmanageable, and she referenced traffic congestion that she said occurred at a previous event with 10,000 event attendees at the convention center. She commented that this is a pretentious project by a bullying LLC.

R: The comment is acknowledged; no response required.

Bill Bailey, resident and treasurer for SantaClaraPlaysFair.org, opined that the 17 acre site is insufficient for a 14 acre stadium, and commented that traffic congestion impacts would not be mitigated by placing 160 officers at controlled intersections. He further asserted that having road closures on game days proves that the stadium site is not viable. He disputed the EIR's conclusion that 25% of attendees would use mass transit,

arguing that the figure was inflated, given that neither Hunters Point nor Candlestick use this proportion of mass transit. He also stated that businesses in the area would not participate by closing early, and he stated the stadium site is nowhere near ready for a stadium. He called on the Planning Commission to reject the application.

R: Mr. Riley addressed the size of the lot as compared to the size of the stadium and noted that there are arrangements made for shared parking off the stadium site proper. The EIR does acknowledge traffic as a significant unavoidable impact. He noted the Tasman closure is necessary for public safety and detailed arrangements will be worked out through the TMOP and will be adjusted to fit the demands of real life scenarios. He noted that other comments are acknowledged as opinions; no response required.

Ms. Yesney addressed the assertion that the EIR used inflated numbers for assumptions about transit use, noting that 25% transit use has not been achieved at Candlestick; right now there is very little transit use at Hunters Point, but there are improvements planned over time, including a ferry terminal. The 25 percent transit use identified for this project is analyzed in great detail in the traffic impact analysis in both the TMP and the EIR. This site has extraordinary access to various forms of transit, and it is certainly feasible.

David Barr, San Jose resident and IBEW Electrical Union Representative, expressed support for project because it will benefit the City, County, and local workforce. He also voiced a favorable opinion of the Stadium's green features.

R: The comment is acknowledged; no response required.

Karen Hardy, resident, identified herself as a former City of Santa Clara Planning Commissioner; she expressed concern about the substantial unavoidable impacts identified in the EIR, and questioned whether or not this is the best land use, and what the City would be getting in return for these identified impacts. She commented that she previously lived in the area near the stadium site, and indicated the project would make virtual prisoners of several Santa Clara neighborhoods, would have a substantial visual impact, and stated that traffic congestion and emergency access would be problems as they have been over the years for the Great America Theme Park fireworks shows.

R: Mr. Riley noted that each of these concerns is addressed under respective sections in the EIR. He addressed neighborhood access restrictions as they relate to public safety and noted that a process will have to be developed in the referenced TMOP for people to get in and out of their neighborhoods and that these concerns have been weighed and addressed in the EIR.

Marcus Buchanan, resident, informed the Commission that the Stadium in Pontiac, Michigan sold for \$518,000, and was only 20 years old (submitted newspaper article for this fact). He then expressed concern about property values, and the impacts of parking, and tailgating. Mr. Buchanan opined that this would be a bad investment for the City of Santa Clara.

R: The stadium comment is acknowledged; no response required; the assessment of property values is not related to an environmental analysis and therefore is not included; tailgating location restrictions were included in the EIR. Other comments are noted.

Ms. Yesney addressed tailgating activities, noting that the project includes provisions for a professional company to provide both security and the clean up of off-site private parking lots after events are over, before people come to work on Monday morning. She noted the EIR addressed the noise effects over 5 hours, because the tailgating could start several hours prior to a game. The EIR specifically discussed the noise impacts of tailgating in Section 4.10.2.4 of the DEIR, and included mitigation measures such as buffer distances for keeping the tailgating away from residential properties and

educational facilities such as Mission College, as discussed in Section 4.10.3.3 of the DEIR.

Deborah Bress, resident, opined that the distribution of information with the FEIR was incomplete and did not comply with CEQA guidelines. She stated it was not circulated to neighboring cities within 10 miles or to county offices, and so it is inadequate and should be rejected. Ms Bress quoted a portion of Section 15021 of the CEQA Guidelines, stating that an EIR cannot be certified if there are feasible alternatives or mitigations that exist, such as construction a roof over the stadium or constructing it back in San Francisco at Hunters Point or Candlestick. She expressed concern about having no choices on what it looks like or what it will be. She expressed concern that the City would own the stadium, but the 49ers would have first rights on pre-season, regular season, and post-season. Ms. Bress also voiced concern for the limited potential for revenue from the proposed stadium.

R: Mr. Riley confirmed that the document was distributed consistent with CEQA requirements. The revenue comment is acknowledged; no response required. Ms. Yesney noted that Page 1 of the FEIR lists all of the agencies that received a copy of the Draft EIR.

Mr. Abbe noted that although Section 15021 of the CEQA Guidelines does require a public agency to adopt all feasible mitigation measures, an agency may consider economic, environmental, legal, social and technological factors in determining whether an alternative or mitigation measure is in fact feasible. The City Council will have to make the ultimate determination on whether particular alternatives are feasible, and whether they satisfy the project objectives. The fact that there is an alternative or mitigation measure the City may not adopt does not make the EIR inadequate.

Kathleen __, resident, opined that the Stadium would be a great fit for Santa Clara as an "All American City" and people would tolerate the traffic because they want the stadium there.

R: The comment is acknowledged; no response required.

The public comment period was then closed.

COMMISSION DELIBERATION

Commissioner Marine inquired about noise complaints at the current training facility, because he understood that the noise level is turned up high during practice to mimic crowd noise during games.

Mr. Larry MacNeil of the 49ers responded, noting that noise generating equipment is periodically turned on during practice, which sounds more like jet engine noise and not marching bands. He noted that he was not aware of any complaints, but could check.

Mr. Riley noted that the Police Chief was not feeling well and had left; he indicated that he would follow up with the Chief.

Commissioner Champeny inquired about Mr. Stone's proposal for a working group amongst local public agencies and asked if that would be the same as what is already proposed in the EIR. Mr. Riley responded that he could address only the working group referred to in the EIR, which anticipates the Stadium Authority, 49ers, City of Santa Clara, and other local agencies, at the staff level of these organizations. The details of

the working group's framework will be developed as the project moves further along the perimeter of the Project Site.

Commissioner Champeny inquired about street closures and how these streets were selected. Mr. Riley noted that the concept is to protect neighborhoods and keep traffic moving. He then noted that the EIR graphic and TMP graphic are not the same and the TMOP will address this in further detail.

Commissioner Champeny asked for clarification on charter bus parking. Mr. Riley confirmed that the parking for these buses will be on the streets or in lots.

Commissioner Champeny asked about emergency protocols. Jimmy Curio of the 49ers indicated that there are several emergency backup plans in place today and in plans for the new stadium, including command posts and secondary command posts along.

Commissioner Champeny inquired about air quality and the impact of tailgating as it relates to barbecuing with gas versus charcoal and if we can impose regulations. Ms. Yesney speculated that is it too premature to speculate as Santa Clara County may ban charcoal use in near future anyway. Mr. Riley noted that this issue will likely be dealt with by the Air Quality District and not the City.

Commissioner Fitch clarified that what was being discussed was the EIR, not the project itself. Mr. Riley agreed and added that the Commission should look at three things: 1) Has the EIR been completed in compliance with CEQA guidelines; 2) Was the EIR presented to decision making body to review and consider; and 3) Does the EIR reflect independent judgment of City?

Commissioner Marine inquired about the impacts the stadium would have on businesses. Mr. Riley noted that the question was not EIR related and will be part of zoning consideration.

Commissioner Marine asked about the process of recommending the EIR before the project is in front of them. Mr. Riley responded that bringing forward the Final EIR and the project simultaneously is common procedure, but not required.

Chairperson O'Neill noted that there are mitigation concerns addressed in the EIR and that the City Council needs to determine what the mitigation plan will say when the project is before them. She also expressed that not being able to address a mitigation plan made recommending the EIR an awkward request. Mr. Riley stated that the EIR is based on a described project and that the EIR illustrates a range of mitigation measures that will be applied when the project is under review.

Commissioner Marine stated that parking, traffic, and noise are problems and that the location is unique in that there is a wealth of transportation serving this site. He further opined that people will figure out that public transit will be smarter and easier and therefore will use it and that parking and traffic issues will cure themselves to some degree. Commissioner Marine expressed concern about unmitigated noise impacts.

Commissioner Marine noted that a continuation was not needed and was comfortable recommending the FEIR because it covers all the areas it should cover. Commissioner Fitch expressed the same opinion.

Staff and the Commission discussed findings necessary for recommending certification of the EIR to the City Council.

Chairperson O'Neill noted that the FEIR called out significant unmitigated impacts and that there will need to be a strong mitigation monitoring and reporting program.

Commissioner Champeny noted that there had been expressed concern of inadequate time and that agreeing to the terms of the resolution would mean that the Commission felt they were able to fully read and understand the document in the short time frame.

Commissioner Costa noted that the main issues were parking, traffic, and noise and that the EIR is based on the worst case scenario therefore these items may not actually be so bad.

Commissioner Fitch expressed a desire for his previously stated questions and concerns to be addressed when the project comes to the Commission.

Chairperson O'Neill wanted to make sure that the Commission's concerns about unmitigated issues would be conveyed to the City Council. Mr. Abbe requested that the Commission concisely restate their concerns. Chairperson O'Neill stated that the Commission feels the FEIR meets the requirements of CEQA, but there are a number of unmitigated impacts including noise, traffic, parking, and air quality. The Project will need a strong mitigation monitoring and reporting program.

In making a motion, Commissioner Marine recited the findings as follows:

"That, pursuant to CEQA Guidelines Section 15090, the Planning Commission hereby recommends the City Council certify that: (1) The FEIR has been completed in compliance with CEQA; (2) The FEIR was presented to the decisionmaking body of the lead agency and that the decisionmaking body reviewed and considered the information contained in the FEIR prior to approving the project; and (3) The FEIR reflects the lead agency's independent judgment and analysis. We also find the FEIR has been presented to the Planning Commission which reviewed and considered the information analysis contained therein before recommending the City Council certify the FEIR and make the recorded findings under the California Environmental Quality Act."

Mr. Abbe asked Commissioner Marine to clarify whether his motion included the statement Chair O'Neill had just made regarding the Commission's mitigation concerns, and Commissioner Marine confirmed that it did.

Commissioner Fitch seconded the motion and the motion passed unanimously.

Commissioner Stattenfield noted that all the Commission had done was state the FEIR complies with CEQA but had not yet implemented any mitigation plans for traffic, parking, etc.

Mr. Riley noted that the Commission's judgment on project approval is to be decided later.

Commissioner Marine noted that you can accept an EIR and then reject a project and

expressed concern for the unmitigated issues.

Commissioner Stattenfield noted that he would rather have had another week to read the document more thoroughly.

Chairperson O'Neill asked if the Commission would like to continue the matter.

Commissioner Satterfield opined that more time would not change his decision.

Chairperson O'Neill closed the meeting on the matter.

End Notes.

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**CITY OF SANTA CLARA
PLANNING COMMISSION
STAFF REPORT MEMORANDUM**



Agenda Item # 9

File No: PLN2008-06947; CEQ2008-01060 ; SCH#2008082084

Location: 4900 Centennial Boulevard

Applicant: 49ers Stadium, LLC

Owner: City of Santa Clara

PROJECT NAME: 49ers Santa Clara Stadium Project

PROPOSAL: Review of Project Environmental Impact Report

The 49ers Stadium, LLC proposes the construction of a 68,500 seat open-air stadium. The intended use is for the San Francisco 49ers NFL Football team for its regular season play and for other non-NFL events. The stadium will be designed for use by up to two National Football League (NFL) teams and other non-NFL events that are compatible with the type of venue proposed, such as concerts and outdoor events. The stadium is also designed for possible expansion for up to 75,000 seats for an occasional Super Bowl.

The overall stadium project area is approximately 40 acres, including the existing 49ers Training Facility, a proposed parking garage and surface lots, and an existing electric substation to be relocated to south of the stadium. The overall site components are located in the vicinity of Tasman Drive and Centennial Drive, as well as on a portion of a parcel located on the south side of Tasman Drive on the west side of San Tomas Aquino Creek (APN's:104-43-030,047,049(part),053(part); 104-03-040; 104-06-012,013,014,017,086)

A Draft EIR document was prepared to evaluate the potential environmental effects of the proposed project. The Draft EIR was distributed to the Planning Commission and City Council on July 30, 2009, when it was also distributed for public review. The City, with the assistance of its environmental consultants who prepared the Draft EIR, have prepared responses to all of the written comments from responsible agencies and the public that were received during that review period. These compiled comments and responses together comprise the Final EIR

The EIR was circulated in accordance with State law to federal, state, regional and local agencies, including the nearby cities of Sunnyvale, San Jose and Milpitas, as well as to interested parties. The minimum 45-day public comment period was subsequently extended by two weeks to September 28, 2009. The initial public review period of 47 actual days, combined with the two-week extension, resulted in a total public review period of 61 days.

The complete administrative record for the project can be viewed during normal business hours at the Planning Division offices located at 1500 Warburton Avenue, Santa Clara, CA 95050.

BACKGROUND AND PROCESS:

An application has been filed to rezone the site for the proposed stadium. A General Plan Amendment and an amendment to the City's Bayshore North Redevelopment Plan are also proposed. In addition, a parking variance that would be the basis of an off-site parking district to serve the stadium for large events is also an element of the proposal. The City Council has determined that approval of the stadium project is subject to a binding vote of the citizens of the City of Santa Clara. The EIR has been prepared for the Council's consideration as a prerequisite to setting the ballot measure date for some time in 2010.

At this time, the Environmental Impact Report (EIR) prepared for this project is being referred to the Planning Commission for review and comment. This review is intended to provide an opportunity for the City Council to receive comments from both the public and the Commission, which will then be forwarded to the City. If the Commission determines it is prepared to consider the Final EIR, it may make a recommendation to Council regarding certification of the EIR. Insofar as the Commission has no action items before it at this time, it is not required to make a recommendation on the EIR to the Council.

It is anticipated that the Council will consider the completed Final Environmental Impact Report (FEIR) for certification, along with these comments, on December 8, 2009. Following certification of the Final EIR, the Commission would rely upon the certified EIR for all of the stadium-related entitlements noted above that would come before the Commission.

ENVIRONMENTAL REVIEW:

This project differs from other non-residential projects typically considered for entitlements in this part of the City. As a large event facility, the stadium will host some large-attendance events that will typically be at off-peak hours from the typical 5-days per week activity associated with this employment center, but may coincide with other entertainment activities in the area. The proposed stadium is anticipated to host approximately 40 large events per year, and a variety of smaller events.

The EIR analyzes the project without discounting the environmental effects based on the infrequency of these events. Using a worst case scenario that includes two NFL teams and conflicts between uses in the area, typically during weekday evening commute times, the following summarizes the Significant Unavoidable Impacts identified in the EIR, which are impacts that cannot be mitigated to a less than significant level if the project is built, because no feasible mitigation has been identified:

- The proposed project would result in a substantial increase in ambient noise levels during the anticipated large stadium events, which could affect nearby residential properties.
- Implementation of the proposed project would result in temporary noise impacts from project construction, which would last approximately 28 months.
- Implementation of the proposed project would generate regional air pollutants in excess of established thresholds, as a result of high volumes of vehicle trips related to large events.
- For as many as eight times per year (four NFL events and four large non-NFL events), the project could have a significant impact on up to 17 intersections during weekday evenings. Of those 17 intersections, eight are in Santa Clara, six are in San Jose, one is in Sunnyvale, and two are in Milpitas.
- For a maximum of 42 weekend day-events (20 NFL events and 17 non-NFL large events), the project could have a significant impact on up to two local intersections. Both intersections are in San Jose.
- For possibly as many as eight times per year, the project could have significant impacts on up to 17 freeway segments during weekday evenings.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of General Plan policies and mitigation measures identified in this Draft Environmental Impact Report.

RECOMMENDATION:

That the Planning Commission make findings that the EIR has been prepared in compliance with the requirements of the California Environmental Quality Act and therefore recommend that the Council certify the EIR;

Or,

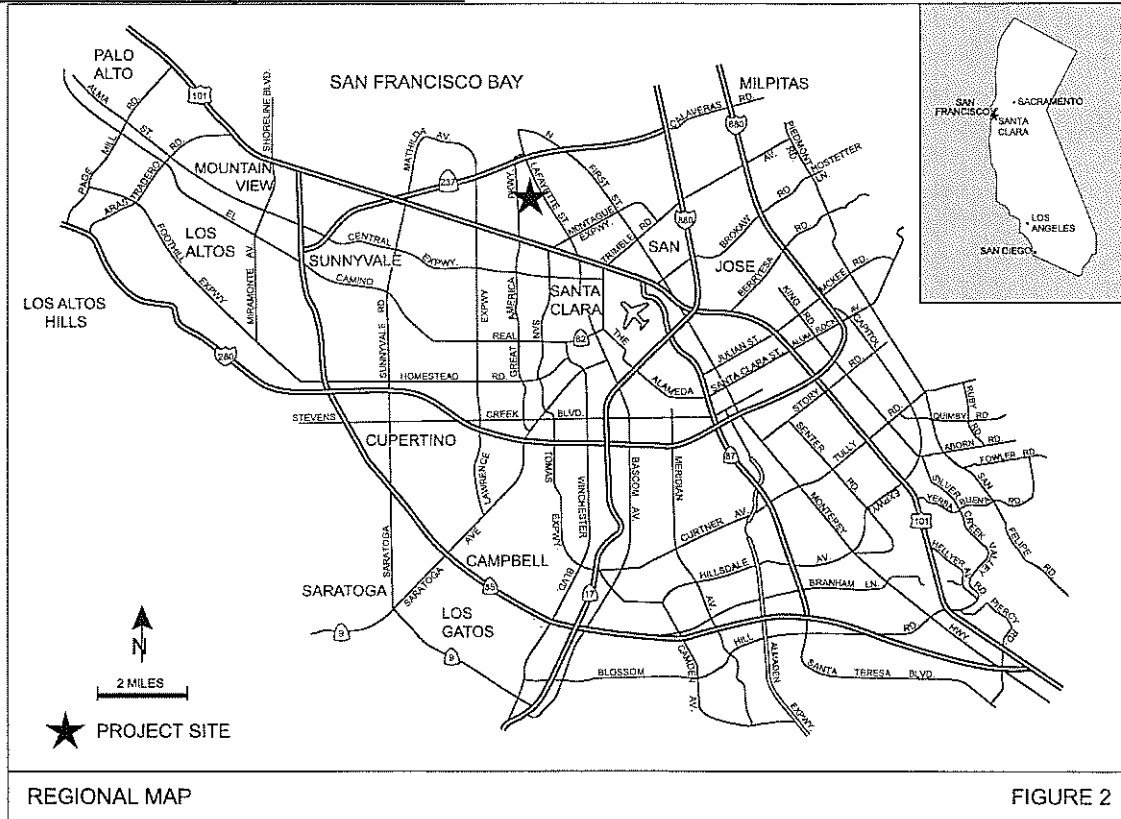
That the Planning Commission forward public comments and Planning Commission comments on the Environmental Impact Report to the City Council

ATTACHMENTS RELATED TO THIS REPORT

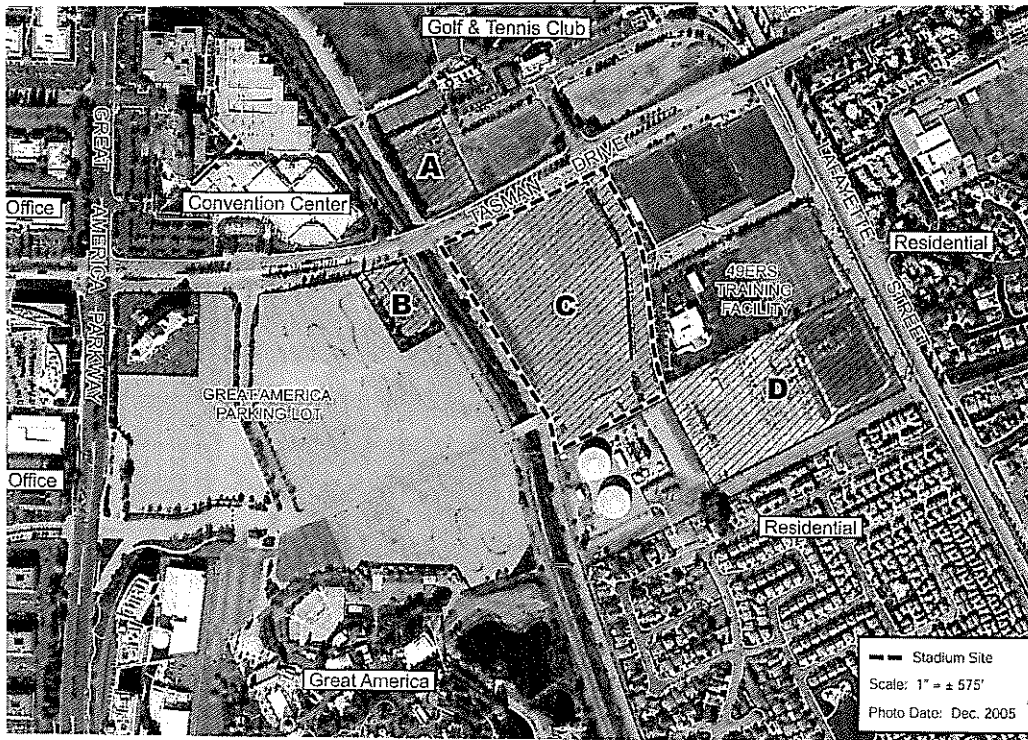
1. Draft EIR [Previously Distributed]
2. Final EIR

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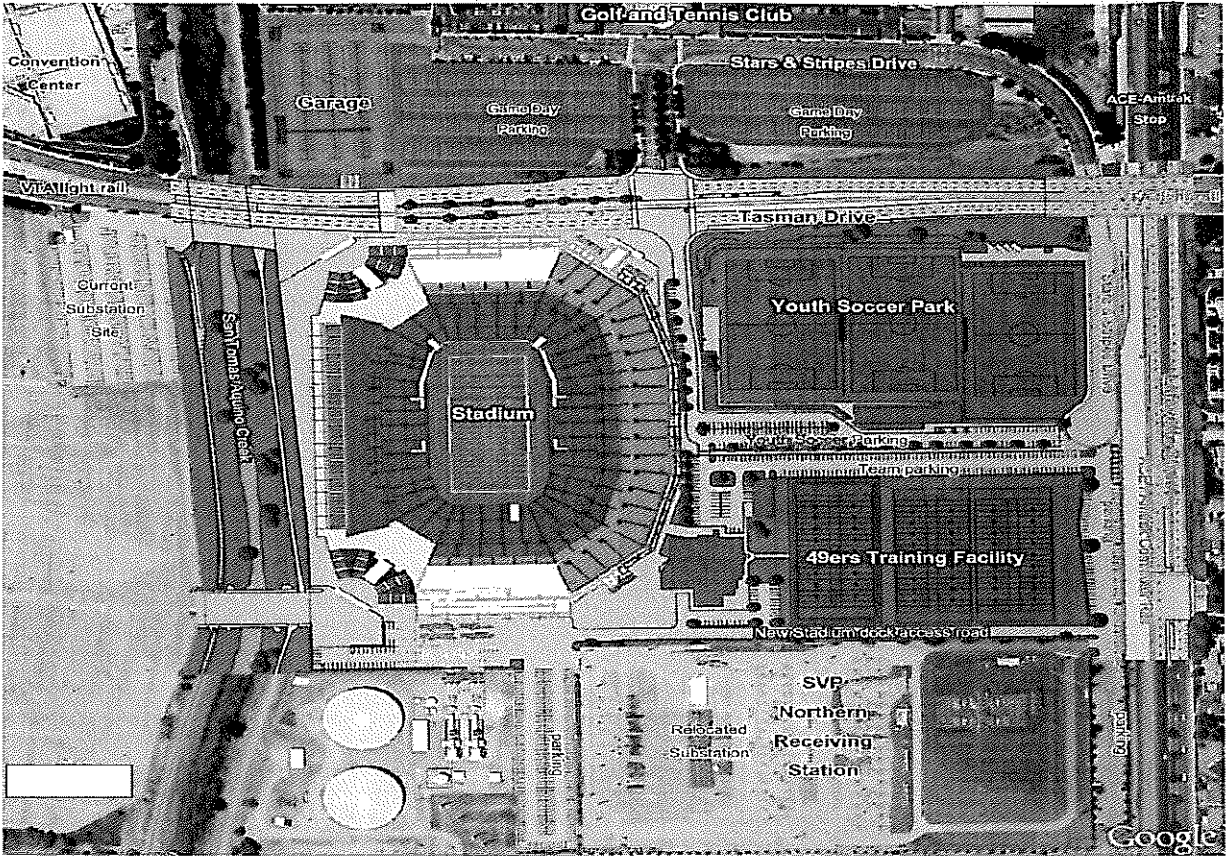
Regional Map Showing Project Location



Aerial Photo of Project Site



Conceptual Site Plan



Photographs of Site

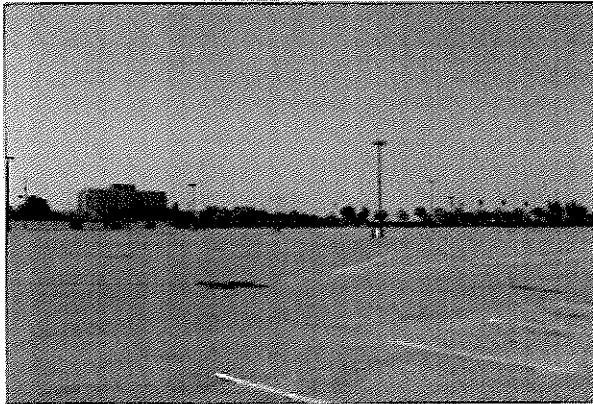


Photo 3 - View of the stadium site, looking northwest from Centennial Boulevard.

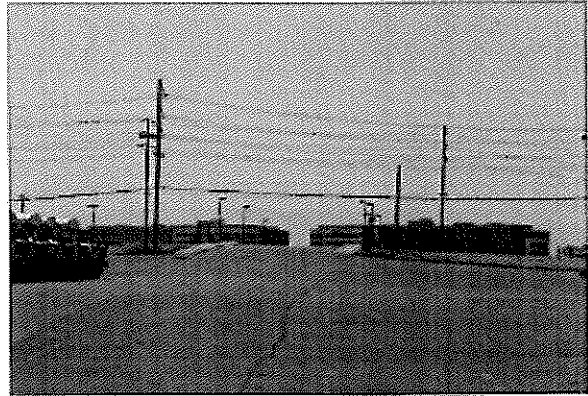


Photo 4 - View of the bridge that connects the main Great American parking lot to the stadium site, looking west from Centennial Boulevard.

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: 12/8/09

SUBJECT: Adoption of a Resolution of Findings for Certification of Environmental Impact Report (EIR) for the 49ers Stadium Proposal 4900 Centennial Way

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 20__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:

Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

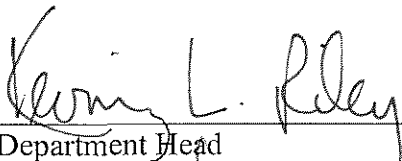
City Regulations:

City Charter § _____
(i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

City Code § _____


Reviewed and approved:

1. As to City Functions, by



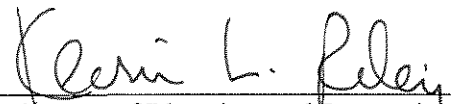
Department Head

2. As to Legality, by




City Attorney's Office/CAO Assign. No 09. 1140

3. As to Environmental Impact Requirements, by



Director of Planning and Inspection

4. As to Substance, by



City Manager