

Attachment 16

Draft Excerpt Planning Commission Meeting Minutes of June 8, 2016

8.B. File No.(s): **PLN2014-10554/CEQ2014-01180 (Santa Clara City Place)**
Location: **5155 Stars and Stripes Drive**, seven parcels totaling approximately 240 acres located north of Tasman Drive, east of Great America Parkway and San Tomas Aquino Creek, west of Guadalupe River, and south of Great America Way and State Route 237. APNs: 104-03-036, 104-03-037, 104-03-038, 104-03-039, 104-01-102, 097-01-039, and 097-01-073
Applicant: Steve Eimer, Related Santa Clara, LLC
Owner: City of Santa Clara
Request: **Adoption of an Environmental Impact Report and Statement of Overriding Considerations and Mitigation Monitoring or Reporting Program; General Plan Amendment #83** to change the land use designation from Parks/Open Space and Regional Commercial to Urban Center/Entertainment District, Revise Figure 2.3-1 Areas of Potential Development and Table 8.6-2 Proposed Development (Approved, Not Constructed and Pending Projects) and make related textual revisions, and Amend Appendix 8.13 (Climate Action Plan); **Adoption of Override** of the Airport Land Use Commission Comprehensive Land Use Plan (CLUP); **Approval of a Rezone** from Public, Quasi-Public, Park or Recreation (B) and Commercial Park (CP) to Planned Development-Master Planned Community (PD-MC); **Approval of a Master Community Plan (MCP) and Infrastructure Master Plan;** and **Approval of a Development Agreement** to allow the construction of a new multi-phased, mixed-use development of up to 9.16 million gross square feet of office buildings, retail and entertainment facilities, residential units, hotel rooms, surface and structured parking facilities, new open space and roads, landscaping and tree replacement, and newly upgraded and expanded infrastructure and utilities
CEQA Determination: Environmental Impact Report (SCH#2014072078)
Project Planner: Debby Fernandez, Associate Planner
Staff Recommendation: **Recommend City Council Approval, subject to conditions**

Kevin Riley of the City Manager's office provided a high level overview of the project advantages and disadvantages. He stated the project represents a unique opportunity for the City and the region that has the opportunity to provide real economic return for the City.

Planning Manager Lee Butler introduced the project and gave a presentation on prior meetings, the entitlement structure, the General Plan Amendment, the Master Community Plan (MCP), the Development Agreement (DA), development phasing and timing, and staff's recommendations. Mr. Butler outlined the different potential development schemes, the Enhanced Open Space (EOS) Variant, and the Increased Housing Alternative, noting that staff recommendation is for the Planning Commission to recommend that the City Council approve all items, as conditioned and reflecting the EOS Variant and Increased Housing Alternative. Staff also called out a requested change to the draft EIR resolution regarding the feasibility of the Increased Housing Alternative. The City's consultants from ICF (Rich Walter) and Fehr & Peers (Daniel Rubens) provided an overview of the Environmental Impact Report (EIR), including but not limited to the EOS Variant analysis, General Plan consistency, biology, and transportation.

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Discussion: The Commission questioned if the Development Area Plan (DAP) is equivalent to a phase. Staff stated that every phase will have at least one DAP but a DAP could be just a portion of a phase. The Commission questioned the parcel take-down (lease payment) schedules. Staff responded that a DAP has to be in place for a take-down, and the DAP must be approved by the Council following a Planning Commission recommendation. Staff further noted that the City would review and approve changes to the phasing, and that timeframes for minimum levels of development are specified in the DDA.

The Commission questioned its 22-day timeframe to provide a recommendation on a DAP. Staff responded that the 22 business days (approximately 4+ weeks) are from the time the Planning Commission receives the report, which accommodates a potential Planning Commission continuance.

The Commission questioned why the office traffic was considered 29 percent lower than that of a typical office. Staff noted that many considerations contribute to this, such as proximity to transit and symbiotic relationships between uses. The Commission inquired as to whether a penalty exists for not meeting Vehicle Miles Traveled (VMT) targets. Staff responded that no monetary penalties are in place for non-compliance with VMT targets. The Commission opined that the reduced intensity alternative offers some benefits over the proposed project.

The Commission questioned the Increased Housing Alternative. Staff responded that the increased housing is an alternative that was evaluated under CEQA, and it improves the housing/jobs balance in comparison to the other alternatives. The Commission questioned what the City is doing to increase housing in the area. Staff responded by noting the many current and future projects that accommodate additional housing capacity, such as Tasman East Area Plan presently underway.

The Commission questioned the call for a pedestrian bridge over Tasman Drive at Levi's Stadium. Staff stated that the analysis did not show that the subject project on its own would necessitate an overcrossing.

The Commission questioned who controls the phases. Staff responded that Related has certain obligations to take down Phases I and 2, and minimum development on Phases 1, 2, and 3. The Commission questioned whether we have the opportunity to change what is on a phase in the future. Staff responded that generally not, that approving the MCP and DA, effectively would lock in allowable uses and development scope and scale.

The Commission questioned if Parcel 3 is part of the subject zoning change and asked about future uses of the park. Staff stated that Parcel 3 is part of the rezoning and that a future public process would determine what uses are proposed and feasible for the Parcel 3 park area.

The Commission questioned if the City still had the option of placing the 16 million dollars slated for VTA to the Great America Station. Staff clarified that there are two dollar amounts. The 16 Million dollars is intended to offset the freeway impacts of the project. Additional traffic fees help fund the Multi-modal Improvement Plan (MIP), which would be developed by the City at the developer cost, over the next year. The City Council and then the VTA have to ultimately approve the plan. The MIP may address station improvements.

The Commission questioned the jobs/housing imbalance. With the 1,680 overall housing units planned and 200 of those housing units confirmed, what happens if the 1,480 units are not included in those future DAP's? Staff responded that the residential development on the landfill is subject to separate regulatory agency approval and may or may not be allowed. If it is not

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approved or if the conditions from the regulatory agencies impose make it infeasible, it is incumbent on the City to consider alternative locations for additional housing development. The Commission questioned how the project impacts will be mitigated if the 1,480 units are not included. Staff responded that the EIR studies a "worst case scenario" of the project without the 1,480 housing units, and the adoption of the EIR would provide the environmental clearance for that scenario should it occur.

The Commission questioned if the City would have the right to decrease the total square footage for the project if the 1,480 units are not approved within the overall project floor area. Staff responded that the City does not, noting that it is in the developer's and City's best interest to build those housing units and that the intensity and the density within the project is specified at levels in accordance with the negotiations between the developer and the City Council. Any change in the square footage would require renegotiating the deal, as the decrease of square footage would affect the ground rent.

The Commission asked about the fixed traffic fees in the DA. Staff stated that the DA provides static fees for seven years beyond the first DAP or 300,000 square feet of office, whichever is later. This is to incentivize the developer to take down parcels and build, which would bring rental income to the City sooner.

The Commission questioned the take down stages and whether all the leases are expiring at the same time. Staff responded that the leases are for a 99 year term.

The Commission questioned the process of having a Priority Project Manager that would ensure responsibility and allegiance to the City, yet be paid for by the developer. Staff stated that the Priority Project Manager would be responsible ultimately to the City Manager and not to the developer. Staff noted other similar situations in the City and clarified that the employee would receive pay from the City which would be reimbursed by the developer.

The Commission had a question on alternatives to the EOS Variant and if the City could modify it now or later to place it on other portions of the site. Staff noted that it would require renegotiating agreements and could necessitate additional environmental analysis.

The Commission questioned the development fees not having a cost of living increase and if the fees were current levels or above current levels. Staff responded those are current fees, and per the DA, those will apply for seven years past the first DAP or first 300,000 square feet of office. After that time, with the exception of certain traffic fees specified in the DA, the fees can increase following City fee studies and Council adoption of increased fees.

The Commission questioned if a housing nexus study fee would apply seven years down the road. Staff responded it would and any new generally applicable fees would apply as soon as the fees became effective, and that the seven year period would not apply to new generally applicable fees such as the housing fee.

The Commission questioned whether additional trip reductions would be associated with the 1,480 additional units and if intersection Level of Service (LOS) impacts would be alleviated. The City's consultant responded that the study done on that variant has indicated that there would generally be about a 10 percent trip reduction with the added residential.

The Commission questioned if the Planning Commission is going to see the MIP. Staff responded that they would need to confirm but they thought that it may go to City Council without Planning Commission review.

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The Commission questioned the plan's reduction in parking and what implications this has for more open space. Staff responded that there could be less surface parking or smaller parking garages and that the resulting physical effects would be incorporated as part of the DAP.

The Commission asked about burrowing owl habitat issues, as some commenters had claimed there were remaining mitigation obligations under the EIR for the 1999 Bayshore North Redevelopment Plan. Staff stated that the City fully mitigated any owl impacts of the 1999 Plan by purchasing and preserving 58.5 acres of owl habitat in Byron, California. In addition, in 2000, the Council identified the Water Pollution Control Plant as a possible site for additional habitat for owls, but that the 2000 Council direction did not mandate that the City find such additional habitat. No owls have been identified at the site during burrowing owl surveys conducted during the breeding seasons of 2014 and 2015. The EIR does, however, require additional surveys before and during construction, and imposes mitigation measures in the event owls are discovered.

The Commission questioned who is going to pay for turning Parcel 3 into a park. Staff responded that the developer would be responsible for providing an access road to the park, and the timing would be tied to the development of Phase 2. The developer has volunteered to contribute five million dollars towards the design and development of the Parcel 3 park. Beyond the five million dollars and the access road, the City would be responsible for the Parcel 3 park costs, including maintenance. Staff noted that the developer would be paying rent on the parcel.

The Commission questioned the parks dedication fee. Staff stated that the developer might pay a parks dedication fee for calculated impacts beyond the Parcel 3 park contributions.

The Commission questioned if affordable housing could be built somewhere else. Staff replied that the agreements currently contemplate that affordable housing would be built on-site.

The Commission questioned the approximate revenue to the City, to the County, to the schools, and the State. Staff replied that the County is projected to net 11.6 million dollars per year, the Santa Clara Unified School District (SCUSD) is projected to net 22.1 million dollars per year, and VTA is projected to net 8 million dollars a year. The City will net about 8.3 million dollars a year.

Steve Eimer, the applicant, stated they were invited by the City Council to look at this site and be a partner with the City. His firm proposed making a destination for the residents of Santa Clara while creating a significant revenue source for the City on a property that today produces no substantial revenue. At the completion of the project, in roughly a 15 year time frame, Mr. Eimer stated this project would produce in excess of 114 million dollars per year. The portions of the net revenue to be earned per year are: 44 million dollars to the City; 33 million dollars to the SCUSD; 17 million dollars to the County; 14 million dollars to the VTA; and 9 million dollars to the community college.

The Public Hearing was opened.

Persons that addressed the Commission in support of the project were: Felipe Parga, Union member Local 19; James Kirkstra, Union member/hospitality worker; Enrique Fernandez, Union member/hospitality; Arlene Dunn; Pat Nikolai; Joe Siesinski; and Miles Barber.

Eugene Bradley, of Silicon Valley Transit Users, expressed concern about the lack of bus lines and requested the City work with VTA to move 4 bus lines to the site.

Emily Lipoma of the City of San Jose requested the Committee to refrain from acting on the project until the City has cured alleged General Plan inconsistencies and until an EIR meeting her demands is prepared. San Jose is concerned with 20 significant impacts in the FEIR, such as traffic, air quality, greenhouse gas emissions, and noise. Ms. Lipoma stated that the project will create significant impacts at numerous roadways and intersections, primarily in North San Jose. The housing demand would have to be met by other districts in the area. The site would bring 140 thousand daily vehicle trips on already impacted roadways.

Vera Todorov of the City of San Jose stated the City of San Jose submitted comment letters on both the draft and final EIRs. They identified numerous alleged inadequacies which include: inconsistencies with the jobs/housing balance; internal inconsistencies resulting from the General Plan Amendment; an inadequate project description; understatement of the project's impacts; the failure of the EIR to identify adequate mitigation measures for land use impacts and secondary impacts; traffic impacts at intersections; the fee based transportation fair share costs for mitigation; and who will backfill insufficient traffic mitigation fees.

John Ristow of VTA stated that VTA generally supports the project. VTA would like Light Rail Transit travel times on the Tasman Corridor addressed more specifically in the DA, with signal preemption or at least signal prioritization upgrades noted. VTA is interested in seeing Transit Center improvements included in the development, and they indicated that the 16 million dollars in voluntary contribution for freeway impacts is not enough.

Steve Keller of VTA's Safety Division requested that Avenue C be limited to a right-in, right-out configuration at Tasman Drive. VTA is concerned about a new intersection and traffic signal along the Tasman light rail line. VTA discourages at-grade crossings because it represents new areas of conflict, and the location of Avenue C poses visibility challenges due to the topography.

Felix Ko of the California Public Utilities Commission (CPUC) stated that the CPUC has jurisdiction of railroad crossings and their approval is required to modify heavy or light rail crossings. Mr. Ko stated that the EIR did not address two railway crossings which are located at the Gold Street connector and at Great America Way. Those two roadways provide access between highway 237 and Lafayette Street. He recommended traffic studies be performed for both of the crossings to determine if there are negative impacts, if mitigation is warranted, and if those mitigation measures should be included in this project. The project proposes a new at-grade crossing on Tasman Drive crossing the VTA light rail tracks. CPUC policy does not allow at-grade crossings unless other crossings are proposed to be closed.

Kirk Vartan, member of the public, stated he hopes the City embraces support for urban agriculture, technology and innovation with a focus on electric vehicles, people movers, and green technology to support circulation and traffic flows.

Jan Hintermeister, resident, stated he is opposed to the EIR certification due to the alleged issues regarding burrowing owl mitigation. He provided written materials to the Planning Commission and stated that in 2000, the City Council decided to voluntarily set aside 44.5 acres for burrowing owl mitigation, with 24 of those acres being on the project site and 20 acres that could be achieved at the Water Pollution Control Plant. Mr. Hintermeister disagreed with the City's response that the Council did not mandate the preservation of the habitat acreage and disagreed that acreage can be secured at the Water Pollution Control Plant.

Roseann LaCoursiere, representing herself, rather than speaking as the Vice Chairman of Parks and Recreation Commission, expressed a need for parks for the City's growing population and cited limited opportunities due to lack of land, and expressed appreciation that

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the project set aside of 35 acres for parkland. She expressed support for the project.

Lou Becker, resident, stated he did not get notification of the project and more outreach should be conducted.

Gita Dev, Sierra Club member, stated she is generally in support of the project and that the open space/green space should be along the river. She requested that development on Parcels 1 and 2 be more transit-oriented and compact to have more open space made available.

Earl Kaing, ACE representative, stated that 10,000 people now enter the Great America rail station each day, and in 10 years, that number is likely to grow to 50,000 people each day. He stated that ACE would like this regional destination to have a grand central station.

Mark Allgire, SCUSD Assistant Superintendent, stated that the Level 1 development fees are based on square footage and represent 1/3 of full mitigation. The SCUSD requests that the developer pay three times the Level 1 fee.

David Ebrahimi, owner of David's Restaurant, stated there is a 15-year lease still outstanding for his business, and he expressed concern about his business and the lease in light of the project.

Steve Eimer, the applicant, stated that the 33 million dollars in property tax revenue from the project is an annual estimate, not over a 15 year period, which alone represents 20 percent of SCUSD's budget.

Gordon Hart, legal counsel to the Related Companies, stated that the staff report materials address all of the legal deficiencies claimed by the City of San Jose.

The public hearing was closed.

Discussion: The Commission expressed some concerns regarding transportation within and near the area and the need for high density housing in close proximity to the project. The Commission stated there may be reasonable justification for station improvements due to the size and number of persons coming to the project. The Commission stated there are still unresolved issues, such as the size of the packet documents with not having enough time to review; the unresolved lease for David's Banquet facility on Parcel 5; the Tasman East precise plan, as it only addresses Tasman East and not the project site; the potential for active recreation on Parcel 3; the jobs/housing ratio; the lack of TDM penalties; the Avenue C crossing light rail; the quality of life in the City; and the amount of community involvement.

The Commission questioned whether there is an understanding between the SCUSD and Related regarding the one-time development fee versus the annual tax revenue. Staff responded that the SCUSD is referring to the development fee where the limit is set by the State, and the SCUSD is requesting additional funds beyond that one-time fee.

The Commission questioned if the City has worked with ACE regarding the grand central station possibility. Staff replied that the MIP would look at potentially funding a study and potentially providing some improvements at that station, and that staff has been in contact with ACE staff.

The Commission provided some thoughts on the most suitable location for the 35 acres of parkland, questioning whether it should be placed close to the Tasman East future residential area or adjoining the green space along the river.

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The Commission expressed a desire for the City to come up with TDM non-compliance penalties.

The Commission repeated concerns about failure to achieve the 1,480 housing units and how it would affect the jobs/housing ratio.

The Commission questioned the net annual revenue reported at 44 million dollars. Steve Eimer, the applicant, stated that the difference in figures is due to one study referencing 2015 dollars; therefore, it does not take into account the result of inflation and escalations on things like property tax, transit occupancy tax, and retail sales revenues. The 44 million dollar number is estimated in roughly 15 years.

The Commission stated that Parcels 1 and 2 could be saved for future development by having more high density in Parcels 3, 4, and 5 and stated that parkland on Parcels 1 and 2 could be compatible with the river and river trail.

The Commission questioned why was it decided to allocate a much larger ratio of floor space to office versus housing. Steve Eimer, applicant, responded that the landfill regulatory agencies control how much housing will be allowed on the landfill. The 1,680 units proposed is the maximum that has been anticipated to be approved by the regulatory agencies.

The Commission questioned what the City's response was for the burrowing owl question and asked what our legal obligation is for mitigation. Staff responded that in accordance with the EIR, the City's legal requirement is to do annual surveys for burrowing owls. If there are burrowing owl(s) on-site while construction is taking place, replacement habitat would need to be identified and provided.

The Commission questioned if Parcel 5 has any restrictions on housing and can the space be swapped from business to residential. Staff responded that Parcel 5 does not have housing restrictions but that the mix of uses there represents the most beneficial market mix of uses along Tasman Drive

The Commission questioned whether the improved Great America Station is possible within the scope of the MIP. Staff responded that a grand central station requires study and funding from many sources. The MIP is aimed at the impacts of this project, which by itself does not create an impact to warrant development of a future station and there is no comprehensive plan in place at this time for development of or contributions to an enhanced station.

Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council adopt the EIR, CEQA Findings, Statement of Overriding Considerations, and Mitigation Monitoring or Reporting Program, with clarifying language added to the resolution regarding the feasibility of the Increased Housing Alternative (5-2-0-0, Commissioners Jain and Ikezi opposed).

Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council approve General Plan Amendment #83 changing the site land use designation from Parks/Open Space and Regional Commercial to a new Urban Center/Entertainment District designation; revise General Plan Figure 2.3-1 Areas of Potential Development and General Plan Table 8.6-2 Proposed Development (Approved, Not Constructed and Pending Projects); make related minor General Plan Text Amendments; and revise the General Plan Appendix 8.13 (Climate Action Plan) to add TDM goals for the new land use designation (7-0-0-0).

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Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council approve the rezone from Public, Quasi-Public, Park or Recreation and Commercial Park to Planned Development-Master Planned Community and approval of a Master Community Plan to allow the phased development of a new multi-phased, mixed-use development of up to 9.16 million gross square feet of office buildings, retail and entertainment facilities, residential units, hotel rooms, surface and structured parking facilities, new open space and roads, landscaping and tree replacement, and new upgraded and expanded infrastructure and utilities, subject to the development implementing the Increased Housing Alternative and EOS Variant analyzed in the EIR and subject to conditions (7-0-0-0).

Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council approve of the Development Agreement associated with the project (7-0-0-0).

Motion/Action: The Commission motioned to recommend that the City Council adopt a Resolution to Override of the Airport Land Use Commission Comprehensive Land Use Plan (7-0-0-0).

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