



## Legislation Details (With Text)

<b>File #:</b>	18-1623	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Public Hearing/General Business	<b>Status:</b>		Agenda Ready	
<b>File created:</b>	12/4/2018	<b>In control:</b>		Council and Authorities Concurrent Meeting	
<b>On agenda:</b>	12/11/2018	<b>Final action:</b>			
<b>Title:</b>	Action on Resolution of Necessity to Acquire Leasehold at 5131 Stars & Stripes Drive, Santa Clara, California from D.E.II Restaurants for a Public Project and Directing the Filing of Eminent Domain Proceedings				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. October 5, 2018 Offer Letter to DE II Restaurants, 2. Resolution, 3. POST MEETING MATERIAL, 4. Resolution No. 18-8641				

Date	Ver.	Action By	Action	Result
12/11/2018	1	Council and Authorities Concurrent Meeting	Approved	Pass
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## REPORT TO COUNCIL

### SUBJECT

Action on Resolution of Necessity to Acquire Leasehold at 5131 Stars & Stripes Drive, Santa Clara, California from D.E.II Restaurants for a Public Project and Directing the Filing of Eminent Domain Proceedings

### BACKGROUND

On June 28, 2016, Council approved a series of actions related to the CityPlace Santa Clara project including but not limited to certifying the CityPlace Santa Clara Environmental Impact Report [SCH#2014072078]; approval of the Mitigation Monitoring and Reporting Program (MMRP); approval of a General Plan Amendment and Rezoning of the project site [PLN2014-10554]; approval of a Disposition and Development Agreement (DDA) and approval of a Development Agreement.

CityPlace Santa Clara is a phased development of approximately 240 acres on City-owned land that includes a new urban center with a retail, hotel and entertainment district, office development and residential uses located in close proximity to Levi's Stadium and the City's Convention Center north of Tasman Drive. The 240-acre project site (Site) is comprised of what is currently being used at the Santa Clara Golf & Tennis Center; David's Banquet Facility; Fire Station #10; Parks Maintenance facility; PAL BMX and vacant land. As approved, the project would include the construction of medium- and high-rise buildings up to 17 stories in height and with a maximum of 9.16 million gross square feet of overall floor area for all uses, excluding the floor area of associated parking structures.

The Site's location provides a unique opportunity to concentrate development where transit resources can be a significant alternative to auto-oriented access common to development across

most of Silicon Valley, with both light and heavy rail access immediately adjacent to the site, as well as multiple bus lines. This development specifically, and Silicon Valley generally, still must accommodate the demand for automobile access in light of the suburban character of the region. The Site is suitably accessible as it is readily served by various major local roadways, three expressways, and three State highways in close proximity, presenting little to no need for intrusion into local residential areas. However, since the Site's current predominant use is a golf course, there are limited public roadways through the project Site that would allow for the increased traffic allowing for auto, bicycle, and pedestrian circulation to access the transit centers and other existing public roadway arterials.

The Great America Station (Station), immediately adjacent to the Site, currently services ACE and Capitol Corridor heavy rail. To accommodate commuters, more than a dozen shuttle buses service the Station daily during the am/pm peak commute times. As currently contemplated, the CityPlace project will fund certain improvements to the existing Great America Station that will enhance the commuter experience and transit bus access. In addition, City and VTA staffs will work together on a study for the longer term vision of the Great America Station analyzing how the station may accommodate additional transit ridership, especially heavy rail and bus.

To provide increased and improved circulation through the CityPlace project and access to/from the Great America Station for regional transit ridership, roadway improvements are required. As approved by the Council through its project entitlements, the CityPlace zoning (through the Master Community Plan) and accompanying Infrastructure Master Plan depict the relocation of Stars and Stripes Drive to approximately 100 feet north of its current alignment and the development of Avenues A, B, and C as well as a network of public roads through the Site. The corresponding EIR studies the circulation network and more specifically the proposed location of Stars and Stripes and Avenues A, B, and C.

In addition to the realignment and construction of roadways on a horizontal basis, the elevation of the new Stars and Stripes roadway is at an elevation 15 feet higher than the existing elevation in order to install the necessary public infrastructure to accommodate the development including but not limited to public utilities and landfill-related systems. The horizontal and vertical relocation of Stars and Stripes Drive necessitate the acquisition of the David's Banquet leasehold.

### ***David's Banquet and Meeting Facility***

In July 1999, the City of Santa Clara entered into a lease with D.E.II Restaurants for David's Banquet and Meeting Facility located at 5131 Stars and Stripes Drive (Lease). The Lease provides that the City would construct the building on City-owned land and provide essentially a turnkey facility with City-provided fixtures and equipment that would allow the Lessee to operate the facility. The Lease provided for a term of 20 years from the Effective Date (i.e., November 1, 1999) with two additional 5-year option periods.

Over the past several years, the City has had several general discussions with the Lessee about the potential need to acquire leasehold interests to allow for the relocation of Stars and Stripes. On October 5, 2018, the City made an offer to acquire the leasehold interest in accordance with the requirements of Section 7267.2 of the Government Code (Attachment 1). The offer of \$5,000 represented the value of the leasehold interest as determined by an independent state licensed and certified appraiser.

The City has provided the Lessee with access to services provided by Associated Right of Way

Services (ARWS) to provide the Lessee with information about rights to secure an alternate appraisal per Government Code; relocation assistance including identification of potential relocation sites; and the process for the determination of potential compensation due to the Lessee for loss of business goodwill.

The City and Lessee have not agreed on the terms of the acquisition of the leasehold interest. To date, the Lessee has not secured an alternate appraisal of its leasehold and has not provided ARWS the requisite information necessary to move forward with analysis necessary to determine the loss of business goodwill.

In a letter dated November 21, 2018, the Lessee was advised of the City's intention to consider adoption of a Resolution of Necessity to Condemn Interest in Real Property for the relocation of Stars & Stripes Drive and the development of Avenues A, B, and C in accordance with Section 1245.235 of the California Code of Civil Procedure at the December 11, 2018 Council meeting.

## **DISCUSSION**

The adoption of a Resolution of Necessity (Attachment 2) requires the City to consider and make the following findings:

- The public interest and necessity require the project
- The project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury
- The property sought to be acquired is necessary for the project
- The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property

### ***The public interest and necessity require the project***

The CityPlace Santa Clara EIR analyzed the circulation and traffic improvement necessary to accommodate the project. In order to accommodate the anticipated traffic and increased access to Great America Station to accommodate transit growth, the realignment of Stars and Stripes and the development of Avenues A, B, and C are necessary. Such relocation of Stars and Stripes is required by the Master Community Plan (the zoning) and associated Infrastructure Master Plan. In order to allow for the development of the necessary public right-of-way, the acquisition of the David's Banquet and Meeting Facility leasehold is necessary.

### ***The project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury***

The realignment of Stars and Stripes and the development of Avenues A, B, and C will provide required public right-of-way circulation for the benefit of the CityPlace Santa Clara project, and improved and greater access to the Great America Station for transit riders in the region. The alignment of the Stars and Stripes and Avenues A, B and C were studied in the CityPlace EIR and incorporated into the approved Master Community Plan. Alternate alignments of Stars and Stripes Drive and Avenues A, B and C did not optimize objectives for remainder development parcels; circulation network for auto and bus; and/or access to/from current (or longer term) Great America Station.

### ***The property sought to be acquired is necessary for the project***

In order to reconstruct Stars and Stripes Drive, the David's Banquet and Meeting Facility leasehold

must be acquired.

***The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property***

On October 5, 2018, the City made an offer of fair market value to D.E.II Restaurants Inc. to acquire the leasehold interest based upon the value determined by an independent state licensed and certified appraiser in accordance with the above referenced Government Code.

If the Council adopts the recommended Resolution, the City would deposit the necessary funds for the Lessee's probable compensation with the State Condemnation Deposit Fund and file an eminent domain complaint with the Court to seek possession of the property.

As always, the parties can continue to negotiate in an effort to come to a mutual agreement on compensation for the leasehold (including any compensation due for furniture, fixtures and equipment) and loss of business goodwill.

**ENVIRONMENTAL REVIEW**

This project was analyzed in accordance with the requirements of the California Environmental Quality Act (CEQA) in the CityPlace Santa Clara EIR [SCH#2014072078] as certified and adopted by Council on June 28, 2016 by Resolution No. 16-8337.

**FISCAL IMPACT**

As documented in the June 28, 2016 CityPlace Disposition and Development Agreement with Related (Developer), pursuant to Section 18.2, the Developer shall reimburse the City for expenses incurred related to requirements under California Relocation Assistance laws within 30 days following the presentation of an invoice detailing costs.

**COORDINATION**

This report has been coordinated with the City Attorney's Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

**ALTERNATIVES**

1. Adopt Resolution of Necessity to Acquire Real Property Interests at 5131 Stars & Stripes Drive, Santa Clara from D.E.II Restaurants for a Public Project and Directing the Filing of Eminent Domain Proceedings
2. Do not adopt Resolution of Necessity to Acquire Property Interests at 5131 Stars & Stripes Drive, Santa Clara from D.E.II Restaurants for a Public Project and Directing the Filing of Eminent Domain Proceedings
3. Any other action the Council deems appropriate

**RECOMMENDATION**

Alternative 1

Adopt Resolution of Necessity to Acquire Property Interests at 5131 Stars & Stripes Drive, Santa Clara from D.E.II Restaurants for a Public Project and Directing the Filing of Eminent Domain Proceedings

Reviewed by: Ruth Shikada, Assistant City Manager  
Approved by: Deanna R. Santana, City Manager

**ATTACHMENTS**

1. October 5, 2018 Offer Letter to D.E.II Restaurant
2. Resolution