

APPENDIX J

LETTERS RECEIVED ON FIRST AMENDMENT

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 286 5560;
To: CITYSANJOSE At: 914082926055

Feb-27-07 10:26AM; Page 1/1

FILE

STATE OF CALIFORNIA - BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

DEPARTMENT OF TRANSPORTATION

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February 26, 2007

SCL-082-R8.21
SCL082374
SCH 2005112126

Mr. Michael Rhoades
City of San José
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

Dear Mr. Rhoades:

PP05-214 - Ball Park Study in the Diridon/Arena Area - First Amendment to the Draft Environmental Impact Report - Response to Comments (DEIR-RTC)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR-RTC and have the following comments to offer.

Forecasting

Response to Comment A2-33 on page 31: Although there are no current planned or proposed freeway improvements to which the project proponent could contribute, the proponent should contribute fair share fees for future freeway mainline improvements.

Additional comments, if any, from our other functional review branches will be forwarded as soon as they are received.

Should you require further information or have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c. Scott Morgan (State Clearinghouse)

Post-it [®] Fax Note	7671	Date	2/27	# of pages	3
To	Shannon Allen	From	Michael K.		
Co./Dept.		Co.	CST		
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SAN JOSE, CA 95118-3486
TELEPHONE (408) 266-2600
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www.valleywater.org
AN EQUAL OPPORTUNITY EMPLOYERFile: 30932
Los Gatos Creek

February 15, 2007

Mr. Michael Rhoades
Planning Division
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

Subject: First Amendment to the Draft Environmental Impact Report for the Baseball Stadium in the Diridon/Arena Area

Dear Mr. Rhoades,

The Santa Clara Valley Water District (District) has reviewed the First Amendment to the Draft Environmental Impact Report for the Baseball Stadium in the Diridon/Arena Area dated January 2007 and received by the District on February 2, 2007.

We have reviewed the above referenced document and would like to clarify a couple of items regarding our original comments on the DEIR:

1. Regarding Comments B5-4 and 5, the City's response does not fully address our concern which is ensuring that landscaping within the riparian corridor and riparian corridor setback area is compatible with the riparian habitat. In keeping with ensuring the integrity of the riparian habitat is preserved riparian species proposed for use in the riparian corridor and setback area should be grown from Los Gatos Creek watershed stock. The City's response only committed to the use of trees grown from local stock and not other plants.
2. The response to Comment B5-6 notes that Lake Elsman will be included in the list of dams whose inundation area the proposed stadium will be located; however, the text of the DEIR was not modified.
3. For clarification the phrase "up to" should be replaced with "at least" in Comment B5-9 as follows: "According to records maintained by the Santa Clara Valley Water District (District), ~~up to~~ *at least two* abandoned ~~two~~ wells and ~~up to~~ *at least nine* "other" wells are located at the project site..." Similarly in Comment B5-10 the reference to the number of fuel leak tanks on site, the following should be changed "The commentor notes that *at least* three former fuel leak sites are located within the proposed development..." There

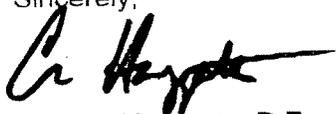
Mr. Michael Rhoades
Page 2
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may be additional wells and/or current/former fuel leak sites beyond our preliminary review.

4. The response for Comment B5-15 incorrectly states that it is the District's preference that the San Jose Water Company mitigates for impacts to water pressure by installing a new supply well. The District's comment was that if SJWC moves forward with the preferred mitigation measure (constructing a new well) a District well permit will be required to construct the well and a District encroachment permit may be required if the well is located on District right of way.

If you have any questions or need further information, you can reach me at (408) 265-2607, extension 2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: S. Tippets, B Goldie, M. Silva, J. Crowley, C. Haggerty, File (2)

ch:rmn
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Branch Office - Merced, CA

February 27, 2007

Chairperson Xavier Campos and Planning Commissioners
City of San Jose
200 East Santa Clara St.
San Jose, CA 95113-1905Re: Your Agenda of February 28, 2007, Item #4.b - Final Environmental Impact
Report for the Baseball Stadium in the Diridon/Arena Area.

Honorable Planning Commissioners:

On behalf of our client, NBC Universal, Inc., the beneficial owner of 645 Park Avenue, we offer the following comments regarding the Final Environmental Impact Report (FEIR) for the Baseball Stadium in the Diridon/Arena Area, which is scheduled for your consideration to be certified under CEQA on February 28, 2007. Our comments concern the documentation and analysis regarding impacts to cultural resources for that property, which suggest that the demolition of the vacant office building at this site would result in an unavoidable significant impact. We disagree. The historic evaluation of this property in Appendix G of the EIR is at best inconsistent with previous documented historic evaluations for the site and is very subjective, with at least one factual inaccuracy, which puts into question the validity of that analysis.

The Draft Environmental Impact Report for the Baseball Stadium in the Diridon/Arena Area ("DEIR") concludes that the impacts of the project on the building which formerly housed the KNTV television offices at 645 Park Avenue (the "Building") will be significant and unavoidable because the Building is a significant historical resource. It is not a claim that the old concrete building is architecturally significant – just that one of its former office uses, the TV studio, is significant. Historical significance is determined, in part, according to a subjective numerical evaluation using San Jose thresholds for significance. (See points analysis below.) In its numerical evaluation, LSA Associates, authors of the EIR, gave the Building 15 "bonus

points” based on its opinion that the Building is eligible for listing in the California Registry of Historical Resources, and thus bootstrapped it into enough points to be eligible for “Candidate City Landmark” under the City’s policies for designating City Landmarks.

The Building is not designated, nor should it be, as a Candidate City Landmark and LSA’s finding that the Building is eligible for that status and the California Registry is inconsistent with the extensive historic evaluation conducted by architectural historian Ward Hill in 2000. Mr. Hill concluded it lacks “historic integrity” as defined by the California Office of Historic Preservation, and that the Building is not eligible for listing on the National Registry, nor is it eligible for designation as a Candidate City Landmark. In the 2000 historic evaluation, Mr. Hill reports that:

“The building’s significance is related to its association with the early history of television broadcasting in San Jose. Only the 1955 concrete block western section of the building is associated with that history. This section of building has received a number of alterations since it was originally constructed, including filling with concrete the original window and door openings. The original interior studios and offices have been totally remodeled in response to technological changes and station expansions since 1955. The east wall of the 1955 building was removed with the construction of the major 1965 addition. These major later additions (1965 & 1980) also do not appear to be of historic significance. The building’s integrity of design, materials, association, feeling and setting has been compromised. In conclusion, the KNTV building does not appear to be eligible for the California or National Register because it lacks historic integrity. The building also does not appear to meet the higher standard of “exceptional significance” required to be eligible for the National Register.”

Ward Hill reconfirmed that the Building’s designation as a Structure of Merit as listed in the City’s Historic Resources Inventory was appropriate. Strangely, LSA used the Ward Hill evaluation, stating it remains as conducted in 2000, but then came to different conclusions without new data. Further, the evaluation performed by LSA erroneously stated that in December 2005 the site still housed a television station, whereas the owner verifies that it has been vacant since 2004. This puts in question the validity of LSA’s historic review and evaluation score, particularly related to the score given for the building’s Integrity, Environmental Context (Continuity) and Additional Considerations/Bonus Points.

The following summary describes the evaluations given to the property as taken from Appendix G: HISTORIC EVALUATION REVIEWS OF 645 PARK AVENUE of the FEIR.

The City’s historic numerical evaluation system has the following categories of significance:

- 33 to 66 points: “Structure of Merit”
- 67 to 134 points: “Candidate City Landmark” (CCL)

- 1992 Evaluation Glory Anne Laffey: cursory analysis awarded the Building **82.9 points** but concluded that the “physical plant is not sufficiently seasoned in age to be considered historically or architecturally significant at this time.” Only gave a 6.1 point deduction for lack of historic integrity. (Turns out that this analysis was flawed – see 2000 Evaluation below). Was designated as a Structure of Merit by the City.
- 2000 Evaluation Ward Hill, Architectural Historian: Extensive analysis awarded the Building **52.50 points**. Concluded that the Building is not eligible for the California Register because its historic integrity has been “seriously compromised,” that the Building is not eligible for the National Register,” and that the Building should only be designated as a City Structure of Merit. Gave a significant deduction from the 1992 Evaluation for lack of historic integrity “because archival research uncovered new documentation related to the building’s historic integrity” since the 1992 evaluation.
- 2005 Evaluation LSA Associates: Awarded the Building a score of **58.2 points**, corresponding with the “Structure of Merit” designation and none other. The Building was stated to be essentially the same as reviewed in the 2000 Ward Hill evaluation, but then the reviewer added 15 “bonus points” reflecting “VG” [very good] potential for eligibility for the National or California Register, which is unexplained and inconsistent with the W. Hill analysis. The reviewer does state as partial reasons for potential California Registry that the building “is still identified as the KNTV building, and continues to house a TV station.” There is not and was not at that time any marking of the building as the KNTV station, nor was the building even occupied at all then.

As to the potential as a Candidate for City Landmark, the base score, once given a 15 point boost for potential California listing, was thereby leapfrogged to the adjusted total of **73.2 points**, enough to barely qualify for CCL status (67 to 134 points).

Based on the above, this property should not be deemed “historically significant” for purposes of CEQA. Properties with under 67 points, such as this Structure of Merit, do not reach that threshold. (See Appendix G, p.7) Because the FEIR may be wrong on this issue and because of the Building’s lack of historic integrity, the proposed mitigation, if indeed there is a significant impact, should be that set forth in the FEIR of comprehensive documentation of the Building’s historical significance according to historic American Building Survey (HABS) Level 3 standards according to the Outline Format described in the *Historic American Buildings Survey Guidelines for Preparing Written Historical Descriptive Data* and, in addition, photographic documentation according to the standards set forth in the *Photographic Specifications – Historic American Building Survey*.

Planning Commission
February 27, 2007

It should not be deemed an unavoidable significant effect. In reality, it is just an old, deteriorated and vacant concrete office building that once housed a television studio and offices, none of which is there today. However, NBC is willing to produce a documentary using historical photographs regarding the history of TV in San Jose which could be donated to a library or historical museum or other appropriate archive designated by the City. In addition, NBC would make available any designated "architectural elements" and would remove and deliver them to the appropriate agency or museum concurrent with demolition of the building.

Thank you very much for your consideration of these comments. We believe the correct designation of this Building is "Potentially Significant Environmental Effect -- less than significant with mitigation."

Very truly yours,

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LINDA A. CALLON

E-Mail: linda.callon@berliner.com

LAC:DUMc

cc: Joseph Horwedel, Director, Planning, Building and Code Enforcement
Michael Rhoades, Planning, Building and Code Enforcement
Linda Sullivan, President and General Manager, NBC 11



FILE

Dedicated to Preserving San Jose's Architectural Heritage

February 28, 2007

Michael Rhoades
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower, Third Floor
San Jose, California 95113

Re: Comments to the City Planning Commission re: certification of EIR for Baseball Stadium Project within the Diridon/Arena Area

Dear Mr. Rhoades:

Thank you for circulating the following comments to the Planning Commission for its meeting on February 28, 2007.

Preservation Action Council of San Jose is dedicated to preserving San José's architectural heritage through education, advocacy, and events. We aim to integrate a strong commitment to historic preservation into the land use and development decisions of the City of San José that affect historic resources, as well as into the private decisions of property owners and developers. We try to bring owners and developers together to create historically sensitive projects that make economic sense.

As Executive Director of the organization, I am formally representing PAC* SJ in providing comments to the proposed Final EIR for the baseball stadium project in the Diridon/Arena area. I do so as a Historic Preservation professional, meeting the Secretary of the Interior's Standards to perform identification, evaluation, registration, and treatment activities with my field in compliance with state and federal environmental laws within the criteria of the National Park Service outlined in 36 CFR Part 61.

Preservation Action Council of San Jose submitted comments to the DEIR in May 2006, and while the revised text for the EIR addresses some of our concerns not all were satisfactorily addressed. The following issues remain outstanding and should be weighed against certifying an insufficient environmental document.

C3-10: With regard to whether the proposed project adheres to San Jose General Plan Historic, Archeological and Cultural Resources Policy 5. PAC's contention was that this project violated said policy recommendation. To wit, the response is that the project need not be considered in light of this policy, because it is not in a designated Area of Historic Sensitivity. The answer given does not adequately address PAC's comment about consistency with the General Plan, because while the GP does say Areas of Historic Sensitivity are particularly important, nowhere does it exclude consideration of historic resources elsewhere in the city.

C3-11: With regard to the property at 102 South Montgomery Street (APN 259-48-012), while inconsistencies within the document were addressed, the issue of the disqualification of Patty's Inn as ineligible for listing on either the National or California registers is not explained (as it is with respect to other properties within the project area.) No explanation is offered why in one portion of the document it was stated that the building appears much as it did historically and yet the determination that it is not eligible is definitively pronounced without explanation or evidence as to why it was dismissed.

C3-13: Regarding Sunlite Bakery -- Regardless of architect, the building would appear to be eligible for listing on the California Register based on rarity of type.

C3-17: The KNTV building is determined to be ineligible for listing on the California Register based on alterations but no mention is made as to whether these alterations are reversible. In that case, the underlying structure should be reconsidered.

C3-19: Regarding Mitigation Measures

Under Mitigation Measure CULT-1b: Incorporation – PAC requests that "relocation" be stricken from the sentence if the proposed text changes are actually going to respond to the spirit of PAC's comments as implied it does. PAC's point is that while moving buildings is sometimes necessary, all reasonable effort should be undertaken to incorporate the historic buildings within the new project. An assertion supported by state and federal preservation agencies.

C3-20: It is not the opinion of the commentor (PAC) that the "no project" alternative be selected. It is the opinion of the commentor that under CEQA the alternative of "no project" should be considered ahead of salvage in order to be consistent with the intent of the law.

Thank you for the opportunity to comment today. Given that several of the Preservation Action Council's questions have not been thoroughly addressed, PAC respectfully requests that you do not recommend certification of the FEIR until such time as they are. The intent and purpose of CEQA is to fully inform our decision-makers and our citizens, and this document has failed to do so adequately. The historic resources in the path of the proposed project should be integrated into whatever development actually comes to be, rather than dismissed as inconveniences. I urge the members of the Planning Commission to act consistently with the General Plan Policy 5 by voting no on Certification for the EIR. Thank you again for your consideration.

Respectfully Submitted,

Megan Bellue,

Executive Director