

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PD11-002

Submitted: January 20, 2011

PROJECT DESCRIPTION:

Appeal of the Planning Director’s decision to approve a Planned Development Permit to allow for the construction of an outdoor soccer stadium for the San Jose Earthquakes with a capacity of up to 18,000 people on a 24.9 gross acre site in the A(PD) Planned Development Zoning District.

Zoning	A(PD) Planned Development
General Plan	Combined Industrial/Commercial
Council District	3
Annexation Date	December 8, 1925 (College Park/Burbank Sunol)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Specific Plan	NA

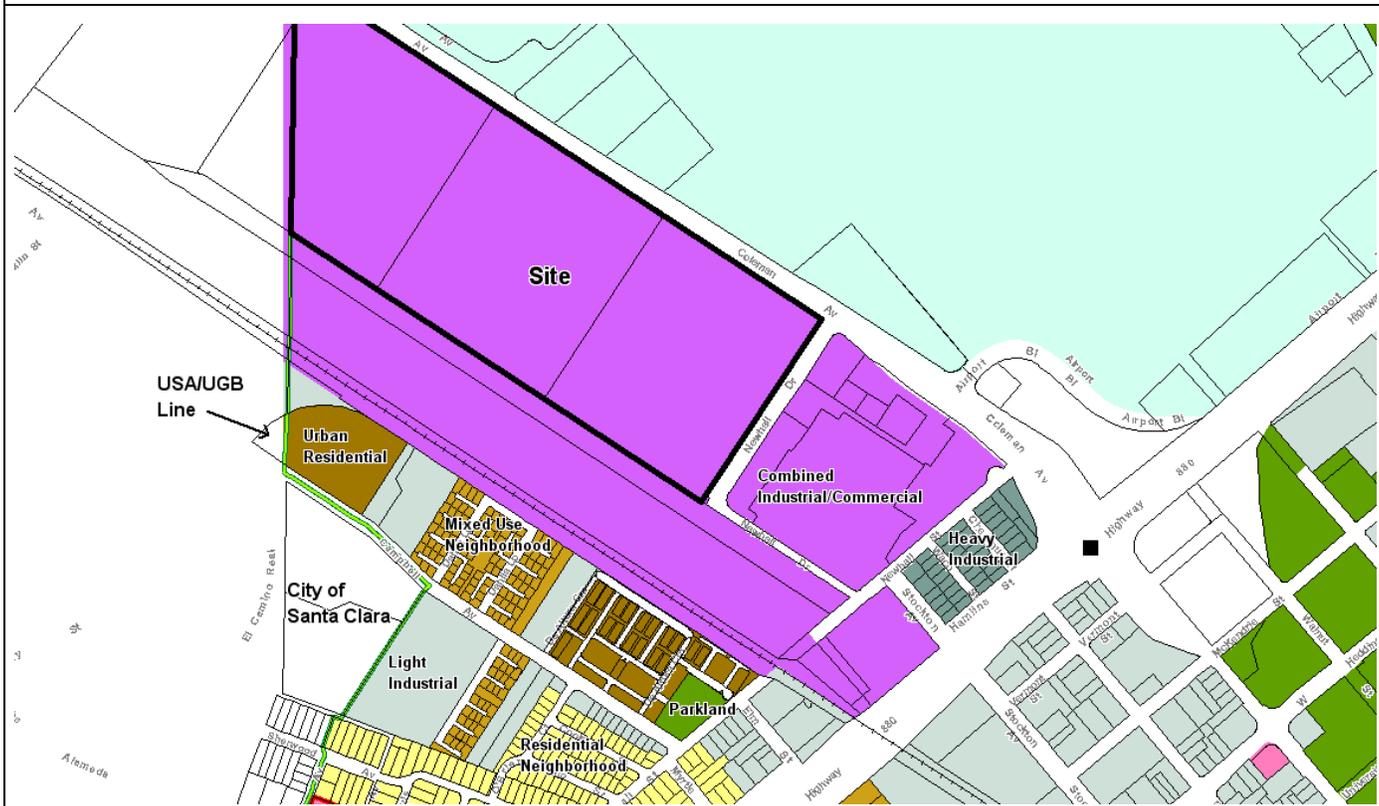
LOCATION:

The southwest corner of Newhall Drive and Coleman Avenue.

Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission find that the project is in conformance with the California Environmental Quality Act (CEQA) and uphold the decision of the Planning Director to approve the proposed Planned Development Permit for the subject site for the following reasons:

1. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning (File No. PDC09-004) of the property in that, the proposed project conforms to the approved General Development Plan.
2. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
3. No new information has been substantiated that would contradict the analysis provided in the Project Environmental Impact Report, "FMC/Coleman Avenue Planned Development Rezoning (File No. PDC98-104)" or the finding previously made by the Planning Director in the Planned Development Permit (File No. PD11-002).

BACKGROUND & DESCRIPTION

On January 3, 2012, Nancy Thomas, a property owner within 1,000 feet of the subject site, filed a permit appeal for a Planned Development Permit (File No. PD11-002) that was approved by the Director of Planning, Building, and Code Enforcement on December 14, 2011. The Permit allowed for the construction of an outdoor soccer stadium for the San Jose Earthquakes with a capacity of up to 18,000 people on a 24.9 acres of a larger development site. The stated reasons for the appeal are in the attached Permit Appeal Application and discussed below in the Analysis section of this report.

The proposed stadium is a private development intended for use by the San Jose Earthquakes, a Major League Soccer team. Since the return of the Earthquakes to San Jose, they have primarily been using Buck Shaw Stadium at Santa Clara University and occasionally Stanford Stadium. The project will allow for the development of a soccer-specific sports stadium and provide a permanent location for the San Jose Earthquakes.

The San Jose Earthquakes' decision to locate a permanent stadium in San Jose will further the City's economic ambitions to become a regional center for professional sports, a top priority of the City Council. This project is consistent with the economic development goals of the City as the development of the stadium will provide employment opportunities within the City and contribute to its financial base with additional sales tax revenue.

Site and Surrounding Uses

The subject site is undeveloped, relatively flat land and is the location of the former FMC property that has now been demolished. The land uses surrounding the site include the San Jose International Airport (SJC) to the north, the Coleman Landings shopping center anchored by a Lowe's Home Improvement Store to the east, railroad/Caltrain tracks to the south, and industrial office buildings to the west.

The subject site is comprised of a 74.8-acre property owned by the City of San Jose (Airport West) and the adjacent 20-acre property owned by the Arcadia Development Company (Coleman Landing). The existing zoning on the site, File No. PDC08-050, allows up to 1.5 million square feet of commercial office, 300 hotel rooms, and up to 75,000 square feet of retail development on the Airport West property.

The remaining 20 acre sites of the site is currently being developed with approximately 274,000 square feet of commercial space, which includes a Lowe's Home Improvement store.

Previous Planning Approvals Affecting the Project Site

On, November 4, 2008 the City Council adopted Ordinance No. 28436 that rezoned a 74.8-acre property owned by the City of San Jose (Airport West) to the A(PD) Planned Development Zoning District (File No. PDC08-050). This rezoning allowed for the development of up to 1.5 million square feet of commercial office, 300 hotel rooms, and up to 75,000 square feet of retail development on the site.

On March 30, 2010, the City Council adopted Ordinance No. 28727 that rezoned the subject site to the A(PD) Planned Development Zoning District (File No. PDC09-004). This rezoning allowed for the development of a professional sports stadium with up to 18,000 seats as a permitted use, in addition to all of the uses already approved under the prior rezoning (File No. PDC08-050). In addition, this rezoning also included the adjacent 20-acre property owned by the Arcadia Development Company and which is currently being developed with approximately 274,000 square feet of commercial space, including the already constructed Lowe's Home Improvement store, in what is known as the Coleman Landing Shopping Center (File No. PD08-040).

Subsequently, a Planned Development Permit, File No. PD10-010, was approved by the Director of Planning, Building, and Code Enforcement on October 29, 2010 to allow for the demolition of existing, vacant industrial buildings and the addition of a new commercial parking establishment and a new sports field for private, outdoor recreation use only. The proposed commercial parking establishment for a professional sports stadium is considered an interim use of the site until all of the development anticipated on the subject site is constructed.

On December 14, 2011 the Director of Planning, Building and Code Enforcement approved the Planned Development Permit (PD11-002), the appeal of which is the subject of this staff report. If upheld, PD11-002 will allow for the construction of an outdoor soccer stadium for the San Jose Earthquakes with a capacity of up to 18,000 people.

California Environmental Quality Act (CEQA)

The environmental impacts of the proposed project have been addressed by an Environmental Impact Report (EIR), "Airport West Stadium and Great Oaks Place Project", that was prepared for this project and certified on March 16, 2010, pursuant to the provisions of CEQA (Resolution No. 75657).

The Planned Development Permit includes mitigation to ensure that the proposed use does not result in impacts relative to traffic, aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality and noise. The environmental mitigation measures will reduce any potentially significant impacts to a less than significant level.

Community Engagement

On September 26, 2011, a community meeting was held at City Hall for the subject Planned Development Permit. There were approximately 31 community members in attendance. A majority of those at the meeting expressed that they were concerned about noise (particularly from noise makers and fireworks) on game days and the ability for residents in the area to express their concerns and work with the owner/operator of the facility about those concerns. Many of the comments expressed at the meeting resulted in specific conditions in the Planned Development Permit including a Good Neighbor Plan. In

addition, a few of those in attendance were supportive of the project stating that the project would create jobs and bring revenue to the City.

ANALYSIS

The City has received a single Appeal of Planned Development Permit File No. PD11-002. The Appeal was filed by a resident of an existing residential neighborhood, located to the southwest of the project site and which is separated from the project site by a major railway corridor (providing service for Caltrans and Union Pacific and planned BART and High Speed Rail service). The Appellant expresses concerns related to 1) consistency of the project's noise and light impacts with the prior analysis provided within the project Environmental Impact Report; 2) the City's coordination with other public agencies as part of the Permit process; and 3) the future management of community relations by the project proponents. Other neighborhood residents and business owners have also submitted correspondence (attached) on these topics.

Potential noise and light impacts

This Appeal identifies concerns with potential noise and light impacts that could affect compatibility between the proposed stadium development and the "existing and established neighborhood uses." The Appellant's primary argument in support of this concern is that changes to the proposed stadium design from the zoning project analyzed in the Environmental Impact Report (EIR) to the current Permit would contribute to increased potential impacts upon the neighborhood. The Appellant states "The applicant has not met the burden of proof that the design complies with the EIR, because the noise and light impacts of the proposed stadium have not been properly simulated" and requests additional analysis. The Appellant specifically identifies a "large open-air gap between the top of the stands and the roof structure" as a change to the stadium design that was not adequately analyzed and requests that the stadium design be changed to enclose this area. The Appellant also requests that the Permit prohibit artificial noisemakers, such as vuvuzelas and other horns, within the stadium and in stadium parking areas, and also prohibit distribution of such devices by the operator. An updated Noise Report (attached) has been provided in response to the issues raised in the Appeal.

The updated Noise Report clarifies that the currently proposed stadium design would not generate noise levels greater than those studied and disclosed in the project EIR because: 1) the current proposal has an amount of open area comparable to the stadium which was used as the basis for analysis in the EIR (the Home Depot Center in Los Angeles); 2) minor proposed changes to the stadium design are either comparable or beneficial in terms of the stadium's overall potential for noise generation; and 3) the proposed stadium would only have 2/3 of the seating capacity of the analyzed stadium, thereby reducing the potential for noise generated by people attending the soccer games. As part of this discussion, the Report clarifies that changes to the stadium design include the overall reduction in size and height, due to the decreased capacity, reorientation of the open end of the stadium away from the residential neighborhood, and the addition of a small roof structure above the stadium seating area. The updated Report concludes that as a result of these changes the current stadium design would have the potential to generate noise impacts consistent with or less than those analyzed in the project EIR.

The Appeal raises the concern that a "gap" between the stadium seating and roof structure, which did not exist in the prior design, would result in potential light impacts upon the residential neighborhood. As noted above, the stadium design analyzed in the EIR did not include a roof structure. The addition of this roof and the reduction of the overall stadium height should help to reduce potential noise and light levels emanating from the stadium. All of the proposed stadium lights would be oriented downward toward the playing field and located either underneath the roof structure, or, at the open end of the field furthest from

the residential neighborhood, on a free-standing pole that would not be taller than the stadium structure. Therefore, given for the proposed stadium design the distance of separation to the residential neighborhood, the height of the stadium lights, and the shielding of those lights by the stadium structure, the stadium lights would not have an impact upon the residential neighborhood. Other structures to be built on the adjoining and intervening properties, including facilities related to the BART (and possibly the high-speed rail) projects, would further screen the stadium from the residential neighborhood.

Although noise impacts from fireworks were not raised as a noise issue in the Appeal, the updated Noise Report also addresses this potential impact and verifies that a fireworks display would not create a significant noise impact. The stadium operator will need to obtain separate permits from the Fire Department and the Federal Aviation Administration (FAA) before being able to conduct a fireworks display at the stadium. These permit processes will also address the coordination concerns raised in the Appeal.

Coordination with other public agencies

Coordination for this project took place as part of the preceding rezoning action per the City's requirements. Based upon the responses received from other agencies at that time, additional referrals were generally not needed for the Permit. The City's Airport staff did review the conditions included within this Permit and the revised lighting plan was referred to Lick Observatory, which had no comments. As noted above, prior to receiving approval for fireworks displays, the stadium operator will need to obtain additional permits from the Fire Department as and the FAA.

Operations management and community relations

The Permit incorporates a Good Neighbor Plan consistent with other Permits issued by the City for other projects that include large-scale events. Based upon input provided at the community meeting, the applicant agreed to increase the frequency of Good Neighbor Meetings from one (1) to four (4) per year and a condition was added into the Good Neighbor Plan to incorporate this requirement. The community has not clearly articulated other reasonable land use regulation items that could be included within a Good Neighbor Plan. The proposed Good Neighbor Plan is consistent with the City's practices for regulating large events, such as would occur at the soccer stadium. The Zoning Ordinance also includes general performance standards for noise and other potential nuisance items that could be applied if problems are observed within the nearby residential neighborhood.

Conclusion

The updated Noise Report provides additional clarification to sufficiently address questions and concerns raised in the Appeal. No new information has been substantiated that would contradict the analysis provided in the Project EIR or the finding previously made by the Planning Director. Based upon this analysis, staff concludes that the project as proposed complies with all applicable regulatory and policy requirements.

PUBLIC OUTREACH/INTEREST

In addition to the community meeting, the property owners and occupants within a 1,000-foot radius were sent public hearing notices for the Planning Commission hearing. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

General Correspondence

In addition, multiple e-mail's were received from area neighbors and are attached to this report. Generally, the letters stated that their main concern was that the project, as proposed, was not compatible in design, operation and construction with the existing established residential uses in the area and most specifically noise is still an issue for them.

Project Manager: Lesley Xavier **Approved by:** Andrew Crabtree **Date:** February 10, 2012

Owner/Applicant: <u>Owner:</u> City of San Jose c/o Nanci Klein 200 E. Santa Clara Street San Jose, CA 95113 <u>Applicant:</u> San Jose Earthquakes, LLC 451 Camino Real, Suite 220 Santa Clara, CA 95050	Attachments: Permit Appeal Application Updated Noise Report Neighbor Correspondence Plan Set
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Permit Appeal Application

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER <i>PD11-002</i>	RECEIPT # <i>649790</i>
PROJECT LOCATION <i>Soccer Stadium Appeal</i>	AMOUNT <i>\$100</i>
	DATE <i>1/3/12</i>
	BY <i>[Signature]</i>

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE. THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:

South west corner of Newhall Drive and Coleman Ave.

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.): *(PD11-002)*

PERSON FILING APPEAL

NAME <i>Nancy Thomas</i>	DAYTIME TELEPHONE <i>230-54-078</i>	DATE <i>1-1-12</i>
ADDRESS <i>1157 Sierra Madres Terrace</i>	CITY <i>San Jose</i>	STATE <i>CA</i>
	ZIP CODE <i>95126</i>	
SIGNATURE <i>Nancy Thomas</i>	DATE <i>1-1-12</i>	
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet) <i>property owner within one thousand (1,000) ft</i>		

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)

NAME <i>Same</i>			
ADDRESS		CITY	STATE
			ZIP CODE
DAYTIME TELEPHONE ()	FAX NUMBER ()	E-MAIL ADDRESS	

PROPERTY OWNER

NAME <i>Nancy Thomas</i>	DATE <i>1-1-12</i>
ADDRESS <i>1157 Sierra Madres Terrace</i>	CITY <i>San Jose</i>
	STATE <i>CA</i>
	ZIP CODE <i>95126</i>

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.

Reasons for Appeal:

Please reference the following excerpts from December 13, 2011 comments submitted by San Jose neighborhood leaders, including Newhall Neighborhood Association leadership, to Planning Director Joe Horwedel and Councilmember Sam Liccardo:

"As Newhall neighbors have said in the past, we welcome soccer and private development dollars in the City of San Jose. We fully agree with Councilmember Liccardo's comments in the PD Zoning hearing that "This is a great opportunity for the city, but we want to make sure that we do it right." Our primary and exclusive focus has been achieving compatibility (in design, construction, and operation) with existing and established residential uses. After all, the applicant was not forced to locate the project a 20-second Tommie Smith and John Carlos run away from kids trying to get a good night's sleep. The City, therefore, has the responsibility to be the referee and ensure that mega-projects proposed for a densely populated residential area will respect those existing and established uses at all times - during construction, during operation, and even after a change in ownership.

- The noise model stadium used by the applicant differs significantly from the current Coleman Ave stadium design. Reliance upon conclusions drawn from this noise model may significantly impact neighboring residential uses in San Jose and Santa Clara in a materially adverse way.

- The applicant has not met the burden of proof that the design complies with the EIR, because the noise and light impacts of the proposed stadium design have not been properly simulated. In the EIR & PD Zoning hearing, as well as the recent project community meeting that you attended, residents requested the same level of sound and light modeling performed for the proposed downtown baseball stadium. In response to the request at the EIR & PD Zoning hearing,

When asked in the PD Zoning hearing about the process step at which the City would discuss additional noise mitigation with the applicant, Director Horwedel stated "Because the challenge is at this point,... I don't have an engineering design to work from for the noise consultant", and "prior to the issuance of PD permit, those are the things we would be working through... getting the more specific design of the stadium so that kind of we have something that's real. Tangible at that point." Please accept our apologies for the rough transcript from the City's Granicus service. The bottom line is that the neighborhood was promised additional analysis at the PD Permit stage, but the only response has been a short letter, based on flawed reference assumptions, stating that no additional analysis was needed. This violates the spirit of the discussion in the PD Zoning hearing and contradicts representations that may have been relied upon by Council members in their vote to approve the EIR and PD Zoning.

Residents are concerned about potential noise and light trespass, not specifically evaluated in the EIR, through a large open-air gap between the top of the stands and the roof structure. To our knowledge, no attempt has been made to model the sound and light properties of this gap, which directly faces our densely populated neighborhood. Without proper modeling, the impact of sound and light escape through the gap cannot be quantified and there is insufficient evidence to reasonably believe that the current proposed design will comply with the EIR for soccer events. This gap needs to be closed to avoid both light and sound trespass, and the stadium needs to be properly modeled to confirm the noise levels after the gap is closed. By closing the gap, which provides no obvious benefit as-is, the applicant can also improve spectator comfort by avoiding the AT&T Park-like intrusion of cold wind and rain into the seating area.

- **The permit needs to prohibit artificial noisemakers.** In particular, vuvuzelas and other horns (which are already banned at Jen-Weld Park in Portland, throughout the NFL, and in all UEFA (European soccer) events) must be prohibited and the stadium operator must enforce a ban on such noisemakers in parking areas as well as the stadium itself. Furthermore, the operator must be prohibited from arranging any noisemaker giveaways. The Home Depot Center reference stadium forbids "Noisemakers, whistles, air horns, musical instruments, drum sticks".

- **Section 12, describing the prohibition of concert and other "extraordinary" events, is weak and differs substantially from the process described by Councilmember Liccardo and Director Horwedel at the community meeting. Furthermore, it must not be subject to Title 20 streamlining activities to grant any over-the-counter permit for an "extraordinary" event.**

- **The Good Neighbor Plan proposed in Section 17 does not follow best practices for managing community relations between soccer-specific stadiums and residential areas. The Plan must be modified substantially in cooperation with the applicant and surrounding neighborhoods.**

- **Explosive and aerial fireworks are inappropriate in a residential area and multimodal transit corridor and should not be permitted. Furthermore, the draft Permit places the burden of a policy/compatibility decision on a City department (the San Jose Fire Department) that is chartered to focus exclusively on safety.**

- **The City has apparently not yet solicited input from a significant number of neighboring stakeholders,** including the Norman Y. Mineta San Jose International Airport and FAA (in the case of lighting, which has changed materially since the EIR and zoning phase, and aerial and ground-level fireworks), the Airport Land Use Commission, Union Pacific and the Federal Railroad Administration (in the case that the fallout zone from aerial fireworks includes their tracks and train car storage (including potential hazardous materials storage)), and Caltrans (in the case that the fallout zone from aerial fireworks includes Interstate 880)."

ILLINGWORTH & RODKIN, INC.
Acoustics • Air Quality

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Petaluma, California 94952

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illro@illingworthrodkin.com

February 7, 2012

Mr. Joseph Horwedel
Director of Planning
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

VIA E-MAIL: joseph.horwedel@sanjoseca.gov
Cc: kwolff@sjearthquakes.com

SUBJECT: Review of PD Permit Plans for the San Jose Earthquakes Stadium Project

Dear Mr. Horwedel:

Per the PD Permit process requirements of the City of San Jose, Illingworth & Rodkin, Inc. has reviewed the PD Permit Plans of the San Jose Earthquakes Stadium Project dated May 26, 2011 to confirm that our EIR noise analysis is relevant and applicable in the disclosure of potential noise impacts from the project and proposed mitigation. The plans reviewed as part of this analysis are attached as Appendix 1. Appendix 2 contains the plans evaluated in the EIR. Additionally, you asked that we provide noise data for firework displays. Data collected by our firm and others at National League Football games are summarized and used to estimate noise levels at receptors in the vicinity of the project site.

Comparison of Current and Previous Stadium Design Plans

A review of the current design of the Stadium Project as shown in the PD Permit Plans was made by Illingworth & Rodkin, Inc. This review found that the current design is consistent with the design of the Stadium Project previously evaluated in the EIR and approved with the rezoning action for the stadium. The maximum seating capacity remains at 18,000 seats, approximately 9,000 seats less than the reference stadium (Home Depot Center – 27,000 seats) used to project operational noise levels in the EIR. Noise levels measured at the larger-capacity Home Depot Center, as summarized in Figure 12 of the EIR's Noise Assessment (See Appendix 3), were used to calculate noise levels resulting from the operation of the proposed Stadium Project. These reference noise levels are calculated to be 1 dBA higher than those expected from the proposed Stadium Project because the noise level is proportional to the size of the crowd. This 1-decibel safety factor continues to provide a credible worst-case estimate of noise resulting from the proposed project.

In addition to the 1-decibel safety factor identified above, reference noise levels measured north of the semi-open end of the Home Depot Center (See Figure 1), and used to project noise levels in the EIR, are also conservative because the current San Jose soccer stadium plans now show continuous stadium seating on the west, south, and east (For reference, Coleman Ave is considered North). This

continuous seating forms a solid noise barrier that will provide equivalent or greater acoustical shielding at residential receptors located approximately 1,200 feet from the center of the stadium.

Figure 1 Aerial Photo Showing Reference Noise Measurement Location at the Home Depot Center in Carson, California

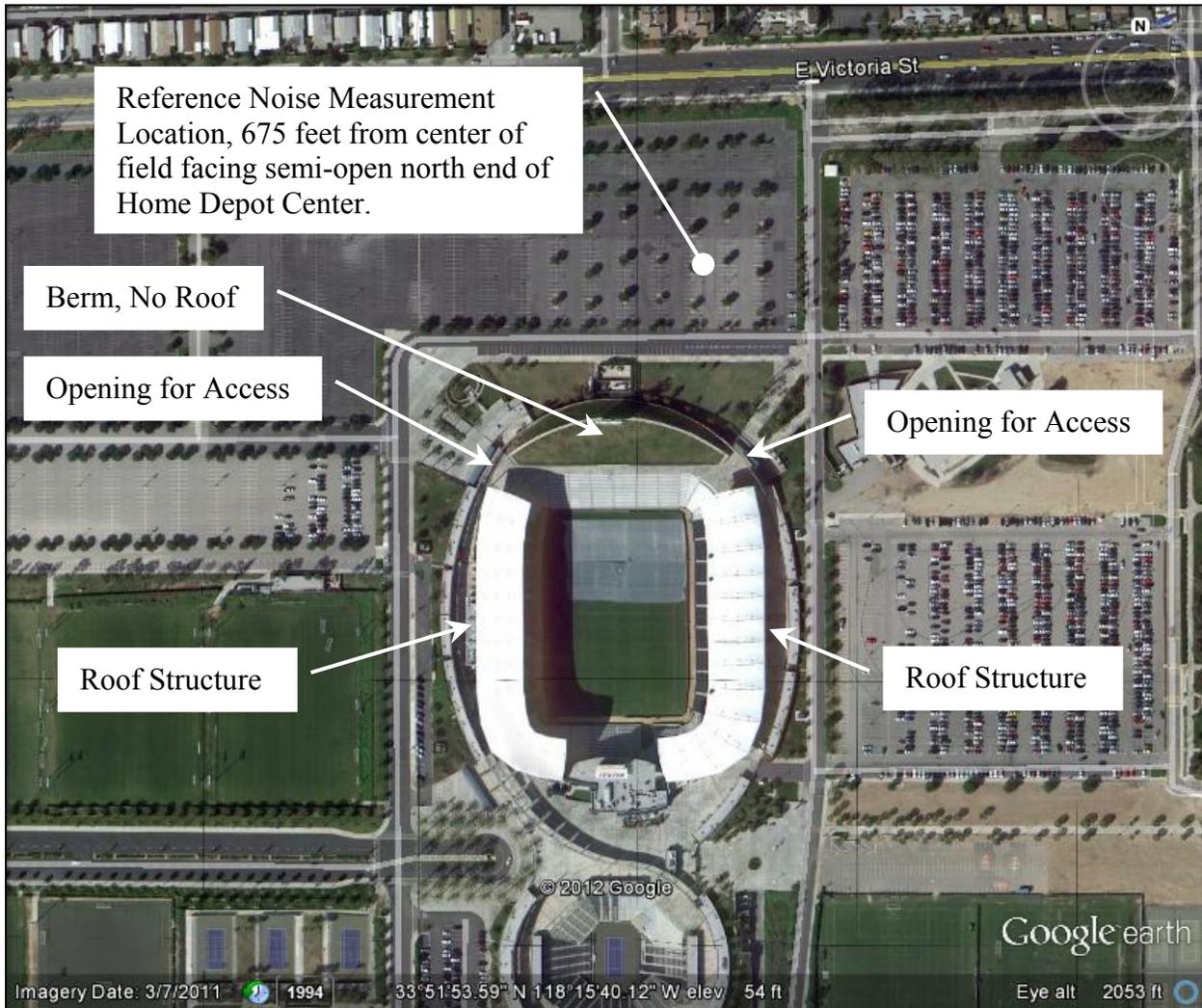


Figure 2 shows the line-of-sight from the reference noise monitoring position to the north end of the Home Depot Center. The reference noise measurements made as part of the EIR noise monitoring survey at the Home Depot Center were designed to represent the worst-case noise exposure from the Stadium Project as designed in 2007 and evaluated in the EIR. This earlier stadium design (see Appendix 2) had a small opening at the southwest corner of the stadium, similar to that measured at the Home Depot Center. The reference noise measurements were made at a location where the least amount of acoustical shielding would have been expected between the earth berm on the north end of the Home Depot Center and seating area on the east. Because of the improvement made to the proposed Stadium Project's design (i.e., fully enclosed seating areas to the west, south, and east), the reference noise levels measured at the Home Depot Center would now be considered to slightly overestimate noise levels emanating from the proposed Stadium Project. As such, our calculations of noise levels off-site remain conservative, as they include the 1-dBA safety factor and utilize data from a semi-open stadium design.

Figure 2 Photo from Reference Noise Measurement Location (675 feet from the Center of the Field) Looking South and Showing Semi-Open North End of the Home Depot Center



A review of the current Stadium Project plans, contained in Appendix 1, and the previous Stadium Project plans, contained in Appendix 2 shows the following; (1) removal of seating at the north end of the stadium; (2) continuous stadium seating at the south; (3) the addition of aluminum treads and risers; and (4) the addition of a fairly continuous roof element over the west, south, and east seating areas. Each of these minor design changes are discussed below:

- The removal of the seating at the north end of the site relocates those spectators to the east, south, and west portions of the stadium, and slightly redirects the crowd noise to the north toward Mineta San Jose International Airport and away from receptors to the south. This design change is an improvement over the design evaluated in the EIR.
- The continuous stadium seating on the south now forms noise barrier that will provide equivalent or greater acoustical shielding at residential receptors south of the site. The reference noise levels measured on the north side of the Home Depot Center as part of the EIR analysis now overstate noise levels expected from the proposed project at those receivers to the south. The relocated seats allowed raising the seating bowl height from 40 to 56 feet above grade to provide greater acoustical shielding for those sounds occurring at or near the field. This design change is an improvement over the design evaluated in the EIR.
- The proposed grandstands will be constructed from aluminum treads and risers, similar to the upper deck seating area at the Home Depot Center, which contains approximately 4,000 seats. The lower level seating area of the Home Depot Center contains approximately 6,000 seats with metal benches. “Foot stomping” could occur on either the metal treads or benches, and this particular noise source is of concern to nearby noise-sensitive receptors.

It should be noted that the noise measurements made at the Home Depot Center identified “foot stomping” only during one minute near the end of the first half of the soccer match (39th minute). This relatively infrequent noise was not substantial in terms of other maximum instantaneous noise level events or in terms of the hourly average noise level resulting from the soccer match. Maximum instantaneous noise levels from “foot stomping” were typically 59 to 61 dBA L_{max} at a distance of 810 feet southeast of the Home Depot Center. The noise level from this particular source was at least 6 to 8 decibels lower than the maximum instantaneous noise levels resulting from crowd cheers or PA announcements, measured to range from 67 to 71 dBA L_{max} at the same distance. Noise from “foot stomping” therefore did not substantially contribute to the hourly average noise level resulting from all of the noise sources attributable to the soccer match. Noise from potential “foot stomping” on the proposed aluminum grandstands would not be expected to be substantially different from the “foot stomping” noise observed at the Home Depot Center. Therefore, the maximum noise levels, hourly average noise levels, and daily average noise level projections made in the EIR, regardless of the construction materials or methods planned for the proposed grandstands, continue to apply. This design change has no measurable affect upon the noise levels calculated in the EIR.

- Finally, the addition of the roof element will contain a portion of the stadium noise that would otherwise propagate upwards and out of the stadium to distant receptors. This design change does not measurably affect the noise levels calculated in the EIR.

Although some design changes were noted during our review, these changes would not cause an increase in noise levels and in fact would slightly reduce noise levels emanating from the stadium.

Please note that the noise levels summarized in the EIR are determined for the exterior of the residential buildings, not within residential units themselves. Because the sound insulation properties of each affected building would vary depending on construction materials and methods, interior noise levels within residences can only be estimated at this time. A conservative rule of thumb calculation, assuming standard residential construction methods, would predict that interior noise levels would typically be 15 dBA lower than exterior noise levels with the windows partially open, and 20 to 25 dBA lower than exterior noise levels with the windows shut.

The noise data collected as part of the EIR at the Home Depot Center continues to credibly represent conservative, worst-case noise levels for the proposed Stadium Project as shown in the PD Permit Plans. The minor design changes are not significant from an acoustical perspective, and will not result in substantial changes to predicted noise levels at noise-sensitive land uses in the project vicinity. Predicted operational noise levels, noise impacts, and mitigation as summarized in the EIR would continue to apply to the Stadium Project as currently proposed.

Noise Data of Fireworks Displays

Illingworth & Rodkin, Inc. measured noise levels¹ from fireworks at an NFL game at Candlestick Park in San Francisco, California, on Sunday, December 7, 2008. Measurements were made before, during, and after a regular season football game between the San Francisco 49ers and the New York Jets. Reference noise measurements were made at one location outside of the “crows nest” above the press box at the top of the stadium and at a second location approximately 1,350 feet southeast of the stadium edge and approximately 1,800 feet from the center of the playing field. Pre-game fireworks resulted in maximum instantaneous noise levels up to 103 dBA L_{max} at the rim of the stadium. Maximum instantaneous noise levels from the pre-game fireworks were up to 65 dBA L_{max} at a distance of approximately 1,800 feet.

The Candlestick Point-Hunters Point Shipyard Phase II DEIR² was also reviewed for applicable noise data of fireworks. As summarized in Figure III.I-4 of the DEIR, pre-game fireworks resulted in maximum instantaneous noise levels up to 73 dBA L_{max} at a distance of approximately 800 feet from the center of the stadium.

A comparison of the data taken at distances of 800 feet and 1,800 feet from the center of the stadium shows a good correlation between the measured noise levels assuming spherical spreading from a point source. Typically, noise from a point source attenuates at a rate of 6 decibels per doubling of distance between the noise source and receptor. The calculated attenuation between the two measurement locations (from a distance of 800 feet to 1,800 feet) is 7 decibels.

Assuming spherical spreading from a point source, and the reference noise data cited above, noise levels from fireworks would be approximately 69 to 70 dBA L_{max} at the nearest sensitive receptors located approximately 1,200 feet from the center of the stadium. Given that charge sizes in fireworks can vary substantially, and that acoustical shielding from the edge of the stadium may or may not occur, it would be reasonable to assume that maximum instantaneous

¹ Illingworth & Rodkin, Inc., 49ers Stadium Project Environmental Noise Assessment, February 24, 2009.

² PBS&J, Candlestick Point-Hunters Point Shipyard Phase II DEIR, November 12, 2009.

noise levels from fireworks could be up to 10 dBA higher, and at times reach 80 dBA L_{max} at a distance of 1,200 feet from the center of the stadium. Maximum instantaneous noise levels from infrequent and intermittent firework displays (up to 80 dBA L_{max}) would fall within the range of the maximum instantaneous noise levels resulting from transportation related noise sources such as aircraft, railroad trains, and vehicular traffic as documented in the surrounding community as part of the noise survey completed for the EIR. Maximum instantaneous noise levels resulting from such noise sources were typically 70 to 85 dBA L_{max} during the hours when fireworks would likely occur (i.e., prior to 11:00 p.m.).



This completes our review of the PD Permit Plans for the San Jose Earthquakes Stadium Project. Please feel free to contact us with any additional questions or concerns.

Sincerely,

Michael S. Thill
Senior Consultant
ILLINGWORTH & RODKIN, INC.

(11-179)

Appendix 1 San Jose Earthquakes Stadium Plans (May 26, 2011)



SAN JOSE EARTHQUAKES STADIUM

1145 COLEMAN AVE
SAN JOSE, CA

DEVCON CONSTRUCTION INCORPORATED
690 Gibraltar Drive
Milpitas, California 95035
(408)942-8200 Lic. #399163

PROJECT SITE INFORMATION

PARCEL 'C' GROSS ACRES	24.9
PROJECT NET ACRES	12.6

PARKING SPACES

LOT	COMPACT	STANDARD	ACCESSIBLE	VAN ACCESSIBLE
LOT 1	0 SPACES	614 SPACES	41 SPACES	10 SPACES
LOT 2	1,141 SPACES	1,226 SPACES		
LOT 3	480 SPACES	1,739 SPACES		
LOT 4	0 SPACES	165 SPACES	6 SPACES	0 SPACES

TOTAL COMPACT	1,621 SPACES
TOTAL STANDARD	3,744 SPACES
TOTAL ACCESSIBLE	47 SPACES
TOTAL VAN ACCESSIBLE	10 SPACES
GRAND TOTAL	5,472 SPACES

COMPACT SPACES / TOTAL SPACES = 29%

***NOTE:**
TEMPORARY PARKING STRIPING SHOWN TO ILLUSTRATE EVENT PARKING CAPACITIES. PARKING AREAS ARE TO BE STAFFED BY PARKING PERSONNEL DURING EVENT HOURS.
ALL ACCESSIBLE PARKING STALLS TO BE PERMANENTLY STRIPED AND PAVED TO MEET ALL ACCESSIBILITY REQUIREMENTS AND ACCESSIBLE PATH OF TRAVEL REQUIREMENTS.

GENERAL NOTES:
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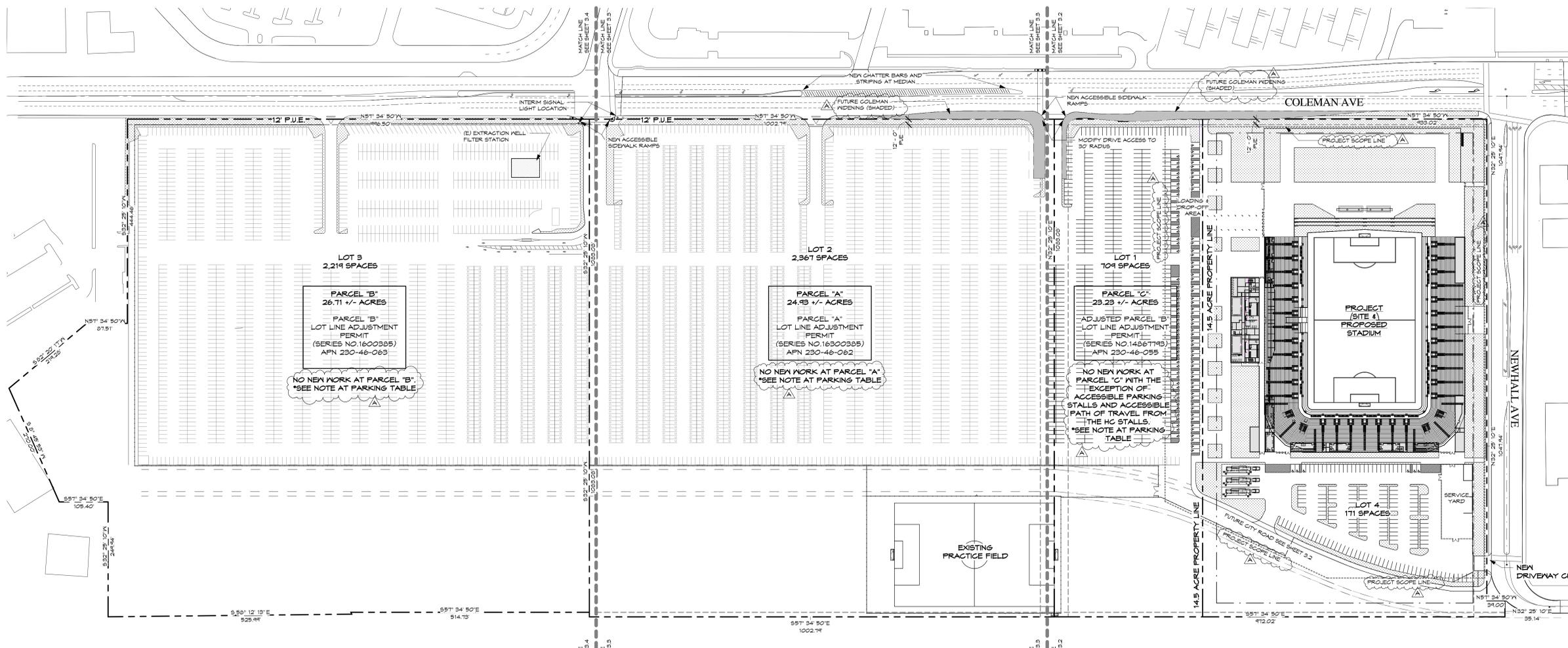
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REVISIONS

NO.	DATE	DESCRIPTION	BY
A	6-17-11	PLAN CHECK COMMENTS	

OVERALL SITE PLAN

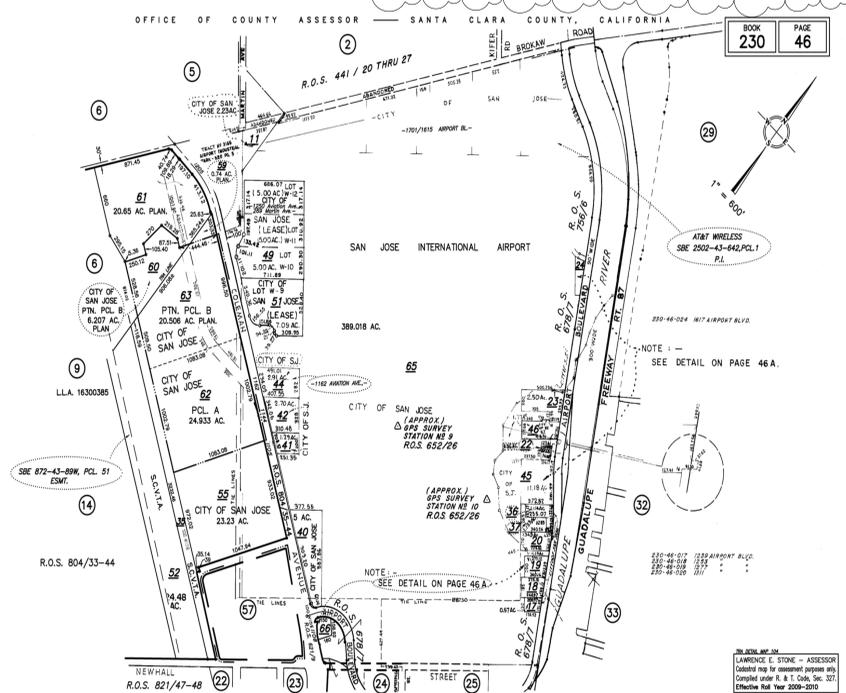
JOB NO. 10-532	SHEET NO.
DATE: 5-26-11	3.1
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CHECKED: BD	
ISSUE: PD RESUBMITTAL	



1 SITE PLAN
1" = 100'-0"

PERVIOUS AND IMPERVIOUS SURFACES COMPARISON (PROJECT SITE ONLY)

Existing Condition	Existing Condition (sq. ft.)		Proposed Condition (sq. ft.)		Difference (sq. ft.)	
	Area	%	Area	%	Area	%
SITE BUILDING FOOTPRINTS	665,300	100	665,300	100	0	0
PARKING	0	0	116,792	17	116,792	17
SIDEWALKS, PATIOS, PATHS...	628,416	94	287,929	44	(340,487)	(50)
STREETS (PUBLIC/PRIVATE)	0	0	0	0	0	0
LANDSCAPING	36,684	6	231,634	35	(194,950)	(29)
Total	665,300	100	665,300	100	0	0
IMPERVIOUS SURFACES	628,416	94	433,466	65	(194,950)	(29)
PERVIOUS SURFACES	36,684	6	231,634	35	(194,950)	(29)
Total	665,300	100	665,300	100	0	0



4 PARCEL MAP
1: 7200



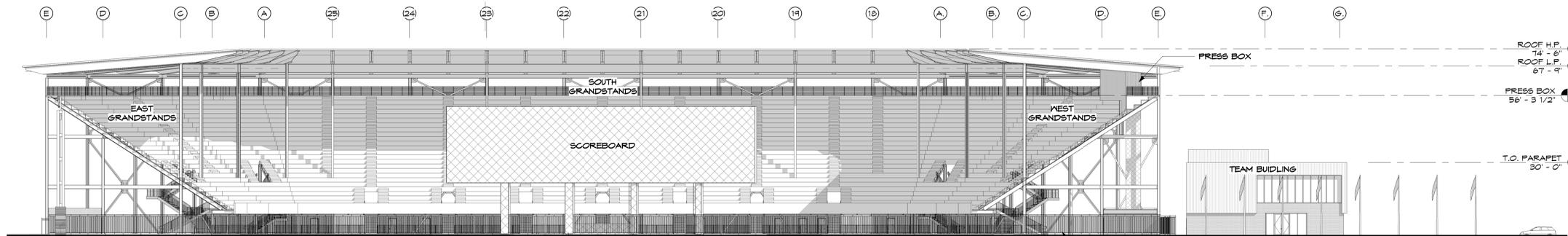
**SAN JOSE
EARTHQUAKES
STADIUM**

1145 COLEMAN AVE
SAN JOSE, CA

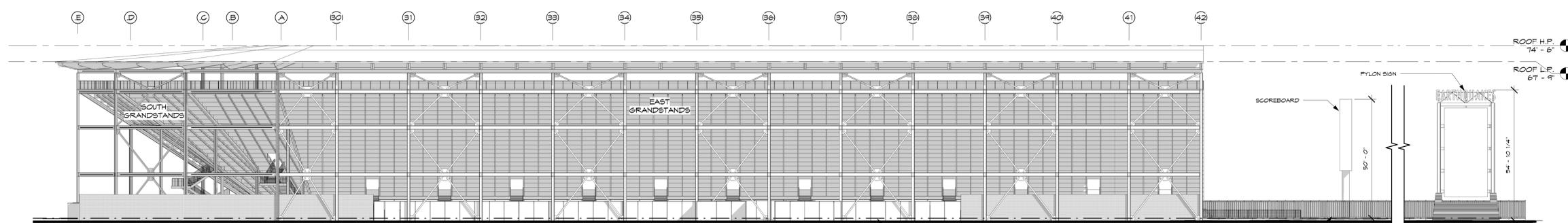


**CONSTRUCTION
INCORPORATED**

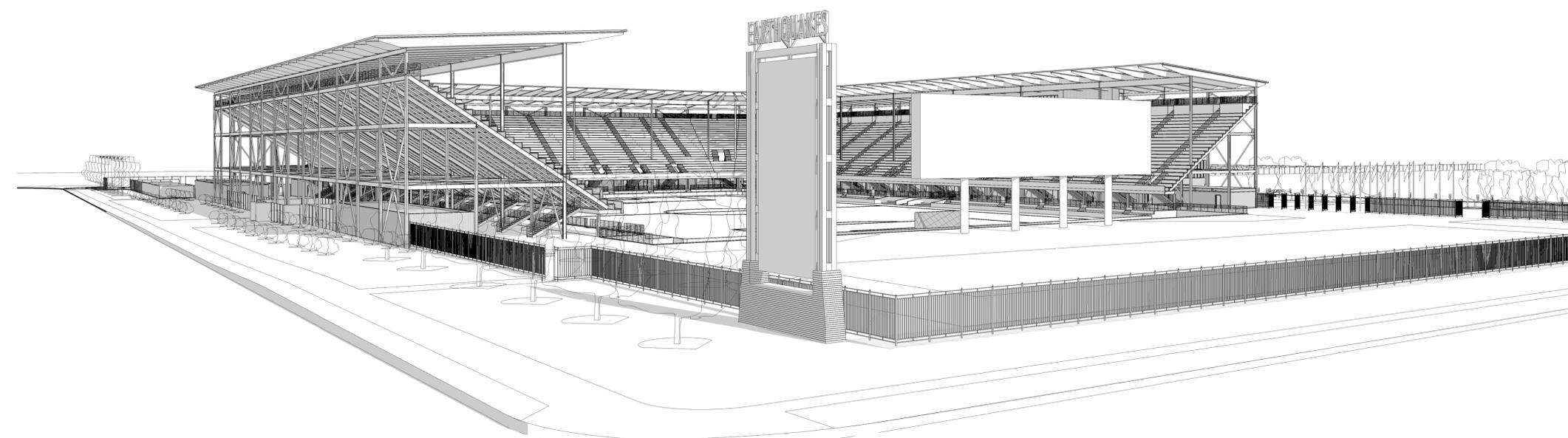
690 Gibraltar Drive
Milpitas, California 95035
(408)942-8200 Lic. #389163



1 ELEVATION FROM COLEMAN AVENUE
1" = 20'-0"



2 ELEVATION FROM NEWHALL AVENUE (EAST)
1" = 20'-0"



4 PERSPECTIVE FROM INTERSECTION OF NEWHALL & COLEMAN

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**OVERALL STREET
ELEVATIONS**

JOB NO. 10-532
DATE: 5-26-11
DRAWN: SG
CHECKED: BD
ISSUE: PD RESUBMITTAL

SHEET NO.

5.0

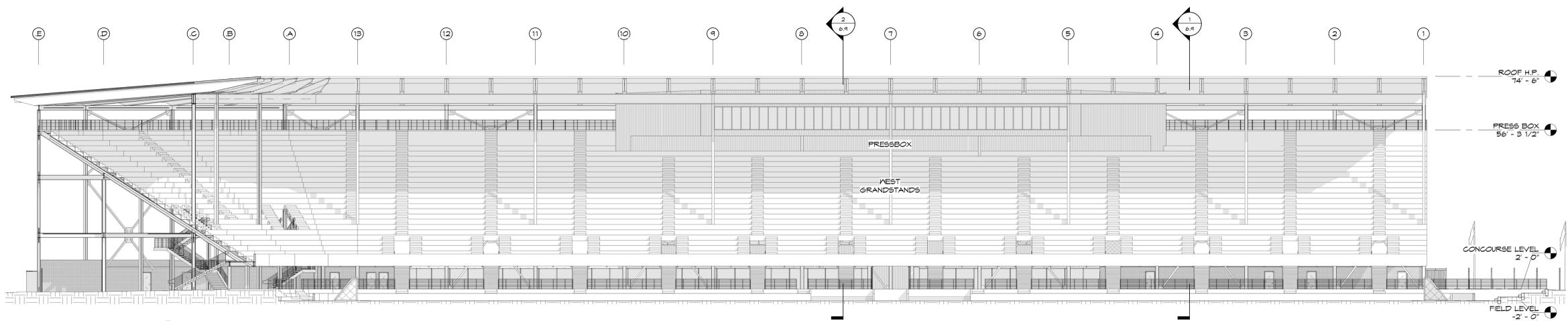
OF SHEETS



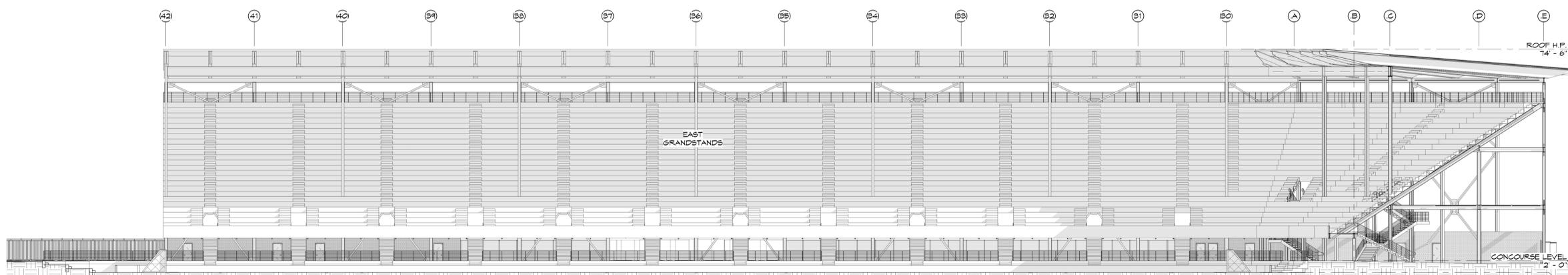
SAN JOSE EARTHQUAKES STADIUM

1145 COLEMAN AVE
SAN JOSE, CA

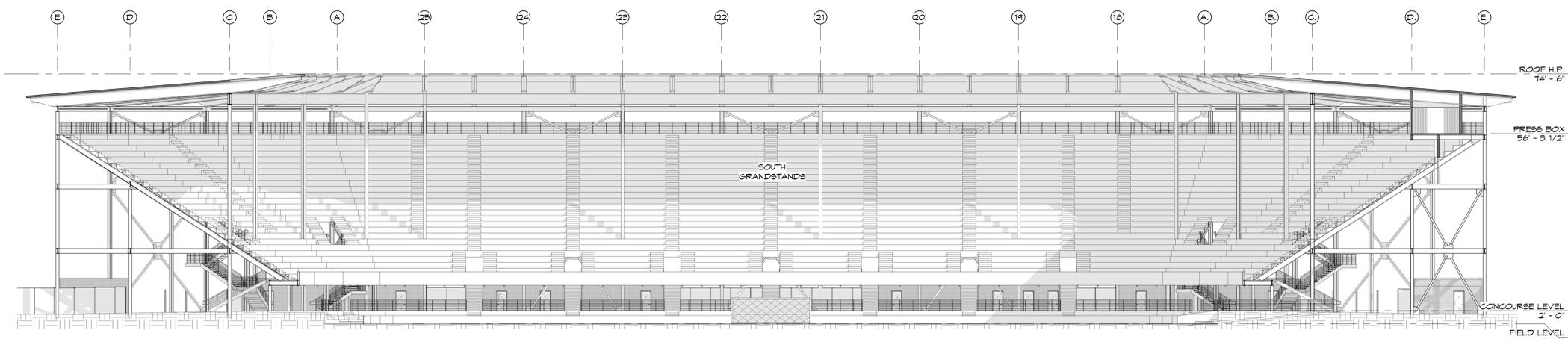
DEVCON CONSTRUCTION INCORPORATED
690 Gibraltar Drive
Milpitas, California 95035
(408)942-8200 Lic. #389163



1 FIELD WEST ELEVATION
1/16" = 1'-0"



2 FIELD EAST ELEVATION
1/16" = 1'-0"



3 FIELD SOUTH ELEVATION
1/16" = 1'-0"

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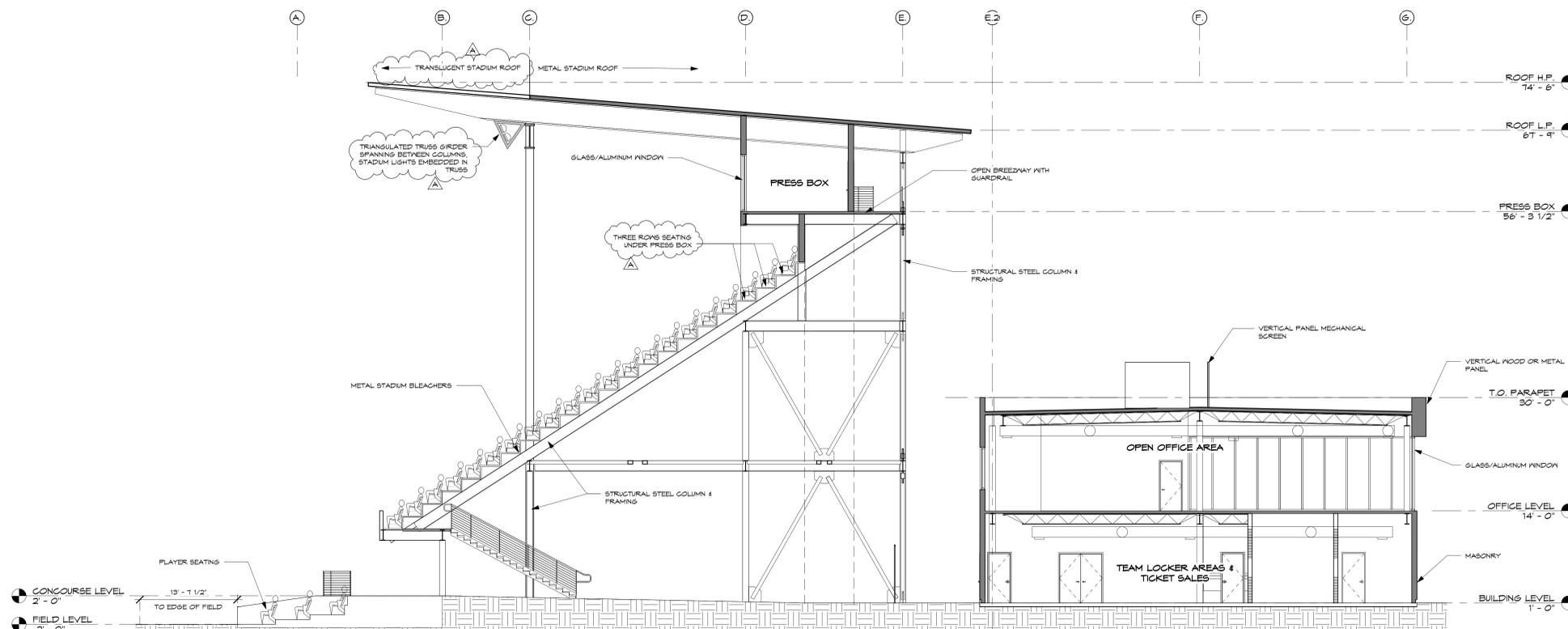
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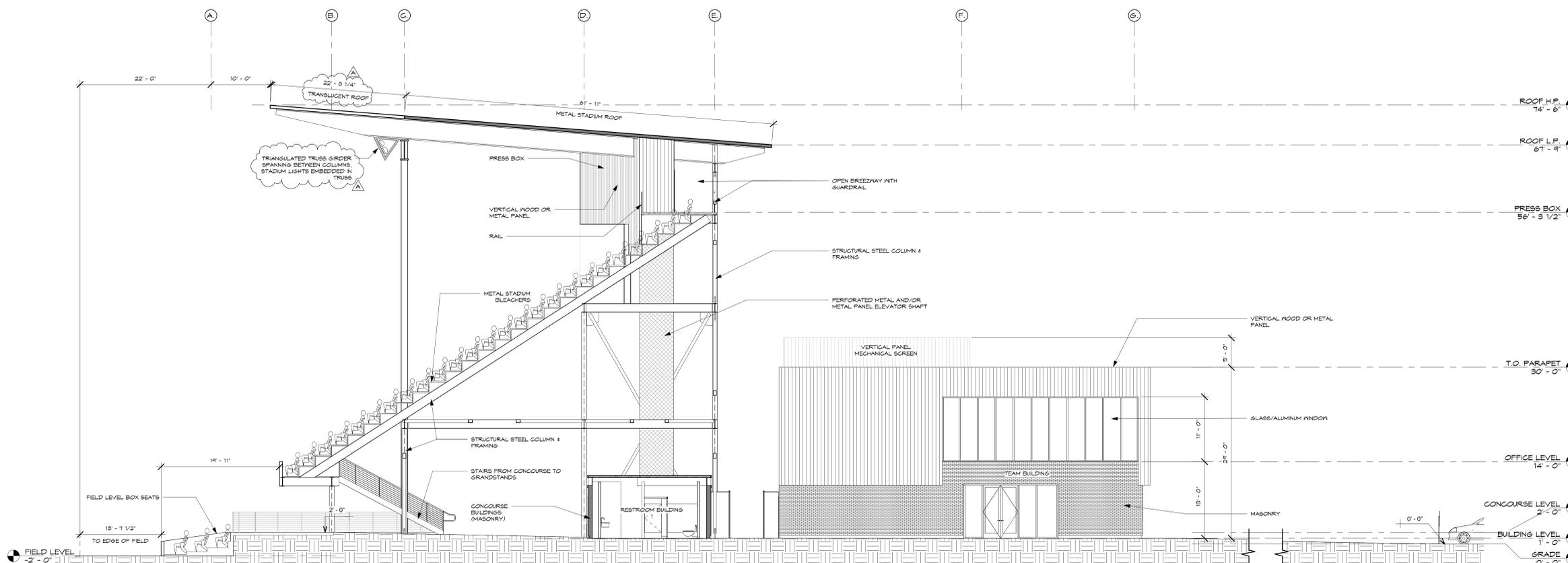
NO.	DATE	DESCRIPTION	BY

FIELD ELEVATIONS

JOB NO. 10-532	SHEET NO.
DATE: 5-26-11	5.1
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ISSUE: PD RESUBMITTAL	
	OF SHEETS



2 SECTION THROUGH PRESS BOX
1/8" = 1'-0"



1 SECTION AT WEST GRANDSTANDS
1/8" = 1'-0"

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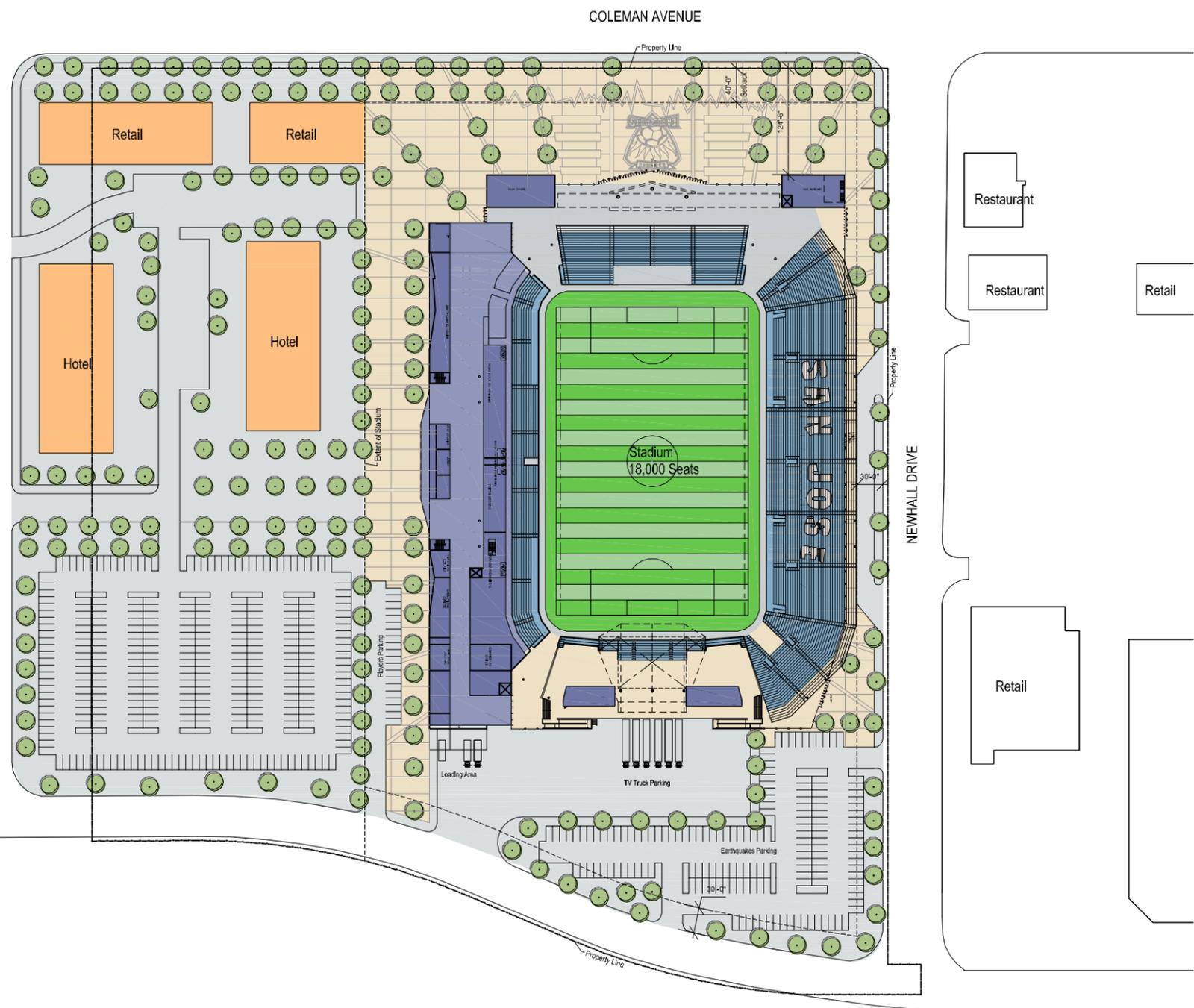
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BUILDING SECTIONS

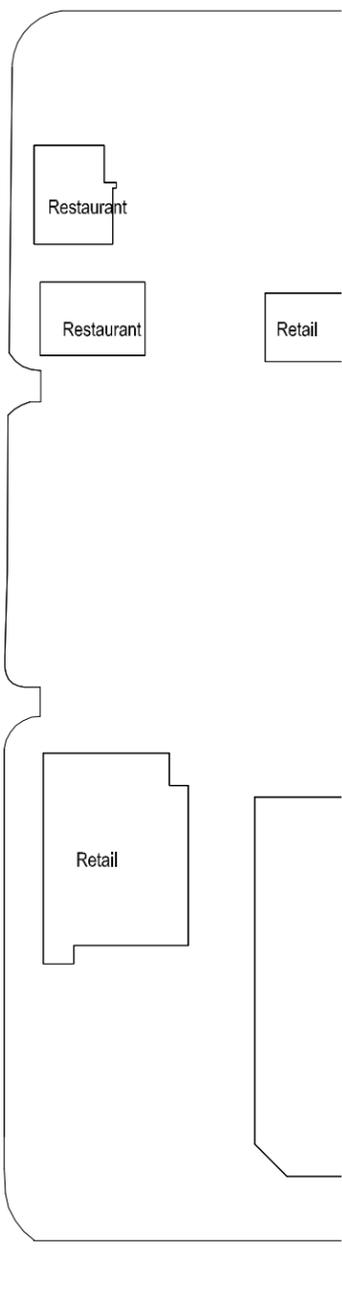
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DATE: 5-26-11	6.9
DRAWN: SG	OF SHEETS
CHECKED: BD	
ISSUE: PD RESUBMITTAL	

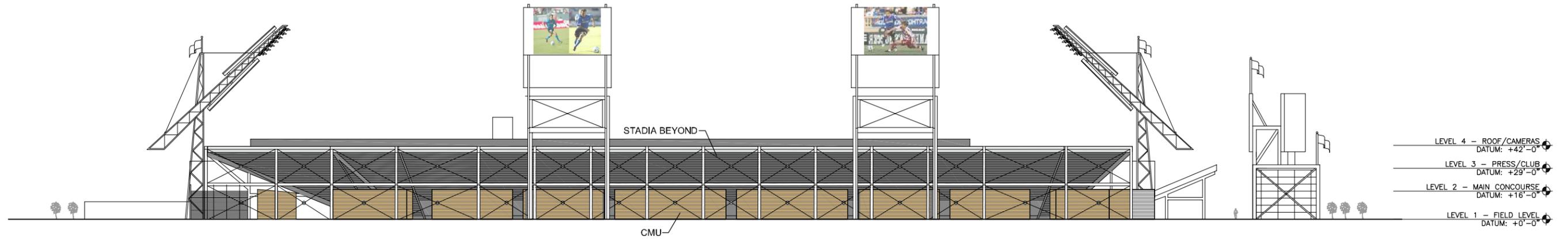
Appendix 2 San Jose Earthquakes Stadium Plans (April 11, 2008)



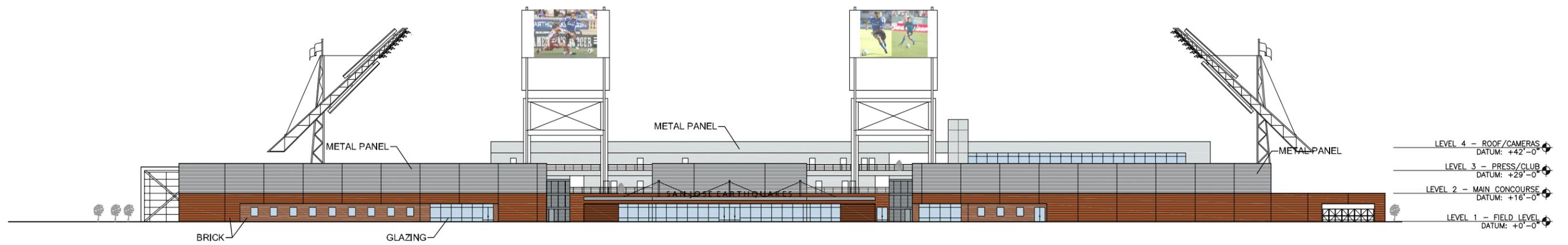
Seat Count

Seats, General	-	15,084
Seats, Club (20")	-	828
BF + Comp	-	276
Removable Seats	-	1,312
Suites	-	500
Total	-	18,000

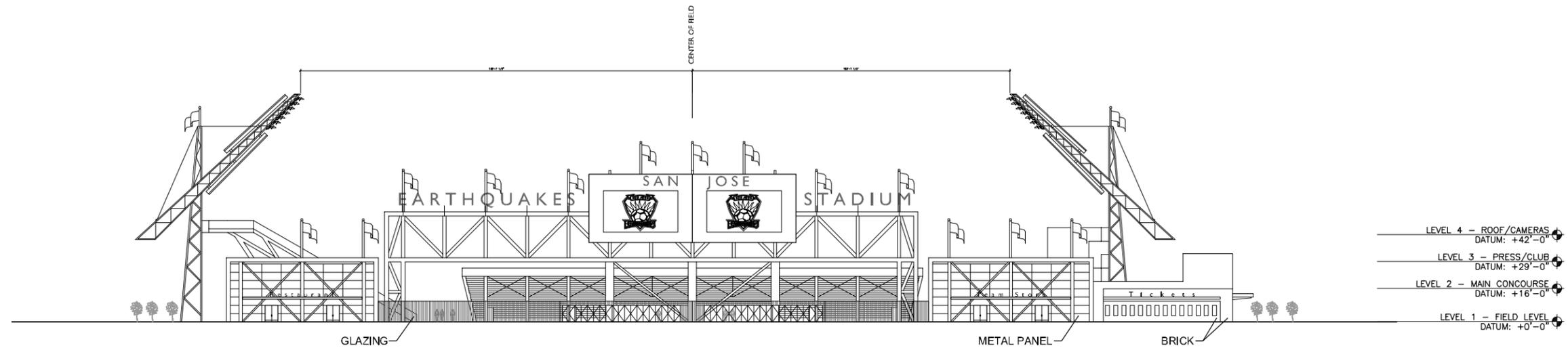




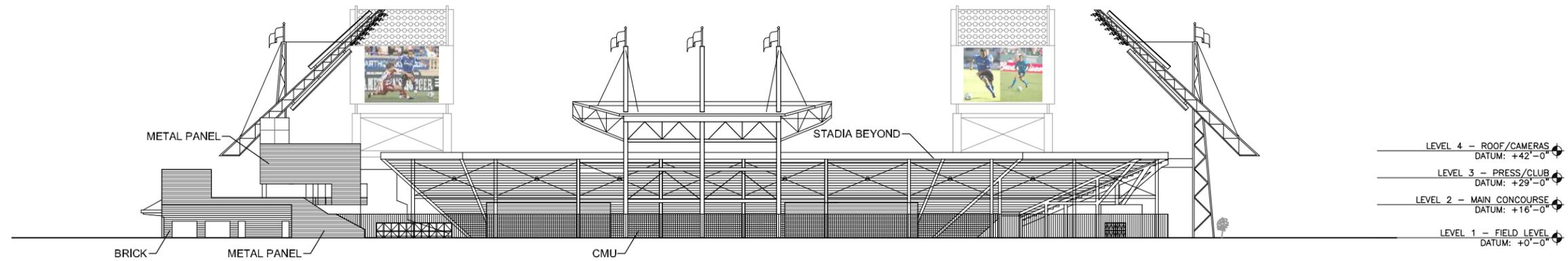
EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

Appendix 3 MLS Soccer Noise Levels at the Home Depot Center (September 13, 2007)

**MLS Soccer Noise Levels at the Home Depot Center
between 5:00 p.m. and 10:00 p.m.
September 13, 2007**

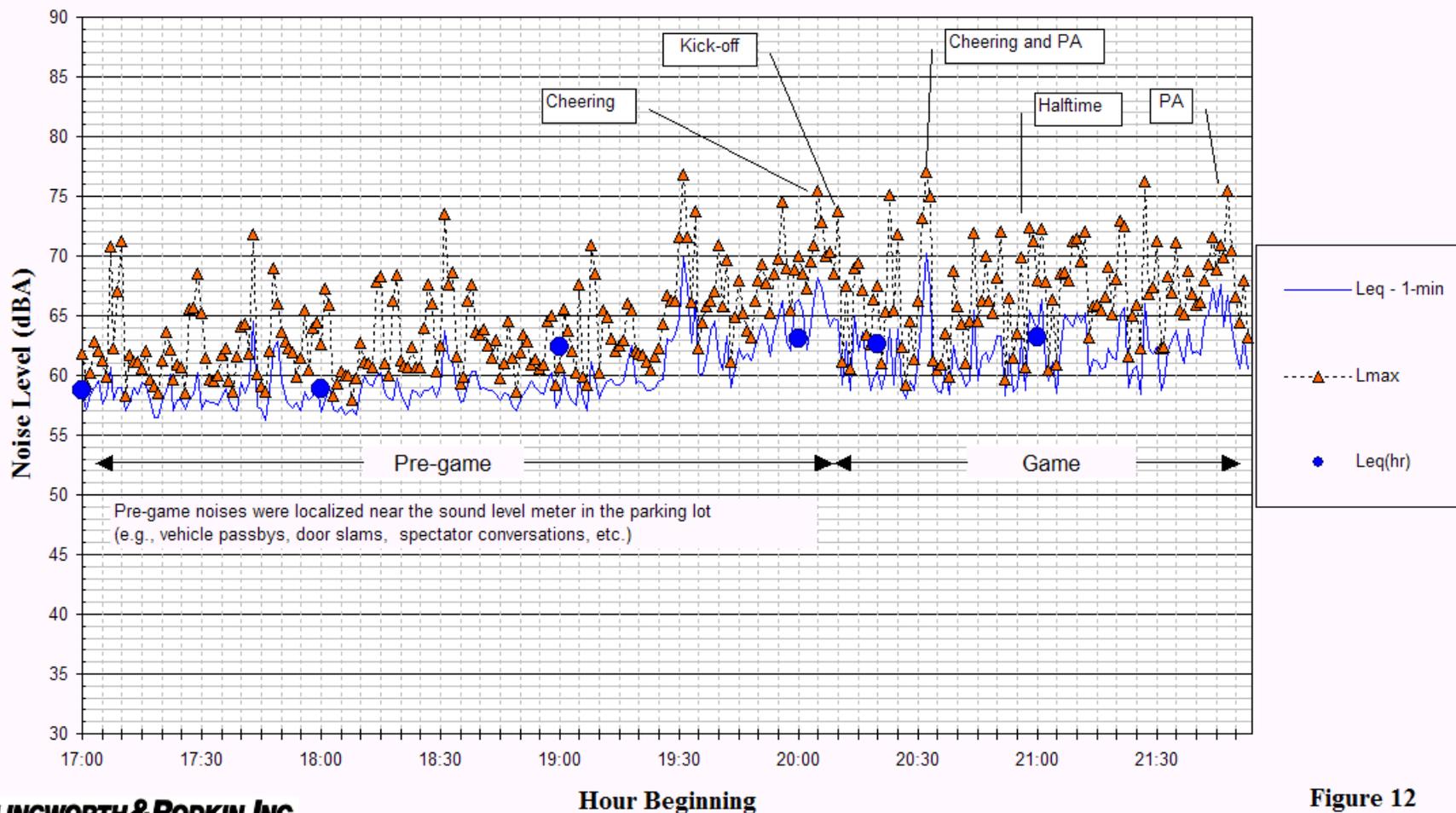


Figure 12

Neighbor Correspondence

Xavier, Lesley

From: Helen Chapman [4chapmanfam@sbcglobal.net]
Sent: Monday, December 12, 2011 11:56 PM
To: Horwedel, Joseph; jean.hamilton@sanjoseca.gov; Xavier, Lesley
Cc: Matthew Bright; Urban, John; Eloy Wouters; Marc Morris
Subject: Airport West Stadium PD Permit- PD11-002

Dear Director Horwedel,

Recently I heard the comment, When it comes to encouraging great development projects to build in our City, we are told...it's just San Jose. Other cities can capture the talent and the innovation it takes to produce a development of significance, while in San Jose we have learned to just accept what is in front of us.

In terms of the Planned Development permit (PD11-002), Airport West it is of the utmost importance that attention to detail be adhered to to address the concerns of the nearby residents and business owners.

The Good Neighbor process that is proposed must be clear and enforceable. In tough budget times, funding must be set aside or provided for within the terms of the project to proactively mitigate concerns prior to the implementation of the development. The residents of the Shasta Hanchett Park Neighborhood Association will be watching closely as this project development mirrors the proposed Baseball stadium proposal. If the city can not in good faith work with its surrounding neighbors at this juncture, it will set the precedent for what we will come to expect from the development of a Baseball stadium.

I respectfully ask that the Director consider adding an additional fee on the price of ticket sales to help offset the cost of neighborhood mitigations and that this be added to the language of the pd permit and that the difference in the cost of the ticket cost go directly back to the neighborhood it affects not the General Fund.

In the case of parking -I request that a fine shall be levied on any non-compliant parking lot that is not directly attached to the development, and the fine collected again should be returned to the neighborhood adjacent to the development. Non-compliant parking lots are an issue on the evenings of Sharks Games that are within the boundaries of the S/HPNA neighborhood and continue to be unmonitored. This is lost revenue source for the city and part of the TPMP agreement with our association that is disregarded.

I look forward to continued dialog with your department as the project progresses.

Best regards,

Helen Chapman
1556 Hester Av
San Jose CA 95126-2519

"Never doubt that a small group of thoughtful citizens can change the world. Indeed, it is the only thing that has."
- Margaret Mead

1/23/2012

Xavier, Lesley

From: Robert Kane [robertmkane@yahoo.com]
Sent: Monday, December 12, 2011 9:31 PM
To: Horwedel, Joseph; Hamilton, Jeannie; Xavier, Lesley
Subject: Comments about Earthquake's Stadium

Dear Mr. Horwedel, Ms. Hamilton, and Mr. Xavier,

I'm writing about my concerns for the future Earthquakes soccer stadium to be located on Coleman Ave, next to the San Jose Airport since I will not be able to attend the meeting on Wednesday morning. As you already know, the propose stadium site neighbors the Newhall Neighborhood of San Jose.

I find it disappointing that the draft permit was only released this past Friday after requests from the neighborhood, essentially giving very little time for residents to review and respond. Also, I hope the City of San Jose went past the minimum 1,000 feet radius of informing residents since residents past the 1,000 radius will surely be affected as well.

I like soccer. I played as a youth as well as playing on the JV and varsity teams when I was in high school. It's the world's sport and I think it's great that the Earthquakes have a good following in San Jose and from the rest of the Bay Area. That said, I would think that the city would want to make this stadium an icon, something the city and its residents can truly be proud of, without taking short cuts.

During the last World Cup, Cape Town built a brand new stadium that's virtually sound proof. Talk about being a good neighbor! It was designed and built this way because neighbors there had concerns about noise. This is what San Jose should be using a model for their future stadium. Read more about it here: <http://www.popsci.com/science/article/2010-05/south-africas-soundproof-stadium>

Anyway, here are some of my concerns and I'm sure a lot of me neighbors would share similar concerns and more.

Noise pollution: The stadium must be designed in a way to minimize noise impacts to the neighborhood. Crowd noise and speakers are a concern. Also, if the stadium is built with little money, open, aluminum stands will be very noisy from the crowd stomping on the stands. Noise makers that fans might possibly bring with them should be banned.

Light pollution: Lighting needs to be directed away from the neighborhood. Intelligent light design with hoods and etc must be used. The permit mentions time limits for parking lot lights yet nothing is stated for the stadium itself. Time limits need to be set for the stadium.

Fireworks: Please ban any use of fireworks. They're disruptive and dangerous. We're right next to an active airport.

Other Stadium Uses: Please keep the use of the stadium for sports only. Please, no concerts.

Good Neighbor Plan: A good example to follow is Portland Oregon's plan. San Jose can do better than what they've proposed.

In closing, a smartly designed stadium is feasible. But San Jose must work with all interested parties to get this done correctly. I'm sure if this is done, a stadium will be built that all can be proud of with minimum impacts to the neighbors of the stadium.

Thank you for your time and consideration.

Best regards,

Robert M. Kane

1253 Arabica Ter.

San Jose, CA 95126

December 9, 2011

Lesley Xavier
Planning Division
Planning, Building and Code Enforcement
City of San José
200 E. Santa Clara Street
San Jose, CA 95113

Dear Ms. Xavier,

I am writing in support of the new stadium project submitted by the San Earthquakes to the San Jose Planning Department. We are extraordinarily fortunate the Earthquakes are willing to invest in our community and they deserve full support for fast approval.

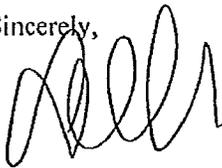
I have been to many presentations and meetings with Mayor Reed where the "can do" and business friendly attitude has been professed. This is an opportunity to prove San Jose can parallel process and back up this commitment. I have been involved in two major construction projects in San Jose with both our brewery restaurant and the brewery production facility. We were given that very type of proactive support and I hope the city can rise to this occasion and remove as much red tape as possible to get this stadium open as quickly as possible.

The noise impact compared to the airport take off and landings and the previous FMC armored vehicle tests that took place on the location make a soccer stadium a vast improvement over the prior uses. I am shocked to hear that concerts are not part of the Earthquakes use permit and I feel it is a travesty to limit their ability to attempt to make a profit. It is extraordinarily difficult to justify and cover the cost of a stadium with 20 home games per year.

The ownership of the Earthquakes is stellar at partnering with local companies such as Gordon Biersch. The economic impact for all businesses will be tremendous. More events at the new stadium will simply translate to more revenue across the board for businesses, residents and tax revenue.

I respectfully request that everything be done to make this process as expeditious, collaborative and as low cost for the Earthquakes as possible.

Sincerely,



Dan Gordon
Co-Founder
Gordon Biersch Brewing Company

cc: Mayor Chuck Reed, Councilmember Sam Liccardo, David Kaval

Xavier, Lesley

From: John Urban [urbanjohnnewhall@yahoo.com]
Sent: Wednesday, December 14, 2011 1:07 AM
To: Horwedel, Joseph
Cc: Hamilton, Jeannie; Xavier, Lesley
Subject: Comments to PD11-002 – Airport West Stadium Planned Development Permit

Mr Horwedel,

Subject: Comments to PD11-002 – Airport West Stadium Planned Development Permit

NOISE

Staff

There is no process in place to address noise when an event is not occurring. Noise made at the Home Depot Center occurs at hours when the event has not started and long past completed. Noise from broadcast equipment assembly and breaking down is a huge problem in Carson, CA adjacent to the Home Depot Center. Under the current draft PD permit there is no provision that forbids this behavior during hours after and before the events. Strict provisions must be included in the PD Permit to prohibit this behavior between 10:30PM and 7:00A everyday. The lights out at 10:30PM in the paying public parking lot is commendable, but the real after hours noise starts when the broadcast equipment assembly and break down, maintenance crews and clean up crews start their jobs. Restrict this behavior between 10:30P and 7:00A Seven days a week.

Noise Makers

All noise makers should be banned from the Airport West Stadium. There is no section of the PD Permit that addresses this issue. Strict provisions must be included which does not allow wind, brass or percussion instruments to be played, sold, given away free or allowed at all on the stadium property. This is common practice at event stadiums, yet the City of San Jose does not respect its citizens enough to include this in the PD Permit. Please place these restrictions into the PD Permit.

Fireworks

Fireworks should be banned from use on the stadium property. With arriving and departing airplanes at San Jose International airport to the northeast, I-880 to the southeast, the San Jose International airport Control Tower to the northwest, fireworks will undoubtedly be pointed toward the residents on Campbell Avenue. This is unacceptable. There are too many sensitive receptors in the area to allow fireworks. Change the PD Permit to ban them from use on the Stadium property.

John Urban
President
Newhall Neighborhood Association

Xavier, Lesley

From: Steve Kline [slkesq@me.com]
Sent: Tuesday, December 13, 2011 10:50 PM
To: Horwedel, Joseph
Cc: Urban, John; matthew.bright@gmail.com; Hamilton, Jeannie; Xavier, Lesley; Helen Chapman; Kinman, Randi
Subject: Fwd: Comments on Coleman Ave stadium PD Permit - PD11-002
Attachments: HDC-Brick wall.jpg; ATT82506569.htm; HDC-Earthen Berm.jpg; ATT82506570.htm; Portland OR - PGE Park Good Neighbor Agreement.pdf; ATT82506571.htm

Dear Mr. Horwedel,

I have read the email that Mr. Bright sent to you which is copied and pasted below. As a resident of District 6, I am deeply concerned about the significant points that are being raised by him. I know that this neighborhood has attempted to work out its issues with the applicant, to little or no avail.

I join in their request that this draft permit be withdrawn from this week's Director's Hearing if sufficient supporting sound and light models, revised design, revised conditional use, and consultation with the surrounding neighborhood cannot be completed properly before the hearing.

The attempt to streamline this process only exacerbates the experienced frustration and increases the discontent. I urge you to require the requested models and consultations to be produced prior to a full public hearing during evening hours for full community participation. Due process for our neighborhoods deserve nothing less.

Thank you for your consideration.

--- Steve Kline

From: Matthew Bright <mat@mattbright.com>
To: Sam Liccardo <sam.liccardo@sanjoseca.gov>; "Horwedel, Joseph" <joseph.horwedel@sanjoseca.gov>
Cc: John Urban <urbanjohnnewhall@yahoo.com>; Helen Chapman <4chapmanfam@sbcglobal.net>; "Hamilton, Jeannie" <jeannie.hamilton@sanjoseca.gov>; Lesley Xavier <lesley.xavier@sanjoseca.gov>
Sent: Tuesday, December 13, 2011 10:04 AM
Subject: Comments on Coleman Ave stadium PD Permit - PD11-002

Councilmember Liccardo and Director Horwedel,

As Newhall neighbors have said in the past, we welcome soccer and private development dollars in the City of San Jose. We fully agree with Councilmember Liccardo's comments in the PD Zoning hearing that "This is a great opportunity for the city, but we want to make sure that we do it right." Our primary and exclusive focus has been achieving compatibility (in design, construction, and operation) with existing and established residential uses. After all, the applicant was not forced to locate the project a 20-second Tommie Smith and John Carlos run away from kids trying to get a good night's sleep. The City, therefore, has the

responsibility to be the referee and ensure that mega-projects proposed for a densely populated residential area will respect those existing and established uses at all times - during construction, during operation, and even after a change in ownership.

Preliminary review of the draft PD Permit, posted only Friday after a specific request from the neighborhood, reveals significant issues that undermine the integrity of the analysis leading to the draft Permit and have the potential to doom the Good Neighbor concept from the start. For example:

- The noise model stadium used by the applicant differs significantly from the current Coleman Ave stadium design. Reliance upon conclusions drawn from this noise model may significantly impact neighboring residential uses in San Jose and Santa Clara in a materially adverse way. The reference stadium used as a noise model in the applicant's supporting documentation is significantly and materially different from the proposed Coleman Ave stadium. The proposed Coleman Ave stadium, for example, uses 100% above-grade, stomp-friendly aluminum bleachers, with bottoms/back 100% open to the air and surrounding neighborhood and no proposed noise mitigation/attenuation. By comparison, the reference stadium uses aluminum bleachers for only 15% of its capacity. This by itself is a material difference that raises significant concerns about the applicant's use of this reference stadium throughout the noise analysis. The noise letter states that bleacher stomping in the reference stadium increased the noise level, so it is logical to assume that a 300% potential increase in aluminum seats would further increase the noise level. Furthermore, the reference stadium differs from the proposed Coleman Ave stadium in that it is partially below grade (compared to 100% above grade at Coleman Ave) and features a large earthen berm (photo attached), specifically for sound attenuation. In addition, the reference stadium is partially enclosed by a masonry wall (photo attached), whereas Coleman Ave is 100% exposed apart from fabric sheets with no acoustical benefit. Even with these design elements, the reference stadium was still the target of successful legal action brought by a neighboring residential community and a statewide advocacy group. It may be tempting to suggest that there is no issue because the stadium renderings are similar to the renderings shown in the EIR and PD Zoning phase. However, keep in mind that the City Council and neighborhood were both instructed to wait for the PD Zoning phase to see a final proposed design. We have just now seen that proposed design, and it does not adequately address the issues that existed since early 2010.

- The applicant has not met the burden of proof that the design complies with the EIR, because the noise and light impacts of the proposed stadium design have not been properly simulated. In the EIR & PD Zoning hearing, as well as the recent project community meeting that you attended, residents requested the same level of sound and light modeling performed for the proposed downtown baseball stadium. In response to the request at the EIR & PD Zoning hearing, Planning Director Horwedel stated that the PD Permit phase would be the right time for this modeling to happen. The modeling did not happen, and neighbors are left to wonder why. Is it because there is private concern that modeling would reveal that more changes need to be made for the project to comply with the EIR, even for soccer events? A supplemental EIR may already be needed now, since the proposed final design differs substantially from the reference stadium used in the EIR analysis. The cost of this analysis should not factor into the City's decision. If the applicant cannot cover the cost of a thorough analysis of the proposed final design, then it cannot be assumed that the applicant has the ability to cover the cost of construction.

When asked in the PD Zoning hearing about the process step at which the City would discuss additional noise mitigation with the applicant, Director Horwedel stated "Because the challenge is at this point,... I don't have an engineering design to work from for the noise consultant", and "prior to the issuance of PD permit, those are the things we would be working through... getting the more specific design of the stadium so that kind of we have something that's real. Tangible at that point." Please accept our apologies for the rough transcript from the City's Granicus service. The bottom line is that the neighborhood was promised additional analysis at the PD Permit stage, but the only response has been a short letter, based on flawed reference assumptions, stating that no additional analysis was needed. This violates the spirit of the discussion in the PD Zoning hearing and contradicts representations that may have been relied upon by Council members in their vote to approve the EIR and PD Zoning.

Residents are concerned about potential noise and light trespass, not specifically evaluated in the EIR, through a large open-air gap between the top of the stands and the roof structure. To our knowledge, no attempt has been made to model the sound and light properties of this gap, which directly faces our densely populated neighborhood. Without proper modeling, the impact of sound and light escape through the gap cannot be quantified and there is insufficient evidence to reasonably believe that the current proposed design will comply with the EIR for soccer events. This gap needs to be closed to avoid both light and sound trespass, and the stadium needs to be properly modeled to confirm the noise levels after the gap is closed. By closing the gap, which provides no obvious benefit as-is, the applicant can also improve spectator comfort by avoiding the AT&T Park-like intrusion of cold wind and rain into the seating area.

Furthermore, the supporting documentation for the PD Permit sent to the public on November 22 did not include any analysis of light trespass outside of the stadium site. The documentation included only on-field light analysis and light analysis in the stands and parking lot. To demonstrate compliance with the EIR, the applicant needs to show data, based on the proposed final design and including the two newly proposed light towers, that the light plan complies with the EIR.

The City of San Jose needs to require a thorough modeling of the various types of events proposed for the stadium, using specific and proposed final engineering drawings provided by the applicant. Without this data, the City has insufficient evidence to indicate that the design complies with the EIR and should not approve a PD Permit.

- The permit needs to prohibit artificial noisemakers. In particular, vuvuzelas and other horns (which are already banned at Jen-Weld Park in Portland, throughout the NFL, and in all UEFA (European soccer) events) must be prohibited and the stadium operator must enforce a ban on such noisemakers in parking areas as well as the stadium itself. Furthermore, the operator must be prohibited from arranging any noisemaker giveaways. Multiple clubs in the UK ban musical instruments altogether. Tottenham, a close partner of the Earthquakes, was quoted by CNN as stating ""We are very proud of the fantastic atmosphere that our supporters produce organically at White Hart Lane and we are all very much looking forward to this continuing into the forthcoming season" (emphasis added). In addition, according to that facility's website, the Home Depot Center reference stadium forbids "Noisemakers, whistles, air horns, musical instruments, drum sticks".

- Section 12, describing the prohibition of concert and other "extraordinary" events, is weak and differs substantially from the process described by Councilmember Liccardo and Director Horwedel at the community meeting. Furthermore, it must not be subject to Title 20 streamlining activities to grant any over-the-counter permit for an "extraordinary" event.

The applicant plainly stated in the community meeting that they requested to exclude concerts from the PD Permit because they do not believe that the current stadium design could comply with the EIR during concert events. Therefore, the current stadium proposal is not designed for "extraordinary events". Therefore, such events should therefore be simply and plainly prohibited.

With respect to the process for approving extraordinary events:

First, at the community meeting, Councilmember Liccardo and Director Horwedel said multiple times, in response to precise questioning, that a public hearing in front of City Council would be required to permit concerts in the future. This means that a supplemental EIR would need to be issued to properly model extraordinary events, impacts, mitigation, and alternatives. The language of Section 12 needs to be updated to read that a Supplemental EIR is required prior to the consideration of concert or "extraordinary" events at any time in the future. Furthermore, the requirement that "the noise analysis shall measure actual noise from such event at the stadium as experienced in the surrounding neighborhood..." cannot be satisfied because no such events can be permitted in the first place. The language should be updated to read "thoroughly simulate using best practices for sports stadiums in residential areas" instead of "measure". Of course, such a simulation for the Supplemental EIR must follow all best practices and use precise computer models of the facility and surrounding area.

Second, in addition to the above, the permit must be clear that any process (which the neighborhood believes should be the Supplemental EIR certification process) is not subject to any Title 20 streamlining activities and requires a community meeting and public hearing. In no event should an over-the-counter permit be allowed to allow an extraordinary event.

- The Good Neighbor Plan proposed in Section 17 does not follow best practices for managing community relations between soccer-specific stadiums and residential areas. The Plan must be modified substantially in cooperation with the applicant and surrounding neighborhoods. In particular, the draft Permit does not follow the MLS precedents that the neighborhood recommended to the Planning department and Council offices as early as March 2010. The Jen-Weld Field (formerly PGE Park) example in Portland, Oregon remains the best implementation we have seen. The Home Depot Center arrangement, while flawed and already prone to expensive lawsuits, is still more substantial than what was proposed for Coleman Ave. The CEMOF (Caltrain Equipment Maintenance and Operations Facility) Monitoring Committee is a local example of a meaningful good neighbor program. In addition, the City of San Jose has sponsored a significantly expanded Good Neighbor Committee to cover a potential baseball stadium in the Diridon Station Area. The draft Permit also ignores lessons from the Holy Apostolic Catholic Assyrian Church at 680 Minnesota Ave by failing to require an onsite community relations manager, reachable in real time by phone, to log, respond to, and resolve neighborhood complaints. The draft Permit also ignores lessons from years of lawsuits involving Shoreline

Amphitheater by failing to identify a process for capturing, managing, and responding to complaints on an ongoing basis. By proposing a single annual meeting, the City has gone against local and national precedent for such a facility. The proposal also goes against the applicant's own desire, as stated publicly in the PD Zoning hearing, for "a feedback loop, so if there are problems we can address them quickly". City Staff is encouraged to review the good neighbor policies proposed nearly two years ago and work with the neighborhood and applicant on a meaningful proposal in line with local and national precedent.

In any good neighbor policy, "local residents" must be defined to include, at a minimum, all neighborhoods and businesses in the area bounded by Coleman Ave, Hedding St, Park Ave, and the Santa Clara city border. The City of Santa Clara should also be consulted in case their neighboring residents require notification. Soccer and non-soccer events need to be noticed. Extraordinary events are not permitted, but they must be noticed if any such event is eventually permitted. An annual meeting with an open, bring-your-complaints format is not productive and serves only as a checklist item that may simply be suffered through and later ignored. The neighborhood requests a good neighbor monitoring body that is formed as a committee (consisting of the facility owner & operator, City of San Jose, ALUC, and neighborhood representatives) and meets initially on a monthly basis.

- Explosive and aerial fireworks are inappropriate in a residential area and multimodal transit corridor and should not be permitted. Furthermore, the draft Permit places the burden of a policy/compatibility decision on a City department that is chartered to focus exclusively on safety. The draft Permit places no meaningful restriction on fireworks. Other than asking the applicant to follow the law and FAA policy (which is not an actual new requirement or restriction), the discretion is left to the San Jose Fire Marshal. The Fire Inspector assigned to speak to us last week by the Fire Marshal stated that his exclusive concern is safety. The Fire Marshal does not take into consideration ANY other factors, including noise and compatibility with neighboring residential uses. Since aerial fireworks would not be fired toward SJC or I-880, any aerial fireworks would be instead launched directly over the residential neighborhood. After consulting with the president of a neighborhood association bordering the soccer-specific Home Depot Center in Carson, CA, we were warned that such displays "literally shake the house" and make homes feel like they are in a war zone. It may be tempting to dismiss this response by stating that the neighborhood has access to a free fireworks display. In response, it's one thing to watch free fireworks over the bay at Shoreline, and it's another to detonate explosives directly over sleeping kids, frightened animals, and those who may be prone to health issues, such as the very real situation of neighborhood veterans who suffer from PTSD. Fireworks should be limited to in-stadium, non-explosive, ground-level displays at the start of games, such as player introductions. Top tier sports teams around the world put on a great show with ground-based sparklers and propane cannons, which can be compatible with neighboring residential uses and avoid the significant impacts of explosive fireworks. The permit needs to be revised to allow exclusively ground-mounted, non-explosive pyrotechnics, as permitted by the Fire Marshal.

- The City has apparently not yet solicited input from a significant number of neighboring stakeholders, including the Norman Y. Mineta San Jose International Airport and FAA (in the case of lighting, which has changed materially since the EIR and zoning phase, and aerial and ground-level fireworks), the Airport Land Use Commission, Union Pacific and the Federal Railroad Administration (in the case that the fallout zone from aerial fireworks includes their tracks and train car storage (including potential hazardous materials storage)), and Caltrans (in the case that the fallout zone from aerial fireworks includes

Interstate 880). These are material defects in the analysis leading to the preparation of this draft PD Permit and need to be corrected before such a permit can be issued.

We fully understand the lack of resources in City Hall, and we understand that the applicant may have insufficient funding to proceed with construction and needs to show a permit in-hand to attract reluctant investors during a tough economic period. However, the significant material defects in the permitting process leave us to request that this draft permit be withdrawn from this week's Director's Hearing if sufficient supporting sound and light models, revised design, revised conditional use, and consultation with the surrounding neighborhood cannot be completed properly before the hearing.

We look forward to your feedback and look forward to working with you in a continued spirit of cooperation.

Best regards,

Matt Bright
Vice President
Newhall Neighborhood Association - San Jose, CA

John Urban
President
Newhall Neighborhood Association - San Jose, CA

Helen Chapman

Xavier, Lesley

From: MCraggs [sunpun@earthlink.net]
Sent: Tuesday, December 13, 2011 12:54 PM
To: Horwedel, Joseph
Cc: Xavier, Lesley
Subject: Airport West Events Stadium Planned Development Permit PD11-002

Dear Mr. Horwedel:

RE: Airport West Events Stadium Planned Development Permit PD11-002

When this project was approved by the City Council, despite strong neighborhood concerns, Mayor Reed and Councilman Liccardo directed that the stadium would be built and operated in a manner that would protect the quality of life of nearby residents. Our quality of life is affected by many factors, including increase in noise pollution; increase in light pollution: loss of views; loss of privacy; and degradation of our use and enjoyment of our homes. This stadium has the potential to severely affect our quality of life on all those fronts. If permitted under the current draft Development Permit, it will.

The provision of the Neighborhood Committee and Meetings is a welcome addition to the process, but unless the permit conditions are changed as outlined below, those forums can only serve to address damage after it has occurred. The permit must prevent degradation to our quality of life from the beginning as required by the City Council's directive, expressed in Mayor Reed and Councilman Liccardo's memo.

Since the original approval, the stadium design has changed radically. It now has far less noise and light protection than the original proposal which fell far short of acceptable. Note that the existing Buck Shaw and Steven Schott Stadiums are FAR smaller and yet the sound and light pollution from both venues penetrates deep into our neighborhood – far beyond a “1,000 foot radius” – significantly degrading our quality of life. The new stadium is far larger and thus, under the current permit conditions, is guaranteed to create a new and wholly unacceptable level of both noise and light pollution, even farther into our neighborhood. The assaults on our quality of life from these 3 stadiums are additive, with the new stadium adding a significantly larger component than already exists.

The proposed permit states that parking lot lights must be turned off at 10:30 pm. There is no restriction on when the other lights (stadium, scoreboard, signs, etc.) must be turned off. Thus one must assume they can be on 24x7x365. Further, the draft permit contains no limits on the operation of the stadium itself. Again, this allows 24x7x365 operation and allows our neighborhood to suffer the noise of 15,000+ people screaming at the top of their lungs, accompanied by foot stomping, loud music and announcements blasting from the stadium's sound system, fireworks, etc., on a 24x7x365 basis. The current sound systems at the Buck Shaw/Steven Scott stadiums literally rattle the listener's teeth when heard from a distance equal to the distance between the new stadium and our property lines. It is well-established that exposure to high levels of sound will damage hearing over relatively short periods of time. The City proposes to subject the stadium's neighbors to such damaging sound levels for the next 20-30 years, on a virtually unlimited basis. Event goers have the choice whether to subject themselves to such damage and no event attendee will be exposed to these noise levels for as many hours as the nearby residents. It is simply unacceptable to allow this venue to generate excessive noise at all. Allowing it to do so on an unlimited basis is unconscionable.

Established City zoning rules do not permit a new use next to residential neighborhoods to generate more than 55 dB at the property line from either residential or non-residential uses. There is no reason that the stadium should not be required to meet this requirement – nor any reason that the Newhall Neighborhood residents

should be asked to endure more noise than the level normally allowed. Monitoring equipment must be installed at our property lines to ensure compliance and a mechanism to immediately enforce compliance must be implemented. If the noise from an event exceeds the above threshold, the noise from that event must be reduced immediately. The notion that the sound levels expected from a soccer event are acceptable is simply invalid. The noise we are subjected to from the existing much-smaller stadiums is not acceptable. Adding a third stadium, with a much larger size, will generate intolerable noise levels in our neighborhood, unless measure are taken to limit the sound generated by the new stadium's operation.

Soundproof soccer stadiums have been built; it is feasible. The stadium owner claimed that it was too costly, but he only evaluated the most expensive options. There are many inexpensive soundproofing options available and the City must require that one of those be used. Since gaining City Council approval, the owner has found an extra \$10 million to build luxury suites and has received a \$26 million gift from the City.

The permit does not limit either the number of events nor the duration of events. Again, this means that our neighborhood is being asked to endure its operation and effects on a 24x7x365 basis. Economic pressures will ensure that the owner will operate the venue as many days and hours as possible and thus permit limits are essential.

Unfortunately, the good intentions evidenced by the requirement to have shuttle service from the Santa Clara CalTrain station to and from the stadium will have unintended – and negative – consequences for our neighborhood. Soccer fans have been attending games at Buck Shaw stadium and are well-aware of the free street parking available in our already-crowded, narrow-street neighborhood. They parked on our streets during every game, despite the presence of volunteer traffic guards that tried to direct them to the available paid parking. They left trash on our streets and created disruption in our neighborhood both before and after games. Now the City is encouraging this behavior to continue by offering a free shuttle and by charging \$20 for parking at the stadium. Fans opted out of paying the \$10 fee charged at Buck Shaw and they will certainly opt out of paying \$20 to park at the new stadium, since they have free parking in our neighborhood and will no longer be asked to leave by the volunteer traffic guards (who were sadly mostly ignored by the soccer fans). If the price of tickets were increased and included free parking at the stadium, the City would not be encouraging this problem to persist. It is simply a fact that those who find public transit more convenient will use it; those who do not will drive and park at the most inexpensive location available.

The lights at the existing much-smaller stadium are blinding – from well inside our neighborhood at distances equal to that of the new stadium. In addition, the recent experience at the new soccer fields at Watson Park show that lighting plans and studies do not accurately predict the actual impact of soccer field lights. The permit should not allow any light from the stadium, its parking lots or signs to be visible in our neighborhood.

The draft permit states that construction activities may occur on weekends as long as the noise from those activities is not audible at the neighborhood property lines. This is a welcome requirement, but it needs more definition to have any value. What is audible? How many monitoring stations will be established on the neighborhood property lines to measure this noise? Who will enforce an immediate cessation of an activity that exceeds the threshold? What consequences (fines, loss of permit, etc.) will there be for each violation? Also, during weekdays, what noise level from construction will be tolerated? At the outside limit, noise at the residential property lines must not exceed 80dB (damage occurs at 85dB) for any period of time, since residents have no hearing protection (as workers do) and residents will be exposed to every second of construction noise – a far longer exposure over time than any worker at the stadium will receive. The City code requires no more than 55dB be experienced at a residential property from nearby residential and non-residential activities; this level should be enforced during construction as well.

The impacts to our neighborhood from this stadium on our loss of views; loss of privacy; and reduction in the

use and enjoyment of our homes are considerable and must not be over-looked. By suffering those impacts alone, our neighborhood is accepting a disproportionate share of negative impacts in order for the entire City to benefit from the minimal jobs and revenue that this stadium will provide. There is no justification for us to be asked to suffer additional impacts that are mitigatable. The permit must be altered as follows:

-Noise: The stadium design must be enhanced to include adequate sound-proofing. Noise monitoring stations must be installed along the NNA property line. Readings must be taken in real-time during events and corrective action enforced immediately. No noise level above 80dB should be allowed for any length of time, as measured at the NNA property lines; generating that level of noise should cause the entire facility shutdown immediately, until such time as new soundproofing measures are installed that guarantee no re-occurrence. Otherwise, the City is allowing conditions that can permanently damage residents' hearing. Further, no noise level above 55dB should be allowed for more than 5 minutes duration and not more often than one (1) 5-minute occurrence per week. If sound levels consistently exceed 55dB, then each second of excess should be added together and once it reaches a total of 5 minutes, the facility should be immediately shut-down until additional soundproofing has been installed that guarantees no re-occurrence. These noise limits must not be averages of any sort; they refer to an actual sound level at a given point in time. Remember that sound levels are additive and there are already 2 stadiums operating in our neighborhood.

-New Studies Required: The stadium design has changed dramatically since that proposed and analyzed in the EIR. Thus, the studies done for the EIR are no longer relevant. New studies, based on the currently proposed design must be completed and reviewed by the public before any PD Permit can be issued. Light and noise pollution studies are the most crucial.

-Fireworks: Fireworks are not necessary and could cause safety issues with nearby airport and train operations as well as create a fire hazard for our homes. They should not be permitted. Further, it appears that the Airport has not provided its approval for any of the PD permit issues that affect airport safety (and thus the safety of those living near it) – this omission is distressing for a number of reasons and must be corrected before the permit is issued.

-Lights: No light from any light used by the stadium (inside, outside, parking, sign, safety, etc.) should be visible from the NNA property lines. All lights (from any source) should be turned off no later than one hour after the stated end of the event and must not be turned on more than 1 hour prior to the stated start of that event. No lights shall be on after 10:30 pm. No lights should penetrate any bedrooms at any time (children retire well before 10:30 pm).

-Parking: Parking at the event should be free. Increased ticket charges can cover the lost revenue. The stadium should be required to have sufficient free parking available to accommodate all event attendees.

-Good Neighbor Plan, Construction Updates, Non-Soccer Event Notices and Community Meetings: It is unclear what "local residents" is intended to include, but the 1,000-foot radius used for City notices is woefully inadequate since residents more than 1,000 feet from the existing much-smaller stadiums are significantly impacted by those less-intrusive venues. Thus, these communications must be sent all affected residents, which includes all within the Newhall Neighborhood, at a minimum. Our entire neighborhood will be dramatically affected by this stadium, even though we are not adjacent to it. In addition, the thought behind these measures is commendable, but the permit states their intent is only to "ensure compliance with the requirements of the permit". However, ensuring compliance with the permit is the City's ongoing responsibility which will (one assumes) be done regardless of whether these activities occur. These new outreach mechanisms would be far more useful if their purpose were for the affected residents to provide suggested improvements in the stadium's activities; reductions in its impacts; and improvements to the City's monitoring thereof; and if the City and the developer/operator were bound to implement those improvements. New communication channels will solve nothing unless they result in actions that reduce neighborhood impacts.

-Events – Definition: The permit must clearly define that ANY activity at the stadium falls under the requirements and limits specified. Limiting the "number of events" is a useful benchmark, but the key issue is the amount of time that residents are subjected to any quality of life impacts. For example, a soccer game might start in the late afternoon, but TV crews can show up in the early morning hours (3 am in the case of the Home Depot Center) for set-up, testing, etc. activities. Those "pre-game" activities, to the extent they could

cause any impact upon nearby residential areas via noise, light pollution, duration, and other factors, must fall within the permit conditions and meet the standards set for the stadium operation. They must be included in the total number of events and event hours that the stadium is authorized to operate. Since construction equipment is not allowed to start work before 7:00 am, it makes no sense that other disruptive operations would be allowed to start any earlier. The same criteria must be applied to any post-game activities (clean-up, etc.). In short, all activities and operations at the stadium must meet the standard of not negatively impacting the quality of life of nearby residents.

-Events: If, but only if, clear and enforceable limits on noise and light pollution are established in this permit as specified above, then the number, type and duration of events and/or other operations does not have to be limited. Otherwise, severe limits on those criteria must be established now. If no limits are to be placed on the impact a single event can have on the surrounding neighborhood (which is unfortunately the case under the conditions established by the draft permit) then the permit does not begin to fulfill the directive from the City Council. In addition, forcing the City and the neighborhood to debate these issues for every separate event proposed (as will occur under the Conditional Use/Special Event provisions) is inefficient at best; at worst such mechanisms are offered as a means for the operator to circumvent the original City conditions as is the case by suggesting that concerts would be considered under such a mechanism.

In summary, the proposed draft Development Permit fails in multiple, critical respects to implement the City Council's directive and must be altered as specified above to avoid creating substantial damage to the quality of life of nearby residents.

Sincerely,
MCraggs
An Affected Resident, Voter and Taxpayer
1064 O'Brien Court

Xavier, Lesley

From: matthew.bright@gmail.com on behalf of Matthew Bright [matt@mattbright.com]
Sent: Tuesday, December 13, 2011 10:05 AM
To: Liccardo, Sam; Horwedel, Joseph
Cc: Urban, John; Helen Chapman; Hamilton, Jeannie; Xavier, Lesley
Subject: Comments on Coleman Ave stadium PD Permit - PD11-002
Attachments: HDC-Brick wall.jpg; HDC-Earthen Berm.jpg; Portland OR - PGE Park Good Neighbor Agreement.pdf

Councilmember Liccardo and Director Horwedel,

As Newhall neighbors have said in the past, we welcome soccer and private development dollars in the City of San Jose. We fully agree with Councilmember Liccardo's comments in the PD Zoning hearing that "This is a great opportunity for the city, but we want to make sure that we do it right." Our primary and exclusive focus has been achieving compatibility (in design, construction, and operation) with existing and established residential uses. After all, the applicant was not forced to locate the project a 20-second Tommie Smith and John Carlos run away from kids trying to get a good night's sleep. The City, therefore, has the responsibility to be the referee and ensure that mega-projects proposed for a densely populated residential area will respect those existing and established uses at all times - during construction, during operation, and even after a change in ownership.

Preliminary review of the draft PD Permit, posted only Friday after a specific request from the neighborhood, reveals significant issues that undermine the integrity of the analysis leading to the draft Permit and have the potential to doom the Good Neighbor concept from the start. For example:

- The noise model stadium used by the applicant differs significantly from the current Coleman Ave stadium design. Reliance upon conclusions drawn from this noise model may significantly impact neighboring residential uses in San Jose and Santa Clara in a materially adverse way. The reference stadium used as a noise model in the applicant's supporting documentation is significantly and materially different from the proposed Coleman Ave stadium. The proposed Coleman Ave stadium, for example, uses 100% above-grade, stomp-friendly aluminum bleachers, with bottoms/backs 100% open to the air and surrounding neighborhood and no proposed noise mitigation/attenuation. By comparison, the reference stadium uses aluminum bleachers for only 15% of its capacity. This by itself is a material difference that raises significant concerns about the applicant's use of this reference stadium throughout the noise analysis. The noise letter states that bleacher stomping in the reference stadium increased the noise level, so it is logical to assume that a 300% potential increase in aluminum seats would further increase the noise level. Furthermore, the reference stadium differs from the proposed Coleman Ave stadium in that it is partially below grade (compared to 100% above grade at Coleman Ave) and features a large earthen berm (photo attached), specifically for sound attenuation. In addition, the reference stadium is partially enclosed by a masonry wall (photo attached), whereas Coleman Ave is 100% exposed apart from fabric sheets with no acoustical benefit. Even with these design elements, the reference stadium was still the target of successful legal action brought by a neighboring residential community and a statewide advocacy group. It may be tempting to suggest that there is no issue because the stadium renderings are similar to the renderings shown in the EIR and PD Zoning phase. However, keep in mind that the City Council and neighborhood were both instructed to wait for the PD Zoning phase to see a final proposed design. We have just now seen that proposed design, and it does not adequately address the issues that existed since early 2010.

- **The applicant has not met the burden of proof that the design complies with the EIR, because the noise and light impacts of the proposed stadium design have not been properly simulated.** In the EIR & PD Zoning hearing, as well as the recent project community meeting that you attended, residents requested the same level of sound and light modeling performed for the proposed downtown baseball stadium. In response to the request at the EIR & PD Zoning hearing, Planning Director Horwedel stated that the PD Permit phase would be the right time for this modeling to happen. The modeling did not happen, and neighbors are left to wonder why. Is it because there is private concern that modeling would reveal that more changes need to be made for the project to comply with the EIR, even for soccer events? A supplemental EIR may already be needed now, since the proposed final design differs substantially from the reference stadium used in the EIR analysis. The cost of this analysis should not factor into the City's decision. If the applicant cannot cover the cost of a thorough analysis of the proposed final design, then it cannot be assumed that the applicant has the ability to cover the cost of construction.

When asked in the PD Zoning hearing about the process step at which the City would discuss additional noise mitigation with the applicant, Director Horwedel stated "Because the challenge is at this point,... I don't have an engineering design to work from for the noise consultant", and "prior to the issuance of PD permit, those are the things we would be working through... getting the more specific design of the stadium so that kind of we have something that's real. Tangible at that point." Please accept our apologies for the rough transcript from the City's Granicus service. The bottom line is that the neighborhood was promised additional analysis at the PD Permit stage, but the only response has been a short letter, based on flawed reference assumptions, stating that no additional analysis was needed. This violates the spirit of the discussion in the PD Zoning hearing and contradicts representations that may have been relied upon by Council members in their vote to approve the EIR and PD Zoning.

Residents are concerned about potential noise and light trespass, not specifically evaluated in the EIR, through a large open-air gap between the top of the stands and the roof structure. To our knowledge, no attempt has been made to model the sound and light properties of this gap, which directly faces our densely populated neighborhood. Without proper modeling, the impact of sound and light escape through the gap cannot be quantified and there is insufficient evidence to reasonably believe that the current proposed design will comply with the EIR for soccer events. This gap needs to be closed to avoid both light and sound trespass, and the stadium needs to be properly modeled to confirm the noise levels after the gap is closed. By closing the gap, which provides no obvious benefit as-is, the applicant can also improve spectator comfort by avoiding the AT&T Park-like intrusion of cold wind and rain into the seating area.

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UEFA (European soccer) events) must be prohibited and the stadium operator must enforce a ban on such noisemakers in parking areas as well as the stadium itself. Furthermore, the operator must be prohibited from arranging any noisemaker giveaways. Multiple clubs in the UK ban musical instruments altogether. Tottenham, a close partner of the Earthquakes, was quoted by CNN as stating ""We are very proud of the fantastic atmosphere that our supporters produce organically at White Hart Lane and we are all very much looking forward to this continuing into the forthcoming season" (emphasis added). In addition, according to that facility's website, the Home Depot Center reference stadium forbids "Noisemakers, whistles, air horns, musical instruments, drum sticks".

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With respect to the process for approving extraordinary events:

First, at the community meeting, Councilmember Liccardo and Director Horwedel said multiple times, in response to precise questioning, that a public hearing in front of City Council would be required to permit concerts in the future. This means that a supplemental EIR would need to be issued to properly model extraordinary events, impacts, mitigation, and alternatives. The language of Section 12 needs to be updated to read that a Supplemental EIR is required prior to the consideration of concert or "extraordinary" events at any time in the future. Furthermore, the requirement that "the noise analysis shall measure actual noise from such event at the stadium as experienced in the surrounding neighborhood...." cannot be satisfied because no such events can be permitted in the first place. The language should be updated to read "thoroughly simulate using best practices for sports stadiums in residential areas" instead of "measure". Of course, such a simulation for the Supplemental EIR must follow all best practices and use precise computer models of the facility and surrounding area.

Second, in addition to the above, the permit must be clear that any process (which the neighborhood believes should be the Supplemental EIR certification process) is not subject to any Title 20 streamlining activities and requires a community meeting and public hearing. In no event should an over-the-counter permit be allowed to allow an extraordinary event.

- The Good Neighbor Plan proposed in Section 17 does not follow best practices for managing community relations between soccer-specific stadiums and residential areas. The Plan must be modified substantially in cooperation with the applicant and surrounding neighborhoods. In particular, the draft Permit does not follow the MLS precedents that the neighborhood recommended to the Planning department and Council offices as early as March 2010. The Jen-Weld Field (formerly PGE Park) example in Portland, Oregon remains the best implementation we have seen. The Home Depot Center arrangement, while flawed and already prone to expensive lawsuits, is still more substantial than what was proposed for Coleman Ave. The CEMOF (Caltrain Equipment Maintenance and Operations Facility) Monitoring Committee is a local example of a meaningful good neighbor program. In addition, the City of San Jose has sponsored a significantly expanded Good Neighbor Committee to cover a potential baseball stadium in the Diridon Station Area. The draft Permit also ignores lessons from the Holy Apostolic Catholic Assyrian Church at 680 Minnesota Ave by failing to

require an onsite community relations manager, reachable in real time by phone, to log, respond to, and resolve neighborhood complaints. The draft Permit also ignores lessons from years of lawsuits involving Shoreline Amphitheater by failing to identify a process for capturing, managing, and responding to complaints on an ongoing basis. By proposing a single annual meeting, the City has gone against local and national precedent for such a facility. The proposal also goes against the applicant's own desire, as stated publicly in the PD Zoning hearing, for "a feedback loop, so if there are problems we can address them quickly". City Staff is encouraged to review the good neighbor policies proposed nearly two years ago and work with the neighborhood and applicant on a meaningful proposal in line with local and national precedent.

In any good neighbor policy, "local residents" must be defined to include, at a minimum, all neighborhoods and businesses in the area bounded by Coleman Ave, Hedding St, Park Ave, and the Santa Clara city border. The City of Santa Clara should also be consulted in case their neighboring residents require notification. Soccer and non-soccer events need to be noticed. Extraordinary events are not permitted, but they must be noticed if any such event is eventually permitted. An annual meeting with an open, bring-your-complaints format is not productive and serves only as a checklist item that may simply be suffered through and later ignored. The neighborhood requests a good neighbor monitoring body that is formed as a committee (consisting of the facility owner & operator, City of San Jose, ALUC, and neighborhood representatives) and meets initially on a monthly basis.

- Explosive and aerial fireworks are inappropriate in a residential area and multimodal transit corridor and should not be permitted. Furthermore, the draft Permit places the burden of a policy/compatibility decision on a City department that is chartered to focus exclusively on safety. The draft Permit places no meaningful restriction on fireworks. Other than asking the applicant to follow the law and FAA policy (which is not an actual new requirement or restriction), the discretion is left to the San Jose Fire Marshal. The Fire Inspector assigned to speak to us last week by the Fire Marshal stated that his exclusive concern is safety. The Fire Marshal does not take into consideration ANY other factors, including noise and compatibility with neighboring residential uses. Since aerial fireworks would not be fired toward SJC or I-880, any aerial fireworks would be instead launched directly over the residential neighborhood. After consulting with the president of a neighborhood association bordering the soccer-specific Home Depot Center in Carson, CA, we were warned that such displays "literally shake the house" and make homes feel like they are in a war zone. It may be tempting to dismiss this response by stating that the neighborhood has access to a free fireworks display. In response, it's one thing to watch free fireworks over the bay at Shoreline, and it's another to detonate explosives directly over sleeping kids, frightened animals, and those who may be prone to health issues, such as the very real situation of neighborhood veterans who suffer from PTSD. Fireworks should be limited to in-stadium, non-explosive, ground-level displays at the start of games, such as player introductions. Top tier sports teams around the world put on a great show with ground-based sparklers and propane cannons, which can be compatible with neighboring residential uses and avoid the significant impacts of explosive fireworks. The permit needs to be revised to allow exclusively ground-mounted, non-explosive pyrotechnics, as permitted by the Fire Marshal.

- The City has apparently not yet solicited input from a significant number of neighboring stakeholders, including the Norman Y. Mineta San Jose International Airport and FAA (in the case of lighting, which has changed materially since the EIR and zoning phase, and aerial and ground-level fireworks), the Airport Land Use Commission, Union Pacific and the Federal Railroad Administration (in the case that the fallout zone from aerial fireworks includes their tracks and train car storage (including potential hazardous materials storage)), and Caltrans (in the case that the fallout zone from aerial fireworks includes Interstate 880). These are material defects in the analysis leading to the preparation of this draft PD Permit and need to be corrected before such a permit can be issued.

We fully understand the lack of resources in City Hall, and we understand that the applicant may have insufficient funding to proceed with construction and needs to show a permit in-hand to attract reluctant investors during a tough economic period. However, the significant material defects in the permitting process leave us to request that this draft permit be withdrawn from this week's Director's Hearing if sufficient supporting sound and light models, revised design, revised conditional use, and consultation with the surrounding neighborhood cannot be completed properly before the hearing.

We look forward to your feedback and look forward to working with you in a continued spirit of cooperation.

Best regards,

Matt Bright
Vice President
Newhall Neighborhood Association - San Jose, CA

John Urban
President
Newhall Neighborhood Association - San Jose, CA

Helen Chapman

December 13, 2011

Joe Horwedel, Director, Planning Department
Sam Liccardo, Councilmember District 3
City of San Jose

RE: Soccer Hearing Dec. 14, 2011

Dear Joe and Sam:

I have a few questions about the soccer stadium and this PD permit application forward. Specifically,

1. In what way is the current design of the soccer stadium comparable to the Home Depot Center in Carson and likely to produce the same level of sound?

Attribute	Carson/Home Depot	San Jose
Stadium	Submerged in noise absorbing sound	Above ground
Walls	Surrounded by walls	No walls--open
Open-end/grassy area	Berm—sound absorbing	Flat
Adjacent structures	Large building adjacent—blocks sound	No buildings
Seats	15% aluminum	100% aluminum
Roof	Partial, reflects sound back per sound system manufacturer	Fabric
Luxury Suites	Many—block noise	Few.
Aesthetics	Highest quality	Junior College Temporary
Number of seats	Larger	Smaller
Sound system	Design for no spill	Unknown—not modeled
Seating arrangement	Not the same*	Not the same*

* Different arrangements can focus and intensify sound. Husky stadium uses elliptical arrangement and was able to attain 130 dB at the lip of the stadium

2. At the community meeting, residents were promised by City of San Jose representatives a computer simulation of noise impacts. Instead, a two-page letter with “back of envelope” calculations was proffered. How was it determined that the promise made to the community would be ignored?

3. What plus or minus error does the noise analysis consultant claim for his estimates?

4. At what level of sound at the stadium would the Newhall homes 700 feet distant reach a significant impact? How many decibals different is this from consultant’s estimate? Is that within or outside the error estimate range of the consultant?

5. What risks does the City assume if the back of the envelope noise calculations are inadequate? Newhall Neighborhood residences closest to the stadium already have maximum sound-proofing. If future measurements show high noise impacts, would the city be responsible for acquiring the homes, as it did in the flight path of the airport? Would there be partners or government agencies to help pay for acquire these homes? Has a CSJ risk analysis be conducted? Or would the developer be required to acquire homes that cannot be mitigated?
6. What procedures will the stadium use to coordinate fireworks displays with the San Jose airport tower? For what reasons is this procedure not specified in the PD permit? Do flights circle at the time of the scheduled fireworks? Are they waved off? How does this compare to the procedure used for downtown fireworks? How long were flights held during the 4th of July shows?
7. What are the potential impacts to SJC flights if the fireworks displays are not coordinated? What are the costs to airlines if they have to circle or are waved off? What risk is there to SJC Airport? To what extent could frequent fireworks factor into the decision to offer an evening flight to SJC?
8. For what reason was this PD permit not referred to the Santa Clara County Airport Land Use Commission (ALUC) for comment?
9. The lights proposed are different from those in the EIR. The EIR showed diagrams of the impact on the SJC Tower. This PD permit does not show any light beyond the stadium. How will the stadium lights be perceived by the SJC Tower? To what extent will the light pollution be distracting to controllers and/or airline pilots? What airline or airport professionals reviewed the current plan? What were the comments from the members of the San Jose Airport Commission?
10. After construction of the stadium, if lights are perceived as distracting to SJC Controllers, what organization is responsible for mitigation? Does the City have to build a barrier? Or the developer?
11. How does the FAA make the ultimate determination whether the lights are distracting? Were they consulted on this design? Would they close the airport to evening flights until mitigations were complete? Or would San Jose order the soccer stadium closed? What agency would incur the losses? CSJ? Developer? SJC Airport?
12. According to reports, fireworks cannot be shot over I-880 or SJC Airport. Presumably, there are Federal regulations that prevent fireworks over Federally regulated structures. What are the Federal Railway administration regulations for fireworks over a main trunk line of the transcontinental railway system? Was the FRA consulted? CPUC? Caltrain? UPRR?
13. The permit is silent on fireworks. How will the permittee notify interested parties of their intention to shoot off fireworks? Newhall Neighborhood has

veterans who will be distressed by the mortar sounds and will suffer PTSD symptoms. How will they be notified so they can leave the area or otherwise prepared? For what reason were fireworks not limited to ground-based sparklers and propane cannons which are less disruptive? To what extent will the lack of limits on fireworks be perceived as veteran unfriendly?

14. For what reason was it determined to not require a contact number for neighbors during all events, as is done at various venues throughout the city? For what reason was the "good neighbor" relations designed to be weaker than any of the most recent agreements made? Should neighbors of the baseball stadium assume that they will be similarly dismissed?

15. The Newhall Neighborhood is full of the high tech, young and mobile households San Jose futurist and economic director Kim Wallech says it must attract to be competitive. Should these workers interpret as an invitation to move away the refusal to conduct a comprehensive noise analysis/simulation and the implementation of high quality Good Neighbor program?

The soccer stadium represents an economic opportunity, but without careful analysis there is potential for a severe economic risk to the City. To what extent were these analyzed?

How will this impact future discussions about future stadiums?

Sincerely,

Jean Dresden

Xavier, Lesley

From: jeanann2@aol.com
Sent: Tuesday, December 13, 2011 1:27 PM
To: Horwedel, Joseph; Liccardo, Sam
Cc: Jeanne.Hamilton@sanjoseca.gov; Xavier, Lesley
Subject: Soccer Questions for Dec 14 hearing
Attachments: Soccer December 14.docx

Please see the attached questions for tomorrow's hearing on Soccer.

Also, pasted below; the table may not appear properly formatted:

Thanks,

Jean Dresden

December 13, 2011

Joe Horwedel, Director, Planning Department
 Sam Liccardo, Councilmember District 3
 City of San Jose

RE: Soccer Hearing Dec. 14, 2011

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severe economic risk to the City. To what extent were these analyzed?

How will this impact future discussions about future stadiums?

Sincerely,

Jean Dresden



Shasta/Hanchett Park Neighborhood Association

P.O. Box 28634 • San José, CA 95159 • info@shpna.org • www.shpna.org

February 20, 2012

Chair, San Jose Planning Commission
200 East Santa Clara St., 3rd Floor Tower
San Jose, CA 95113

Re: PD11-002 Appeal Earthquakes Soccer Stadium

Dear Chair Cahan and Members of the Commission:

The Shasta/Hanchett Park Neighborhood Association was founded in 1984 to protect the interests of our community in response to plans for the San Jose Arena. Over the years, we have worked with the City of San Jose, developers, builders and our neighbors to help guide new developments. Because of our involvement, we boast some of the most livable communities in the City of San Jose as well as an economically healthy, growing business district. Moreover, the operations of the HP Pavilion work well for the City and for its neighbors due in large part to our collaboration with the City of San Jose early on in the planning process of the facility.

The process that addressed the myriad of impacts of the HP Pavilion is a laudable example of how a major entertainment venue can successfully co-exist with adjacent residential neighborhoods. Residents, team owners, and the City collaborated to create the best possible facility for all parties involved. We would like to see the City and Planning Commission strive to repeat these best practices with the next professional sport facility being planned in the City of San Jose.

We are concerned the process for the proposed soccer stadium has not adequately addressed the potential impacts on the adjacent neighborhood and appropriate mitigations. Since the current City Code is not very restrictive, the Planned Development Permit needs to spell out limitations on time and level of noise, lights, use of pyrotechnics, as well as establish a “good neighbor” process. The City should continue to engage with both the stadium owners and the residents to ensure the impacts of this facility are identified and reasonable mitigations are adopted.

The Shasta/Hanchett Park Neighborhood Association respectfully asks for consideration of the Appeal filed by Ms. N. Thomas against the Permit issued at a Directors Hearing, as well as the requests included in the letters by the Newhall Neighborhood Association and other concerned community leaders.

Respectfully submitted,

Eloy R Wouters
President
Shasta/Hanchett Park Neighborhood Association

From: Marc Morris [mailto:marc1163@sbcglobal.net]

Sent: Tuesday, February 21, 2012 1:42 PM

To: Stanley, Carmen; Dori Yob; Ed Abelite; Edesa Bit-Badal; Hope Cahan; Norman Kline; Diehl, Sue

Cc: Xavier, Lesley

Subject: PD11-002 Appeal Earthquakes Soccer Stadium

February 21, 2012

San Jose Planning Commission
200 East Santa Clara St., 3rd Floor Tower
San Jose, CA 95113

Re: PD11-002 Appeal Earthquakes Soccer Stadium

Dear Members of the Commission:

I am writing to support the Appeal filed by Ms. Thomas against the Permit issued for the proposed soccer stadium, and to support the carefully thought through requests for mitigation measures included in the letters from the Newhall Neighborhood Association and other concerned community leaders.

As you consider this appeal and the proposed mitigation measures, you are likely to hear arguments against them, based on the costs or inconvenience of the mitigations, together with claims of benefits from the stadium.

In considering these claims, please keep in mind two important things:

1. The Newhall neighbors are also substantial investors in San Jose. There are approximately 650 residential dwellings in the Newhall neighborhood. At a conservative average cost of \$500K, this is a collective private investment of \$325,000,000, substantially more than the soccer stadium investment. The City should be equally or more concerned with protecting the value of this private investment by the individual residents, let alone their quality of life.
2. The Earthquakes ownership group has received considerable direct and indirect financial subsidies from San Jose for the stadium. They received an exclusive option on the former FMC site through a no bid process, despite interest from at least one another buyer in this land. Subsequently, the terms have been renegotiated several times in favor of the Earthquakes investors. As beneficiaries of such favorable terms from the city, they certainly can afford and should be expected to do the right thing for their neighbors. Benefits received by the Earthquake investors include:
 - \$12M (65%) discount on the stadium land. The Earthquakes will pay just \$500K per acre for the stadium land, for which San Jose paid \$1.37M per acre. Even in a down market, a nearly 65% discount is a subsidy.
 - A further \$400K per acre subsidy from the City in the form of debt service payments. San Jose has carried the debt interest payments on the former FMC land for over 6 years while receiving little or no option payments from the Earthquakes investors. This is a total cost to date to the City of approximately \$30M. In effect, the Earthquakes are getting the stadium land for little more per acre than the city has paid just in debt service on that land.
 - Another \$5 – 10M subsidy through continuing debt service payments by the City on the balance of the former FMC property. Earthquake investors have an essentially free option on this land until at least the end of 2013 while San Jose continues to make the debt service payments.

Thank you for your consideration.

Marc Morris