

From: [Morley, Sean](#)
To: [Hill, Shannon](#)
Cc: [Jim Goddard \(JGoddard@sapcenter.com\)](mailto:JGoddard@sapcenter.com); jal@LMALLP.com
Subject: Sharks Sports & Entertainment/Comments on Notice of Preparation (NOP) of Environmental Impact Report (EIR) for Downtown West Mixed-Use Plan (Google Project)
Date: Friday, November 22, 2019 1:36:05 PM
Attachments: [SSE Google Project NOP Comment Letter \(11-22-19\).pdf](#)

[External Email]

Dear Ms. Hill,

I am transmitting the attached comment letter on the Notice of Preparation for the Google Project on behalf of Sharks Sports & Entertainment.

Please confirm receipt.

Regards,

[Sean Morley | The Morley Bros.](#)

475 Alberto Way, Ste. 210 | Los Gatos, CA 95032

408.458.4440 | sean@morleybros.com

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November 22, 2019

Via email to: Shannon.Hill@sanjoseca.gov

Shannon Hill, Environmental Project Manager
San Jose Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

Re: **Comments on Notice of Preparation (NOP) of Environmental Impact Report (EIR) for Downtown West Mixed-Use Plan (Google Project)**

Dear Ms. Hill,

Sharks Sports & Entertainment LLC (SSE), which operates SAP Center (the Arena) and owns the San Jose Sharks franchise, has been following Google's preliminary plans in the Diridon Station area for quite some time. We are excited about the historic opportunities that the Google Project brings to the City of San Jose, but we are also concerned about how the Google Project may impact the ongoing success of the Arena. It is in this context that we provide our comments on the NOP.

Background

With over 175 events per year, SAP Center is one of San Jose's most consistent and impactful economic catalysts, bringing well over 1,500,000 visitors a year to the Downtown area, filling local restaurants and hotel rooms, supporting over 5,000 FTE jobs, and generating hundreds of millions of dollars in annual economic benefits to the City and the wider community.

Customers come to SAP Center from throughout Santa Clara, San Mateo, Santa Cruz and Alameda counties and beyond. Although transit opportunities may be improving for daily commuters, transit does not work well for Arena patrons who attend evening or weekend events on an occasional basis, especially if they are traveling with children or live in areas not convenient to public transportation. Thus, like most arenas and stadiums across the country, SAP Center must ensure that there is convenient vehicular access and adequate parking for its customers (including those who arrive via ride share or car share services) in order to remain successful.

The importance of SAP Center to the success of the Diridon area, and the importance of access and parking to the success of SAP Center, is acknowledged throughout the Diridon Station Area Plan (DSAP). In fact, one of the primary objectives of the DSAP is to **"ensure the continued vitality of the San Jose Arena, recognizing that the San Jose Arena is a major anchor for both Downtown San Jose and the Diridon Station area, and that sufficient parking and efficient access for San Jose Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the San Jose Arena's on-going success."**

Under the Arena Management Agreement (AMA) signed with the City last year, SSE has the right to lease the City-owned Arena and adjacent parking lots containing 1,422 parking spaces (Lots ABC) until 2040. In addition, the City is obligated to ensure that over 3,400 parking spaces are available for SAP Center customers on other properties within close proximity to the Arena, not counting the hundreds of spaces occupied by part-time event employees, daily commuters/office workers, and other visitors. The AMA also incorporates a Transportation and Parking Management Plan (TPMP), which provides a framework for event-day coordination and management of traffic and parking operations at and around the Arena.

Recognizing that Google has purchased many properties in the Diridon area and would like to purchase Lots ABC for its development, the City asked SSE to modify the AMA to accommodate the Google Project. Last year, SSE allowed the City to grant Google an option to purchase Lots ABC, to facilitate Google's planning efforts. We are continuing to work with Google and the City to develop transportation and parking solutions and other business arrangements that will allow Lots ABC to be developed as part of the Google Project, while ensuring the ongoing viability of SAP Center.

We deeply appreciate Google's sincere willingness to engage with us, especially the significant effort their team is making to understand the unique operational needs of SAP Center, and the joint work we are undertaking to find ways to preserve and enhance the fan experience at the Arena, especially as it relates to convenient access/circulation and parking supply.

Google's unique entitlement process for the Downtown West Mixed Use project is still evolving, as are our discussions. While this work continues, SSE offers the following comments to ensure that a thorough environmental review process under CEQA will be completed:

Project Site & Location

- The project is described as being west of the SAP Center. It is important to clarify that the project includes on-site Arena Lots ABC, as noted above, which are part of SAP Center and integral to the building's successful operations.
- The description indicates that 40% of the project acreage has been used for vehicle parking. It should be noted that this contributes to the parking inventory the City must provide under the AMA.
- The current project boundaries may not accurately depict the range of development anticipated for the Google Project. It is not clear where Google intends to provide parking within the DSAP boundaries to replace lost parking on A, B and C or to provide other shared parking opportunities within the area required by the current DSAP that can support its basic objectives such as property described in the AMA as Lot E, which presumably will be included in the Local Transportation Analysis (LTA). The EIR should describe the DISC concept layout currently recommended by the Partner Agencies. The EIR should also describe the amount of land that would likely be taken from various properties for the tracks and station platforms, so that the range of land available for the Google Project can be more accurately assessed.
- Also, any streets that are proposed to be modified (per the discussion on Page 11 or as depicted on Figure 5) should be studied in the LTA, including N. Autumn Street. Again, we are curious as to why all potentially affected streets were not included in the project boundary.

- On Page 4 the NOP states that the City “is not expecting to make major changes to the primary objectives” of the DSAP. This implies that the Google Project will adopt those objectives, but it should be made explicit – specifically, that the Google Project will retain the primary objective to ensure the continued vitality of the San Jose Arena, as recited above.
- Although the DSAP primary objectives may not be substantially changing, in fact both the Google Project and the DISC planning process will result in dramatic, transformative changes to the Diridon area for both the built environment and operations. The amendments to the DSAP will therefore be substantial, as they will need to address the addition of substantially more development capacity and height, an enormous transit center with associated elevated tracks and station platforms, the implementation of shared parking and logistics centers, and so forth. The EIR should more fully explain this.
- The EIR should also more fully explain how the DISC planning will affect both the Google Project applications and the DSAP amendment process, including the interrelationship of those efforts and the potential effect on construction timing and phasing for each of them.

Project Description

Development Program

- We note that the scope of the project description does not appear consistent with the one included in the AB 900 application currently under review with by the Governor’s Office, especially with respect to parking and project schedule. The AB 900 application states that “up to” 3,650 parking spaces will be provided for commercial uses, whereas the City application provides for only “up to” 2,800 parking spaces for commercial use. We believe that the City application and project description for the EIR must be consistent with the AB 900 application in all respects, especially material development regulations like parking standards.

Northern Variant

- On Page 9 the NOP acknowledges that one of the factors leading to the Northern Variant is the possibility that Google may be unable to exercise an option to purchase Lots ABC. While we certainly hope that we will be able to come to an acceptable agreement with Google and the City pursuant to which SSE would consent to Google’s purchase of Lots ABC, there is no assurance that this will occur as part of the current process. This section should acknowledge that if the entitlements ultimately do not include Lots ABC, those lots will remain designated as public/quasi-public for future land use decisions.
- Regarding potential delays caused by “ongoing use of the SAP Center’s surface parking lots during events” we would point out that such ongoing use will occur whether or not Google purchases Lots ABC. Such on-site parking must be allowed to continue, prior to any development of Lots ABC, unless and until replacement parking facilities acceptable to SSE are provided (along with satisfaction of other contingencies).
- The Google Project appears to be subject to so many major “external factors” that it may be difficult for the EIR to include a stable project description that meets the CEQA Guidelines, including a description of all potential environmental impacts and specific, feasible mitigation measures. As a result, this EIR may in effect be a program-level document rather than a project-specific document.

Parking

- The use of the phrase “up to” a certain number of parking spaces is confusing and potentially misleading. The number of parking spaces to be provided should be a fixed number, in order to support a stable project description.
- Based on the formula set forth in the City’s comment letter to Google dated November 8, 2018 (on the initial application submittal), the City’s current parking regulations for the commercial uses would initially require between 18,250 and 16,250 parking spaces to properly support the project (or between 7,738 and 6,890 parking spaces after an aggregate of 65% in potential reductions). Even the lowest parking space requirement based on current regulations is almost 2.5 times the “up to” 2,800 spaces proposed. The EIR should explain this inconsistency, and study any potential impacts associated with land use changes in the DSAP or zoning ordinance to make the proposed parking reduction conform.
- AMA Section 21.1.2 requires that the City “strive to include shared parking as a condition of development if necessary to mitigate the loss of parking.” The EIR should explain how the City intends to satisfy this requirement.

Transportation/Circulation

- It is important to identify the Arena Traffic and Parking Management Plan (TPMP) as the agreed-upon framework for event-day traffic coordination and operations in the SAP Center area. The importance of the TPMP needs to be recognized in the EIR in order to properly analyze transportation, parking and circulation in connection with arena events.
- The proposed changes to streets and circulation patterns are of particular concern to SSE. Traffic requirements under normal workday circumstances are very different than traffic requirements for Arena events. Any proposed changes must take into account the large influx of vehicles and pedestrians on event days. Any changes that cause material delays in ingress and egress times will have a significant negative effect on fan experience, and thus on the success of SAP Center.
- In particular, SSE is concerned about the apparent decision not to complete the extension of Autumn Parkway from W. Julian Street to W. Santa Clara Street. The DSAP considered the extension of Autumn Parkway to the Diridon area to be a key transportation element to serve the needs of the Diridon area development, and the Autumn Parkway extension project should not be abandoned without further study and justification.
- It is our understanding that current planning by the City would result in the closure of Cahill Street between W. Santa Clara and W. San Fernando. If this happens, the Google Project will need to identify an alternative north-south circulation route. This should be reflected in the proposed street grid changes shown on Figure 5, and the resulting impacts should be studied as part of the LTA.
- If Lots ABC are not part of the project (and therefore Cahill Street will not be extended northward), how will that affect the proposed street grid? This possibility needs to be addressed.

Utilities

- Likewise, if Lots ABC are not part of the project, it is unclear how the private utility corridor to serve the northern portion of the site would be routed. This alternative needs to be accounted for in the project scope.
- In addition, the EIR should describe and provide for maintenance of utility services to existing businesses and residents in the area without interruption.

Required Project Approvals

- The list of City approvals should include potential acquisition of City parcels, such as Lots ABC as well as any vacated public rights-of-way.
- Assuming that SSE consents to the sale of Lots ABC to Google, the City Council would also need to agree to amend the AMA to delete Lots ABC from SSE's leasehold.

Potential Environmental Impacts of the Project

Land Use & Planning

- The EIR should study the potential impacts the project will have on surrounding businesses and neighborhoods (including potential impacts on the health and safety of Arena customers, nearby residents, and other persons in the vicinity), and include appropriate measures to fully mitigate any such impacts.
- The EIR must also demonstrate how the project is consistent with the objectives of the DSAP including the primary objective related to maintaining the viability of the SAP Center, as referenced above.

Transportation

- We are pleased the EIR will study circulation and parking as part of the Local Transportation Analysis (LTA) and wish to remind the City that the AMA and other agreements with SSE include specific City obligations to study of these matters for projects near the SAP Center. Specifically, AMA Section 21.1.1 requires that the project "analyze and identify the projected parking demand, demand management strategies, and the parking supply to be provided by the project. The analysis would identify the impacts of the project on the existing parking supply within the Diridon Station Area, and suggest ways to mitigate the impact if it is deemed significant."
- In addition, the LTA should include a comprehensive parking inventory, and provide ways to avoid, minimize and mitigate any adverse parking effects on nearby residential or business communities. It should also include ways to protect pedestrian and bicyclist safety both during and after construction. Construction worker parking and parking lost due to construction staging and access must also be analyzed.
- The impacts studied should be evaluated in concert with the needs for the BART Diridon Station as well as SAP Center. This is especially important, since VTA is attempting to avoid providing any parking at Diridon for the future BART extension project, which failure is in direct conflict with the DSAP Final EIR and will have detrimental effects on SAP Center.
- Impacts studied should include an analysis of indirect impacts due to a lack of parking both during construction and in the long term. While air quality emissions can be generated due to the additional driving required to find parking, other indirect impacts include those related to pedestrian and bicycle safety problems resulting from illegal on-street parking, distracted driving, and congested pathways.

Other – Construction Impacts and Mitigation Plans

- We wish to remind the City of the need to properly identify potential construction impacts to surrounding businesses and residents, and the need to provide project-specific construction

management mitigations and plans to reduce potential impacts. Among other things, a detailed Construction Management and Outreach Plan should be included as mitigation in the EIR. This will be a practical necessity for the City to be able to issue encroachment permits for the project in the future.

- Construction should be phased in a way that minimizes disruption to access and parking, the loss of on-street parking, and other construction-related impacts. This is especially true in light of future BART construction, which could result in cumulative impacts.

SSE looks forward to working in partnership with Google and the City to ensure the continued success of SAP Center as part of the transformation of the Diridon Station Area. We believe that with proper planning, the Diridon Station Area can support the Google Project, a multi-modal transportation center, and a successful world-class sports and entertainment arena.

Should you have any questions about these comments, please feel free to contact us.

Sincerely,



Jim Goddard
Executive Vice President
Government Affairs