

From: [Hill, Shannon](#)
To: [Hillary Gitelman](#); [Karl Heisler](#); [Linda S. Peters](#)
Cc: [Keyon, David](#); [Downtown West Project](#); [Manford, Robert](#); [Le, Thai-Chau](#)
Subject: FW: Request For Comment Period Extension Downtown West (Google) Project DEIR
Date: Thursday, October 22, 2020 3:37:36 PM
Attachments: [Comment Period Extension Request Google Project 22 October 2020 \(10568446xA1026\).pdf](#)
Importance: High

Hi All,

The City has received a request for comment period extension. We will coordinate and advise you of any schedule implications.

Thanks,

Shannon Hill, Planner

Planning, Building & Code Enforcement | Environmental Review Section
City of San José | 200 East Santa Clara Street
Shannon.Hill@sanjoseca.gov | (408) 535 - 7872

From: Jeffrey Lawson <jsl@svlg.com>
Sent: Thursday, October 22, 2020 3:31 PM
To: Hill, Shannon <Shannon.Hill@sanjoseca.gov>
Cc: 'Jim Goddard (JGoddard@sapcenter.com)' <JGoddard@sapcenter.com>; 'Lucy Lofrumento' <lal@LMALLP.com>; Klein, Nanci <Nanci.Klein@sanjoseca.gov>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>
Subject: Request For Comment Period Extension Downtown West (Google) Project DEIR
Importance: High

[External Email]

Dear Ms. Hill

Attached please find our request for an extension of the comment period for the Downtown West (Google) Project DEIR.

Please call me if you have any questions or concerns.

Thx


Jeffrey S. Lawson
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October 22, 2020

Via Electronic Mail: shannon.hill@sanjoseca.gov

Ms. Shannon Hill, Planner III
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara Street, T-3
San Jose, CA.

RE: Google's Downtown West Mixed-Use Plan Draft Environmental Impact Report (File Nos.: GP19-009, PDC19-039, and PD19-029); SCH #2019080493; Request for Extension of Comment Period

Dear Ms. Hill,

I am writing on behalf of Sharks Sports & Entertainment LLC (SSE), the parent company of San Jose Arena Management, LLC, to request an extension of the public comment period by at least 30-60 days for the Downtown West Mixed-Use Plan (Project) Draft Environmental Impact Report dated October 2020 (Draft EIR).

SSE pays close attention to all development projects within the vicinity of the SAP Center (Arena) and has provided detailed comments on potential detrimental impacts over the last 30 years. SSE has been closely involved in reviewing this Project for the last three years, including submitting extensive comments for Notice of Preparation/Scoping for the Project on November 22, 2019. Based on this long experience, in SSE's view the current comment period (47 days) is far too short to generate considered community, legal and technical comments on this massive environmental review document. Furthermore, the current comment period is in reality shorter than it appears because the Draft EIR was issued during significant COVID-19 restrictions when most of the public, SSE and the experts necessary to review this lengthy document have limited resources, making the ability to work through the Draft EIR slower and more burdensome.

The Draft EIR is particularly difficult to review because the Project is so huge. It is essentially building a new 84-acre, 65-building City within an existing downtown that includes roughly 6,000 residential units, 7.3 million square feet of office, approximately 700,000 square feet of miscellaneous uses including retail, community space, an event center, and warehousing, up to 1,100 units of public and private hotel uses, 15 acres of parks/plazas, independent utilities, and new and vacated streets. The Project would be constructed over approximately 10 years with

no fewer than 25 discretionary actions. The 1,350 page Draft EIR has at least 25 technical appendices. Supporting documents included on the City's website are also numerous and include multiple presentations, community engagement meeting minutes, and an extensive public records compilation.

Adding to the complexity is that parcels have been added in and removed from the Project depending on progress in real estate negotiations. (Draft EIR §1.2.2) As described in the Draft EIR, development of some parcels will likely be part of the City's broader Diridon Station Area Plan (DSAP) amendment, which is included as a cumulative project in this Draft EIR. It will take extra time to evaluate the unclear linkage between this Draft EIR and the DSAP. The Draft EIR states:

With respect to the proposed project, this EIR assumes that project approvals would include Planning Commission and City Council consideration of project-specific General Plan and DSAP amendments. Accordingly, this EIR analyzes the environmental impacts of development under all project-specific General Plan and DSAP amendments. (Draft EIR p.2-4)

The Draft EIR includes §2.4.11 "Other Proposed Revisions to the Diridon Station Area Plan," which states that this Project includes amendments to the DSAP. However, it is unclear whether this Draft EIR analyzes every change required for the DSAP amendments or if the DSAP Draft EIR will provide that environmental review. Trying to analyze and comment on this Draft EIR without also having the opportunity to review the DSAP Draft EIR (which we hope will be released in the very near future) makes it extremely difficult to evaluate the extent of the impacts of both projects taken as a whole.

This request for an extension is timely because until SSE had a chance to review the Draft EIR it was not clear how much time would be needed to prepare comments. For example, SSE needs to conduct a detailed review of the transportation section, which is difficult because the transportation information is presented in multiple places in the Draft EIR, including Appendix C4 TDM Effectiveness, Appendix J1 TA, Appendix J2 LTA, Appendix M DWDSG and the Environmental Leadership Development Application (evaluation of Project TDM elements). This contrasts with the typical presentation in a Transportation Appendix. Similarly, the construction section and the project description have proven to be unusually complex.

Public participation is an essential part of the CEQA process. (CEQA Guidelines §15201) The current comment period of only 47 days is insufficient because it fails to account for the unusual circumstances described above. Even a Draft EIR of typical complexity can have a

Ms. Shannon Hill
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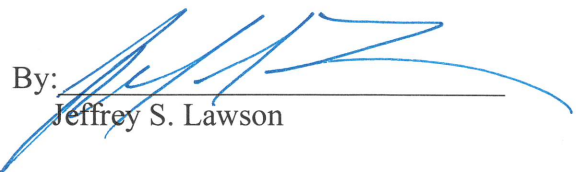
comment period of 60 days, but where there are unusual circumstances (such as in this case) the 60-day period can be extended. (CEQA Guidelines §15105(a)) The extension of the comment period beyond 60 days is warranted in order to provide members of the public with adequate time for review.

The proposed Project is the largest in the history of San Jose, it is extremely complicated and the Draft EIR is voluminous. Certainly, the comment period needs to account for the current pandemic and the friction that Shelter-In-Place compliance places on the public's ability to review the document. The subject is critically important to every citizen of San Jose and of particular importance to SSE. It deserves adequate attention. "[T]he 'privileged position' that members of the public hold in the CEQA process...is based on a belief that citizens can make an important contribution to environmental protection and on notions of democratic decision-making..." (Selmi, *The Judicial Development of the California Environmental Quality Act* (1984) 18 U.C. Davis L. Rev. 197, 215-216). An inadequate period for public review would frustrate the ability for citizens to make their contribution to this Project.

We appreciate your consideration of this request for the additional time necessary to adequately evaluate the Draft EIR and provide meaningful input in our comments. Given the shortness of time before the current comment deadline, please contact me with your response as soon as possible.

Sincerely,

Silicon Valley Law Group

By: 
Jeffrey S. Lawson

JSL

cc: Jim Goddard, Executive Vice President JGoddard@sapcenter.com
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