

Received \$100.00 Susan Walsh
 Receipt will be mailed to you.

Thanks - Susan
 5/24/10



CITY OF SAN JOSE

Planning, Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
 tel (408) 535-3555 fax (408) 292-6055
 Website: www.sanjoseca.gov/planning

NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER PPOS-214	RECEIPT # 577205
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX) EIR Supplemental	AMOUNT 100.00
	DATE 5/24/10
	BY M. Nagovij

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION:

Supplemental EIR for Baseball Stadium in Diridon Station Area (PPOS-214)

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

See Attached

PERSON FILING APPEAL

NAME Marc Morris	DAYTIME TELEPHONE (408) 294 9525
ADDRESS 1163 Martin Ave.	CITY San Jose STATE CA ZIP CODE 95126
SIGNATURE Marc Morris	DATE May 24, 2010

**CONTACT PERSON
 (IF DIFFERENT FROM PERSON FILING APPEAL)**

NAME same as above			
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE ()	FAX NUMBER ()	E-MAIL ADDRESS	

PLEASE SUBMIT THIS APPLICATION IN PERSON TO THE DEVELOPMENT SERVICES CENTER, CITY HALL.

Environmental Appeal: Supplemental EIR for Baseball Stadium in Diridon Station Area (Project #PP05-214)

Reasons for Appeal:

1. The SEIR fails to adequately analyze and disclose the potential environmental impacts of this project from traffic in at least two significant areas.
 - a. The SEIR does not quantitatively analyze traffic in the 6 to 7 PM time period - the time period when the project will generate its highest levels of traffic.
 - b. The SEIR does not adequately analyze and report the impact on downtown intersections.

In these cases, the SEIR inappropriately uses policy as a mask and excuse to avoid analyzing and disclosing potential significant actual impacts (form over substance). Policy may explain the decision not to mitigate the impacts; it does not justify not reporting them

2. The SEIR provides an inaccurate and incomplete analysis of parking. The net result is to overstate supply by more than 1,500 spaces and to understate demand by more than 7,500 spaces. Errors and omissions include:
 - a. incorrect numbers for the demand from HP Pavilion patrons;
 - b. incorrect basic arithmetic in calculating the background parking occupancy rate;
 - c. leaving out demand from HSR, BART, and other downtown events, even though numbers are readily available (and are certainly much more accurate than the de facto estimate of zero);
 - d. an unjustified failure to apply the industry standard practice of using an 'effective parking supply' factor;
3. The parking analysis in the SEIR does not apply the city's own significance criterion ("result in inadequate parking for existing land uses or cause parking intrusion into existing residential neighborhoods"). Instead, it replaces that criterion with an incorrect and far fetched interpretation of a very recent change to a CEQA checklist. The result is to ignore potential impacts on existing businesses and venues in the Diridon Station area created by baseball parking demand.
4. The SEIR does not adequately analyze the potential impacts on transit service in Diridon Station area, including
 - a. potential impact of traffic congestion on bus routes and schedule;
 - b. potential impact on light rail capacity, and need to fund additional service.
5. The SEIR's analysis of a day game scenario has several major flaws and unjustified assumptions:
 - a. day games start at noon (not 12:30 or 1 PM, as seems to be more common);

- b. 30% of fans will leave before a game is over (this assumption appears to be wholly invented);
- c. BART parking demand (which is at its height during the day) is completely ignored

The result is to avoid any analysis of potential traffic and parking impacts on other businesses and activities in the Diridon Station area.

6. Noise impacts are not quantified adequately in the SEIR, particularly for concerts or other non-baseball events.
7. The SEIR unjustifiably assumes and relies on completion of transportation infrastructure improvements (e.g. the full Autumn St. extension) before the stadium opens. These assumptions are not reasonably supported by current evidence – there is no identified funding, the city has yet to acquire the right of way, etc.
8. The SEIR unjustifiably puts forth a magic bullet TPMP as the answer to many issues (but then denies that TPMP is a mitigation measure, leaving open the question of who pays for it, or how to monitor its effectiveness). The TPMP is undefined. No explanation is given as to why we should assume that existing TPMP practices will work at a much larger scale. No solution can be automatically assumed to work at a larger scale.
9. The SEIR does not adequately analyze concurrent event scenarios. One rationalization given for this omission is that costly transportation improvements can't be made to mitigate the possible impacts. This may be true, but does not justify the refusal to analyze and identify the potential impacts.
10. The SEIR inappropriately cites the model of 'other urban ballparks in many other cities'. But the examples cited are not comparable to San Jose. San Jose neighborhoods are much closer to the stadium site, and are long established (versus built after the stadium). The result is that the SEIR avoids the issue of land use conflicts.
11. The SEIR does not accurately consider the cumulative impact of other major projects in the Diridon Station Area (HSR, BART, Diridon Station Area Plan). Instead, the SEIR assumes that the stadium takes precedence over all other projects. Again, the result is to evade critical issues of land use conflicts.
12. The SEIR does not adequately address the safety issues – in particular, emergency vehicle access in and through the Diridon Station Area - raised in comments. The answers provided so far – traffic light control, driving on road shoulders, etc. – would not be sufficiently effective in severe traffic congestion.



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See Attached			
PERSON FILING APPEAL			
NAME	Marc Morris	DAYTIME TELEPHONE (408) 294 9525	
ADDRESS	1163 Martin Ave.	CITY San Jose	STATE CA ZIP CODE 95126
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