



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 18, 2011

Approved

Date

4/25/11

**COUNCIL DISTRICT:** 4  
**SNI:** None

**SUBJECT: ADOPTION OF MITIGATED NEGATIVE DECLARATION FOR  
COLEMAN SOCCER FIELDS (FILE NO. PP10-155)**

## RECOMMENDATION

The Director of Planning recommends that the City Council adopt a resolution adopting the Mitigated Negative Declaration (MND) prepared for the Coleman Soccer Fields project (File No. PP10-155) as having been completed in compliance with CEQA reflecting the City's independent judgment and analysis, and the adoption of a mitigation monitoring and reporting program.

## OUTCOME

Adoption of the Mitigated Negative Declaration will allow the City to put the proposed project out to bid and for the Council to ultimately approve funding and construction of the proposed project.

## BACKGROUND

On November 17, 2010, the Director of Planning, Building and Code Enforcement circulated an Initial Study/Draft Mitigated Negative Declaration for a 30-day public review through the State Clearinghouse in conformance with the requirements of the California Environmental Quality Act (CEQA). The project is for the City of San Jose Public Works Department to construct four

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soccer fields, along with field lighting and a concession building on a city-owned 9.5 acre site, west of Coleman Avenue and Aviation Drive. The fields will be operated by either the City of San Jose Department of Parks, Recreation and Neighborhood Services or a concessionaire. Approximately six acres of the site lies within the City of San Jose. The northernmost three and a half acres of the site is within the City of Santa Clara and is owned by the City of San Jose. Because the proposed use is for a governmental purpose of the City of San Jose, the use is not required to conform to the City of Santa Clara's General Plan or Zoning Ordinance. The City of San Jose is required to consult with the City of Santa Clara and has done so through the environmental review process.

The project is consistent with the existing zoning for the site, Planned Development Zoning File No. PDC09-004, which allows uses of the CP Pedestrian Commercial Zoning District, including outdoor recreation uses, such as soccer fields. Because the project did not involve a General Plan Amendment or Rezoning, it was not required to be referred to the Airport Land Use Commission (ALUC).

The purpose of this Memorandum is to provide the City Council the ability to consider and adopt the Mitigated Negative Declaration for the project in advance of the project going out to bid in accordance with CEQA. Adoption of the Mitigated Negative Declaration, along with the Mitigation Monitoring and Reporting Program, provides certainty in terms of the obligations of the potential bidders.

## **ANALYSIS**

The Initial Study and Mitigated Negative Declaration for the soccer fields was prepared and processed in compliance with the requirements of CEQA (see: <http://www.sanjoseca.gov/planning/eir/Nd2/2010/PP10-155%20Coleman%20Soccer/PP10-155%20IS%20wApp%20April2011.pdf>). The Director of Planning, pursuant to the requirements of Title 21 of the San Jose Municipal Code, reported that there is no substantial evidence in the public record received to date that the project will have a significant effect on the environment with the identified mitigation measures included in the project. The MND has been prepared and processed in a manner that reflects the City's independent judgment and analysis as Lead Agency. Council adoption of the MND in advance of consideration of the proposed project will not preclude the City taking appropriate action on the project.

The only potentially significant impact identified in the Initial Study was a potentially significant impact to biological resources, due to the presence of burrowing owls on the neighboring FMC site from 1992 to 2000, as identified in a previous EIR. Although no burrowing owls were observed during a survey of the site in 2002, the potentially significant impact to burrowing owls would be mitigated to a less-than-significant level by conducting pre-construction surveys of the site, and by avoiding owl habitat, if owls are present.

As part of the Council's consideration of the Mitigated Negative Declaration (MND), the Mitigation Monitoring and Reporting Program is also attached. If Council adopts the MND, the Council will also be adopting the Mitigation Monitoring and Reporting Program to ensure the

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mitigation measure relating to burrowing owls is implemented, as well as other identified mitigations.

Four comment letters were received during the public review period from the City of Santa Clara, the Newhall Neighborhood Association, the Valley Transportation Authority and the California Department of Transportation, Division of Aeronautics (see: <http://www.sanjoseca.gov/planning/eir/Nd2/2010/PP10-155%20Coleman%20Soccer/PP10-155%20ResponsetoComments.pdf>). The comments pertained to jurisdiction; permit processes; light and glare from the light standards; noise; land use compatibility; accessibility of the site for pedestrians, bicyclists, and people taking transit; security; and Federal Aviation Administration requirements for the proposed light standards. No significant environmental issues were raised that were not already adequately addressed in the Initial Study/ Draft Mitigated Negative Declaration. On April 15, 2011, the Director of Planning, Building and Code Enforcement provided responses to all comments received (see attached Response to Comments).

### **EVALUATION AND FOLLOW-UP**

At the conclusion of the bid process, the Department of Public Works will follow up with a memorandum to Council regarding the selection of a bid proposal.

### **POLICY ALTERNATIVES**

The City will not be able to move forward with the proposal if this MND is not adopted.

### **PUBLIC OUTREACH/INTEREST** (Mandatory)

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This proposal ultimately would require action on the use of public funds of \$1 million or more, and the Initial Study/Negative Declaration has been posted on the Planning Division's website. In addition, staff followed Council Policy 6-30: Public Outreach Policy. A Notice of Intent to

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Adopt a Mitigated Negative Declaration was mailed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. Notices were also sent to all applicable responsible/trustee agencies.

### **COORDINATION**

This project was coordinated with the City Attorney's Office, the Department of Public Works, Parks, Recreation and Neighborhood Services Department, the Environmental Services Department, and the Office of Economic Development.

### **CEQA**

The environmental impacts of the project were addressed by a Mitigated Negative Declaration circulated on November 17, 2011, and recommended for adoption by City Council.

/s/  
JOSEPH HORWEDEL, DIRECTOR  
Planning, Building and Code Enforcement

For questions please contact Laurel Prevetti, Assistant Director, at 408-535-7901.

Attachment:  
Mitigation Monitoring and Reporting Program

**MITIGATION MONITORING AND REPORTING PROGRAM**  
Coleman Soccer Fields (File no. PP10-155)

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<b>Biological Resources</b>				
<p>It is possible that burrowing owls could locate on the project site prior to construction, which would result in a significant impact if owls are present during construction.</p>	<p>Preconstruction surveys shall be conducted for burrowing owls in accordance with the California Department of Fish &amp; Game (CDFG) guidelines no more than 30 days prior to any site grading.</p> <p>If owls are located on or immediately adjacent to the site, retain a qualified ornithologist to establish a construction-free buffer zone around active burrows, in consultation with CDFG. One of the following two mitigation measures is required, subject to the satisfaction of the Director of PBCE:</p> <ol style="list-style-type: none"> <li>1. Avoid habitat by implementing a buffer distance of 75 meters (246 feet) during the nesting season (Feb 1 through Aug 31). During non-nesting season, the distance could be reduced to 50 meters (164 feet).</li> <li>2. If avoidance is unavoidable per the Director of PBCE, the owls may be evicted outside the breeding season, with authorization of CDFG. CDFG typically only allows eviction of owls outside the breeding season by a qualified ornithologist and required habitat compensation on off-site mitigation lands. CDFG guidelines recommend that off-site mitigation lands be set aside at a ratio of 6.5 acres/pair or individual owl. A single large contiguous mitigation site is preferable and should be adjacent to or near other lands supporting burrowing owls.</li> </ol>	<p>Department of Public Works</p>	<p>Retain a qualified ornithologist to conduct burrowing owl survey and submit results to the Director of PBCE. Submit mitigation strategy to Director of PBCE for approval.</p> <ol style="list-style-type: none"> <li>1. Retain qualified ornithologist to implement buffers, or</li> <li>2. Retain qualified ornithologist to conduct owl eviction and prepare mitigation plan in consult with CDFG</li> </ol>	<p>30 days prior to grading. Submit results of survey and mitigation strategy, if needed, to Director of PBCE after survey.</p> <p>Prior to grading</p> <p>Provide eviction/mitigation plan to Director of PBCE and CDFG for approval prior to relocation</p>