



Date: January 24, 2017

To: City Manager for Council Action

From: Director of Community Development

Subject: Public Hearing for the Project Located at 1 Great America Parkway (also 4701 Great America Parkway): Certification of Environmental Impact Report (EIR) and Adoption of CEQA Findings and a Statement of Overriding Considerations (SOCs) and the Mitigation Monitoring or Reporting Program (MMRP), and Approval of Rezoning from Thoroughfare Commercial (CT) to Planned Development (PD) [PLN2014-10851, CEQ2016-01007, SCH#2016032036]

EXECUTIVE SUMMARY

Request. The proposed project includes a rezoning of the existing 112-acre California's Great America Theme Park (Park) from CT – Thoroughfare Commercial to a PD – Planned Development Zoning for a new 20-year Master Plan of the Park as proposed by the applicant, Cedar Fair. The proposed Master PD Zoning would allow existing attractions and operations in the amusement park to remain, allow for the development of future new attractions and establish operational practices to be implemented within the park. The proposed PD Zoning specifically addresses the installation of new rides and replacement of rides and attractions, the extension of the current operating season for the Park to a year-round operation, expansion of current hours of operation, and the construction of a year-round commercial/entertainment district that would comprise up to 250,000 square feet (s.f.) of building space that would be open to the general public outside of the theme park gates. The existing (approximately 110,000 square foot) Redwood Amphitheater would be a part of the proposed commercial/entertainment district, continuing its current use; approximately 40,000 s.f. of additional existing theater space in the park would be repurposed; and up to 100,000 s.f. of new commercial space would be constructed. Should the subject rezoning be approved, new development, rides, or attractions would require approval of an Architectural Review application prior to proceeding with Building Permits.

As detailed in the attached Planning Commission staff report of January 4, 2017, the proposed Master PD Zoning development plans divide the park area into four general zone areas – each with varying development types, height limitations, setbacks from property lines, and permitted land uses. The more specific development standards and use requirements governing implementation of the PD zoning for the Park and each of the four zone areas within the Park are included as an attachment. These development and use standards are intended to apply in addition-to and in conjunction-with the Conditions of Approval and the mitigation requirements set forth in the Environmental Impact Report (EIR) Mitigation Monitoring or Reporting Program (MMRP).

Planning Commission Action. At the publicly noticed special meeting of January 4, 2017, the Planning Commission reviewed the subject PD rezone application. Following public testimony, the Commission discussion primarily focused on potential noise impacts on nearby residents to the east of the Park. Staff referenced a mitigation measure that allows the Director of Community Development to require a noise report for any new rides, and indicated that those reports could

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dictate additional measures that the Director would require prior to issuance of an Architectural Review. The Commission discussed the need to establish maximum allowable noise limits for the Park, with the focus of restricting possible new nighttime park noise occurring in particular after the current 11:30 p.m. curfew for aircraft overflights from San Jose International Airport, when increased noise would be most noticeable.

Staff presented the Commission with a recommended condition of approval requiring a Transportation Demand Management (TDM) program that would reduce vehicle miles traveled for employees by five percent. The Commission suggested that more effort could be made by the Park operator to reduce vehicle miles traveled (VMT) by both employees and visitors to the Park.

The Planning Commission acted to adopt resolutions (1) recommending the Council adopt California Environmental Quality Act (CEQA) Findings, a Statement of Overriding Considerations (SOCs), and the MMRP and certify the EIR, and (2) further recommending that the Council approve the rezoning from CT (Thoroughfare Commercial) to PD (Planned Development) for a Park Master Plan, with the following conditions:

- 1) The maximum noise as measured at the residential property lines shall be limited to 80 dBA from 7 a.m. to 11:30 p.m., 65 dBA from 11:30 p.m. to 1:00 a.m., and 55 dBA from 1 a.m. to 7 a.m. These noise level limitations would apply to noise generated from Park and would discount any airplane noise. Noise level review would be triggered by complaints, and measurements of noise levels would be funded by the applicant.
- 2) The VMT reductions shall be increased to 10% for employees and 5% for Park visitors.

An excerpt of the minutes from the January 4, 2017 Planning Commission meeting is attached. The minutes provide additional details regarding the Commission's discussions.

CEQA. An EIR was prepared for the project in accordance with CEQA requirements. The Draft EIR (DEIR) and Notice of Availability were circulated and noticed for a minimum 45-day review period for public comment, beginning on October 4, 2016 and ending on November 21, 2016. The Community Development Department received comments from the following agencies, organizations and individuals: County of Santa Clara Department of Parks and Recreation, Norman Y. Mineta City of San José International Airport, County of Santa Clara Roads and Airports Department, San Francisco Water Power Sewer, San Francisco Public Utilities Commission Real Estate Services Division, Caltrans, and from resident Charles T.C. Compton.

A Final Environmental Impact Report (FEIR) was subsequently prepared that included responses to all comments received on the DEIR, and the FEIR was circulated for 13-day review period on December 22, 2016, in accordance with CEQA.

The EIR found that the proposed project could have a number of significant environmental impacts, but identified mitigation measures to reduce most of these impacts to less than significant levels. Nevertheless, despite implementing all feasible mitigation measures, the EIR concluded that the proposed project would have significant unavoidable impacts in the areas of noise and vibration, and greenhouse gas emissions.

In considering a project, CEQA requires decision-makers to balance economic, legal, social and technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. To approve a project that has a significant

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unavoidable environmental impact, decision-makers must make findings, supported by substantial evidence, that the specific economic, legal, social, technological or other benefits of a proposed project outweigh the unavoidable environmental effects.

In accordance with CEQA Guidelines Section 15124(b), the City of Santa Clara and Developer have identified the following project objectives for evaluation of the proposed project and the development of a range of alternatives in the EIR for consideration in the findings or statement of overriding considerations:

The project proponent, *Cedar Fair*, has identified the following basic objectives for the proposed project:

- Create a superior design in keeping with the City's development standards while supporting the commercial intent of the property to attract year-round visitation for the purposes of leisure entertainment and hospitality.
- Utilize existing infrastructure and improve amenities such as mechanical rides and attractions with market appeal and harmonious variety, through creative design and sensitivity to the surrounding land uses and natural environment to minimize impacts from noise, lights, and visible structures.
- Provide a zoning district that encompasses a broad range of land uses consistent with the City's General Plan for Planned Development.
- Produce a unique choice in the type of environment, material use, aesthetic, and other facility styles for visitors and guests of Great America while maximizing efficient, aesthetic, and desirable use of the property.
- Promote a unique and desirable commercial venture that is in harmony with the surrounding land use and goals of the City's General Plan through appropriate design and planning standards for thematic variations in building styles and themes, setbacks, heights of attractions and facilities, environmental impacts, and other site planning initiatives.
- Promote economic and fiscal benefits of an upgraded Great America through increased employment, construction activity, multiplier effect on neighboring businesses, greater tax revenue, and ground lease payments to the City.
- Provide a platform to grow the business and provide better value to the community by leveraging year round opportunities for guest visitation, that can be facilitated through an expanded operating season and hours of operation, while in compliance with permitted uses.
- Provide the Park with the ability to install new rides and attractions that utilize the latest technologies and design features that will be created in the future, in order to keep the Park at the cutting-edge of the amusement park industry, to continue to drive guest enthusiasm, and to give guests reasons to visit the park.

The City has identified the following basic objectives for the proposed project:

- Promote the continued development of tourist-oriented commercial uses in the Bayshore North area, including lodging, entertainment, sports facilities, recreation and retail uses, with uses that create vitality and year-round economic benefits for the City beyond normal business enterprises;
- Promote development and land uses that support the Convention Center and hotels and restaurants in the City, and encourage new restaurant and retail services that support daily business activity in the area;
- Develop entertainment facilities that provide a return to the City's General Fund and that serve a wide range of public interests in the City and the region;

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- Provide opportunities for enhancement and expansion of commercial and entertainment uses at the Great America Theme Park such that it continues to attract visitors from throughout the region, while limiting negative effects on nearby residential properties;
- Encourage uses that are compatible with both the corporate/business character of the Bayshore North area of the City, and the entertainment uses in the area;
- Support uses that are compatible with or complementary to normal business activities, parking and traffic in the area;
- Promote activities that take advantage of mass transit infrastructure by creating uses that can be served by transit both during the regular business week and on the weekends; and
- Facilitate the creation of jobs in an area served by mass transit.

CEQA requires that an EIR identify alternatives to the project as proposed and that these alternatives feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any of the significant effects of the project. The DEIR examines three project alternatives and provides a comparison of impacts of each alternative to the proposed project. The alternatives include: a No Project Alternative, a Modified Schedule Alternative, and an Increased Operating Season Only Alternative. The analysis concludes the Increased Operating Schedule Only Alternative is the environmentally superior alternative as it would reduce the significant ambient noise impacts of the project to a less than significant level. However, this alternative would eliminate the additional recreational opportunities and economic benefits that would be derived from extended hours of operation.

A detailed environmental analysis of potential impacts, project alternatives, and mitigation measures identified for implementation with project development are presented in the EIR and Mitigation Monitoring or Reporting Program. The DEIR, DEIR Appendices, and the FEIR comments letters and corresponding City responses and revisions to the text of the DEIR constitute the EIR for the project.

Following the City's preparation of the Final EIR, the City received two additional comments on the EIR, from the Santa Clara Valley Transportation Authority (VTA) and from Sudhanshu Jain. These letters and the City's responses to them are attached as correspondence to this report. The City's responses to these comments were also emailed and mailed to the commenters on January 13, 2017.

Airport Land Use Commission. The project was referred to the Airport Land Use Commission (ALUC) on September 28, 2016. The ALUC found the project consistent with the Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San Jose International Airport, in view of the applicant's commitment to include the Part 77 height limitation in the proposed development standards for the PD Zoning, and subject to the recommendation that an aviation easement be recorded with the City of San Jose for the Park property.

Analysis. Noise. The Planning Commission's recommendations for additional maximum noise restrictions may limit the future operation of some rides or attractions and activities within the Park, particularly between 11:30 p.m. and 7:00 a.m. As noted above, the Planning Commission expressed special concerns for the 11:30 p.m. to 7:00 a.m. hours, since the dominant noise source in the area, planes flying overhead, is more limited during those hours. While the noise limitations recommended by the Commission may still result in significant noise impacts from the project under CEQA, they would act to provide a known maximum noise level for the City and nearby residents to the east of the park. The Planning Commission expressed a desire for a

specific maximum decibel level to be established should complaints arise and should Code Enforcement action be necessary.

In discussions with the applicant subsequent to the Planning Commission hearing, the applicant indicated a preference for addressing Park noise through alternatives to establishing specific decibel maximums that would be applicable to the Park operations. The applicant clarified some operational characteristics and proposed a more limited operating schedule in an effort to help address some of the Planning Commission's concerns regarding the Park's potential noise impacts to the residents to the east.

First, the applicant is not seeking extension of the current amphitheater hours. The amphitheater is currently permitted to operate between 10:00 a.m. and 11:00 p.m. on Fridays and Saturdays and between 10:00 a.m. and 10:00 p.m. on Sundays through Thursdays. The applicant is not proposing to extend these hours of operation for the amphitheater. However, the Use Permit for the amphitheater currently limits weekday events to two events per month with the exception of Memorial Day, Fourth of July and Labor Day, and the applicant is requesting that these operating restrictions be removed so that events can occur at any weeknight frequency, so long as the operational hours are followed. The applicant has also clarified their proposal that the late-night hours associated special events at the Park would not include additional amphitheater hours of operation. The Master PD Zoning Use and Development Standards have been updated to clarify the proposed amphitheater hours.

Second, at the Planning Commission hearing, the Park was requesting year-round operation until 1:00 a.m. Following the Commission hearing, the applicant has amended and further clarified the proposal to allow general year-round park operations (except rides) to occur from 9:00 A.M. to 1:00 A.M. every day, including attractions, entertainment venues, amplified outdoor entertainment, restaurants and hospitality. The proposed operation of rides would cease by midnight each night, except for up to 30 special event nights per year where the Theme Park would remain open and fully operational including rides until 1:00 a.m.. No more than 12 of those 30 nights would be Monday through Thursday nights. The proposed Marketplace area (the restaurant, bar, and retail area at the north end of the Park that will be open to the public outside of the Park gates) would be open until 1:00 a.m. year round, though future Use Permits could place additional restrictions on hours or operations in this area. The Master PD Zoning Use and Development Standards have also been updated to clarify the modified park operations hours.

The Theme Park's year-round, full operation until midnight could be more noticeable to nearby residents after 11:30 p.m., since airline noise limitations are more restrictive after 11:30 p.m. The Park has pointed out that they can currently operate until midnight under their current restrictions; however, they have only done so on a limited basis. The Park's proposal to operate rides and attractions between midnight and 1:00 a.m. only 30 times per year substantially limits potential noise impacts to nearby residents in comparison to their earlier 1:00 a.m. year-round request. For reference, the DEIR, in Table 3.4-9 on page 111, states that the maximum future exterior noise level at full operation and full build-out of additional rides and attractions would be 75 dBA at the nearby residential properties. The dBA, or A-weighted decibel, measures the relative loudness of sound as perceived by the human ear.

The applicant is proposing to close the water park, which is closest in proximity to the residential areas, at 10:00 p.m. every night, including closure at 10:00 p.m. when Special Overnight Events occur. The Master PD Zoning Use and Development Standards also contain sections entitled

"Design Sensitivity for Neighbors" and "Residential Neighbor Sensitivity Area" that guide design and limit operations along the eastern edge of the site, closest to the residential uses. Within 200 feet of the site's easterly property line, no exterior rides would be allowed past 10:00 p.m., and prohibited uses in that area would include but are not limited to exterior amplified music or entertainment, exterior alcohol service, light shows, and upward or east facing lighting. The applicant has agreed to work in good faith effort with the City to address any noise concerns, and this has been included in the development standards.

Options for Addressing Park Noise. The Planning Commission recommended specific maximum noise levels be established for different times of the day and night. The Council can incorporate the Planning Commission's recommendation as part of its approval, or it could modify the maximum noise levels or hours during which those noise levels apply.

The applicant modified their proposal to limit full park operations between midnight and 1:00 a.m. to 30 times per year. As indicated previously, the MMRP specifies that the Director of Community Development can require a noise report as part of an Architectural Review application for new rides and attractions, and the MMRP requires that a noise report be prepared for any new large roller coaster or thrill ride. When a noise study determines that the new ride or attraction contributes to significant noise impacts identified in the EIR, various alternatives must be considered, such as modifications to ride locations/orientations and use of sound dampening barriers. The additional limitations on hours proposed by the applicant, the applicable mitigation measures, and the proposed Master PD Zoning Use and Development Standards will reduce impacts to nearby residential areas, and the attached Master PD Zoning Use and Development Standards have been modified to reflect the applicant's revisions to proposed hours. A condition of approval has been added to require that the applicant maintain a log of the days when the park operates between midnight and 1:00 a.m.

The Council has the discretion to modify the hours of operation proposed by the applicant, or the Council can require both maximum noise level limitations and further hour limitations. Alternatively, the Council may consider an option that would allow the applicant's proposed hours with caveats that (1) future noise complaints are investigated, with the costs of noise measurements being paid for by the Park, and that (2) further limitations on hours of operation may be imposed through future Council resolution.

Alcohol and Security. Some of the proposed alcohol regulations vary from those in standard zoning districts. The use standards associated with the rezoning state that consumption of beer and wine is allowed throughout the fenced and gated interior of the Park area that is open to the public, consistent with current Use Permit approvals, so long as all CA ABC requirements are met. Outside of the Park gates, the sales of beer and wine would be permitted by right for restaurants, provided the restaurant is a full service restaurant at all times that alcoholic beverage service occurs. Outside of the park gate, a Use Permit would be required for any facility with a bar or other area that explicitly caters to or attracts patrons for the purpose of serving alcoholic beverages. Any facility serving distilled beverages, apart from those already doing so at the Park, would require a Use Permit, and any nightclub use would require a Use Permit.

The applicant, Planning staff, and the Police Department worked closely to craft and agree upon Police Department conditions of approval that promote the safe operation of the Park. Annually, the Park would provide a security plan and events list for Police Department review. Use Permit

requirements provide further opportunities for restricting potential concerns from the Park operations.

Vehicle Miles Traveled Reductions. The subject site is designated as Regional Commercial on the City's General Plan Land Use diagram. The City's Climate Action Plan (CAP) does not include vehicle miles traveled reduction targets for properties north of Caltrain that are designated as Regional Commercial. However, along Stevens Creek Boulevard, sites with a Regional Commercial General Plan designation have a five percent VMT reduction target. The EIR evaluated a five percent VMT reduction for employees only, and a condition of approval is included that would require such a reduction.

The Planning Commission recommended that a ten percent VMT reduction be required for employees and that a five percent VMT reduction be required for Park patrons. Controlling VMT reduction for patrons would be challenging and could require some means of incentive, such as slightly reduced ticket price when a valid transit pass is presented. Citing that the five percent employee-only VMT reduction is already beyond the CAP standards, the applicant requested that staff's original recommendation of a five percent employee-only VMT reduction be required, not the Commission's more aggressive VMT reduction recommendations. As presented, the draft conditions of approval reflect the original five percent employee-only VMT reduction.

Additional analyses related to noise, alcohol, and other issues are contained in the attached Planning Commission staff report.

Community Outreach. Notice of Planning Commission and City Council public hearings have been mailed to nearby property owners and posted within 1,000 feet of the project site. At the time of this report preparation, following the January 4th Planning Commission meeting, one additional letter of opposition was received from Jennifer & Scott Feldstein, and is attached as correspondence to this report.

The City conducted a joint CEQA public scoping meeting and community meeting on March 21, 2016. Three members of the community attended and inquired about the project and the City's project review process. The full administrative record is available for review during normal business hours in the Planning Division office at City Hall, 1500 Warburton Avenue, Santa Clara.

ADVANTAGES AND DISADVANTAGES OF ISSUE

The Great America Theme Park enhances the City's identity and provides local residents and regional visitors with an entertainment amenity. The Park is an important component of the City's economic development strategy, particularly as the Park works in conjunction with other regional destinations in the immediate area.

The proposed rezoning provides a number of advantages to both the City and the region. The project would promote the continued development and success of existing and future community- and tourist-oriented commercial uses in the Bayshore North area, including lodging, entertainment, sports facilities, recreation and retail uses, with uses that create vitality and year-round economic benefits for the City beyond normal business enterprises. The surrounding employment sites, the City's Convention Center and Levi's Stadium would all be served by additional food and entertainment businesses and service opportunities that are in short supply in the vicinity within walking distance.

Mitigations to reduce the potential significant adverse environmental impacts of the project have been identified and applied as Mitigations in the MMRP and as conditions of project approval. The EIR has identified that the proposed project would result in significant unavoidable noise and greenhouse gas environmental impacts.

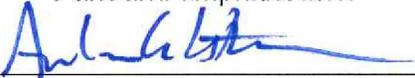
ECONOMIC/FISCAL IMPACT

There is no cost to the City other than administrative staff time and expense associated with the current application for PD rezoning and future development applications. The fiscal impact of the project could increase sales tax revenue to the City through the extension of daily Park hours and extension of the Park's operation to a year-round operation.

RECOMMENDATION

That the Council take the following actions for the project located at 1 Great America Parkway (also 4701 Great America Parkway), on an approximately 112-acre site, subject to the attached Master PD Zoning Use and Development Standards and conditions of approval:

- 1) Adopt a Resolution to Certify an Environmental Impact Report (EIR) and adopt CEQA Findings and a Statement of Overriding Considerations (SOCs) and the Mitigation Monitoring or Reporting Program (MMRP); and,
- 2) Adopt a Resolution to Approve the Rezoning from Thoroughfare Commercial (CT) to Planned Development (PD), to allow development of a Park Master Plan project that would continue to allow existing attractions, rides and operating practices and would provide flexibility to allow the development of new rides and replacement of rides and attractions, extension of the operating season, modified operating practices, additional hours of operation, and construction of a year-round commercial/entertainment district that would comprise up to 250,000 square feet of building space (100,000 new square feet beyond existing) that would be open to the general public outside of the theme park gates of the Great America Theme Park and amphitheater.



Andrew Crabtree
Director of Community Development

APPROVED


Rajeev Batra
Interim City Manager

Documents Related to this Report:

- 1) *Environmental Impact Report (previously distributed and available online from <http://santaclaraca.gov/ceqa>)*
- 2) *MMRP – Mitigation Monitoring or Reporting Program*
- 3) *SOC – Statement of Overriding Considerations*
- 4) *Resolution to Certify the EIR and Adoption of SOCs and MMRP*
- 5) *Resolution to Approve Rezoning from CT to PD*
- 6) *Conditions of Approval*

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- 7) *Excerpt of January 4, 2017 Planning Commission Meeting Minutes*
- 8) *Planning Commission Staff Report for the meeting of January 4, 2017*
- 9) *Correspondence (Including Additional EIR Comment Letters and City Responses to Comments)*
- 10) *Applicant's Statement of Justification - Great America Master Plan Document*
- 11) *Development Plans and attached Master PD Zoning Use and Development Standards*